

**BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI**

The Innsbrook Corporation,)	
)	
Complainant,)	
)	
v.)	Case No. IC-2007-0113
)	
AT&T Communications of the)	
Southwest, Inc.,)	
)	
Respondent.)	

AT&T COMMUNICATIONS' REPLY

AT&T Communications of the Southwest, Inc. ("AT&T Communications"), pursuant to 4 CSR 240-2.080(15), respectfully submits this Reply to Complainant Innsbrook Corporation's Response and Affidavit in Opposition to AT&T's Motion for Summary Determination.

Innsbrook Corporation has neither specifically denied that the T-1.5 circuit in dispute here is an interstate circuit nor has it, as required by Commission rules, provided any references to pleadings, testimony, discovery or affidavits to support such a denial. Accordingly, the Commission must find that the circuit in dispute is interstate and that the Commission has no jurisdiction to proceed with this case.

Under 4 CSR 240-2.117(1)(C), a party against whom a motion for summary judgment has been filed is permitted to file a response in opposition to the motion. The rule provides that:

The response shall admit or deny each of the movant's factual statements . . . shall state the reasons for each denial, shall set out each additional material fact that remains in dispute, and shall support each factual assertion with specific references to the pleadings, testimony, discovery or affidavits.

Innsbrook Corporation's Response to the Motion for Summary Determination does not specifically deny that the T-1.5 circuit is interstate. Its Response merely attempts to deny the

binding nature of the August 13, 2004, contract it entered into with AT&T Communications for telecommunications services (it contends that the agreement “is of no validity and fraudulent inducement precipitated its execution”).¹ And not only does it fail to contest the interstate nature of the T-1.5 circuit, Innsbrook Corporation’s Response also fails to provide the “reason” and “specific references to the pleadings, testimony, discovery or affidavits” that would support a factual assertion that the T-1.5 circuit is anything but interstate in nature.

Innsbrook Corporation also did not oppose AT&T Communications’ Motion to Dismiss, which focused primarily on Innsbrook Corporation’s failure to allege any basis for Commission jurisdiction over the Complaint as required by 4 CSR 240-2.070(5)(F).² Specifically, Innsbrook Corporation’s Complaint failed to make the necessary allegation that the T-1.5 private line circuit, which is the subject of the Complaint, is an intrastate service.³ With no claim the disputed circuit is intrastate, the Commission has no jurisdiction.

As there is no genuine issue as to any material fact concerning the interstate nature of the T-1.5 circuit in dispute here, the Missouri Commission has no jurisdiction to proceed. Accordingly, the Commission must, as a matter of law, summarily dismiss the case.

¹ Innsbrook Response and Affidavit in Opposition to AT&T’s Motion for Summary Determination, para 1.

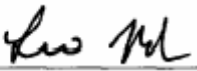
² The Innsbrook Corporation also failed to contest AT&T Communications’ assertion in its Motion to Dismiss that the Complaint should be dismissed because it failed to allege any action of AT&T Communications’ that violated Public Service Commission law, Public Service Commission rules, or AT&T Communications’ tariffs, therefore failing to state a claim upon which relief can be granted; and the assertion that remedy being sought by the Innsbrook is beyond the Commission’s jurisdiction, as the Commission is without authority to award money damages, and the Commission lacks subject matter jurisdiction. See AT&T Communications Motion to Dismiss, paras. 4-6.

³ Id. at paras. 2-3.

WHEREFORE, AT&T Communications requests the Commission to enter an Order granting summary determination in AT&T Communications' favor and dismissing Innsbrook Corporation's Complaint.

Respectfully submitted,

AT&T COMMUNICATIONS OF THE
SOUTHWEST, INC.

BY 
LEO J. BUB #34326
ROBERT J. GRYZMALA #32454

Attorneys for AT&T Communications of the
Southwest, Inc.

One AT&T Center, Room 3518

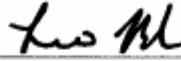
St. Louis, Missouri 63101

314-235-2508 (Telephone)/314-247-0014(Facsimile)

leo.bub@att.com

CERTIFICATE OF SERVICE

Copies of this document were served on the following parties by e-mail on January 29, 2007.



Leo J. Bub

David Meyer
General Counsel
Missouri Public Service Commission
PO Box 360
Jefferson City, MO 65102
David.Meyer@psc.mo.gov
general.counsel@psc.mo.gov

Donald Kenneth Anderson, Jr.
8011 Clayton Road
St. Louis, MO 63117
anderson76@aol.com

Lewis Mills
Public Counsel
Office of the Public Counsel
PO Box 7800
Jefferson City, MO 65102
lewis.mills@ded.mo.gov
opcservice@ded.mo.gov