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STATE OF MISSOURI
PUBLIC SERVICE COMMISSION

At a session of the Public Service
Commission held at its office
in Jefferson City on the 16th
day of June, 1998.

| | | |
|-----------------------------|---|---------------------------|
| Charles A. Harter, |) | |
| |) | |
| Complainant, |) | |
| |) | |
| v. |) | <u>Case No. TC-97-455</u> |
| |) | |
| Southwestern Bell Telephone |) | |
| Company, |) | |
| |) | |
| Respondent. |) | |
| |) | |

ORDER DENYING REHEARING

On April 14, 1997, Charles A. Harter (Complainant) filed a formal complaint with the Missouri Public Service Commission (Commission) alleging Southwestern Bell Telephone (SWBT) violated Commission rules regarding service disconnection and record-keeping. Thereafter, SWBT responded on May 2 by filing an Answer denying the allegations and requesting the Commission dismiss the complaint. After consideration of the pleadings, the Commission found there were disputed issues of fact and ordered the Staff of the Commission to investigate. The parties met in a prehearing conference on November 19. On December 16, a procedural schedule was adopted. This procedural schedule required Complainant to prefile direct testimony by January 16, 1998. Complainant filed testimony on January 16 but it failed to comply with the requirements of 4 CSR 240-2.130(6) (the rule). Complainant was advised of the defects in his prefiled testimony by the Commission on January 20, given until January 30 to correct the

errors in the testimony, and advised that testimony not in compliance with the rule would not be admitted into the record at any evidentiary hearing. No testimony in compliance with the rule was filed prior to the January 30, 1998 deadline. The Commission issued an order dismissing Complainant's case on February 11. Complainant filed a motion for rehearing on February 23.

Complainant has the burden of establishing his case since he is the party requesting relief. Any evidence offered shall be governed by the rules adopted and prescribed by the Commission per Section 386.410, RSMo Supp. 1997. Due to Complainant's noncompliance with the Commission's rules and regulations regarding the correct form evidence must take in order to be admitted, he has offered no evidence to support his claim. Under 4 CSR 240-2.070(6), the Commission may dismiss a complaint for failure to state facts upon which relief can be granted. This was the case with Complainant and the Commission was correct in its dismissal of his complaint against SWBT.

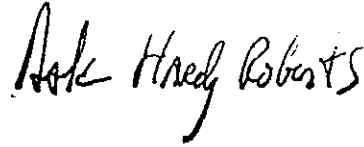
Under Section 386.500, RSMo 1994 the Commission will grant a rehearing if it finds there is sufficient reason for rehearing. Upon review of Complainant's motion, the Commission finds Complainant failed to offer sufficient reason for rehearing and that his motion should be denied.

IT IS THEREFORE ORDERED:

1. That the Motion for Rehearing to Reconsider Dismissal filed by Charles A. Harter on February 23, 1998, is denied.
2. That this order shall become effective on June 16, 1998.

3. That this case may be closed on June 17, 1998.

BY THE COMMISSION

A handwritten signature in black ink, reading "Dale Hardy Roberts". The signature is written in a cursive, slightly slanted style.

Dale Hardy Roberts
Secretary/Chief Regulatory Law Judge

(S E A L)

Lumpe, Ch., Crumpton, Drainer,
Murray and Schemenauer, CC.,
concur.

Harper, Regulatory Law Judge

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COMMISSION COUNSEL
PUBLIC SERVICE COMMISSION