

BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI

R. Mark,)	
)	
Complainant,)	
)	
v.)	<u>Case No. TC-2006-0354</u>
)	
Southwestern Bell Telephone, L.P., d/b/a)	
AT&T Missouri,)	
)	
Respondent.)	

**ORDER REGARDING COMPLAINANT'S MOTION FOR EXTENSION OF TIME
TO RESPOND TO RESPONDENT'S DRS, COMPLAINANT'S SUPPLEMENTAL
MOTION IN SUPPORT OF SUMMARY JUDGMENT, AND RESPONDENT'S MOTION
TO COMPEL RESPONSES TO DATA REQUESTS AND FOR EXTENSION OF TIME
TO RESPOND TO MOTION FOR SUMMARY JUDGMENT**

Issue Date: June 22, 2006

Effective Date: June 22, 2006

R. Mark filed a complaint against Southwestern Bell Telephone, L.P., d/b/a AT&T Missouri, on March 15, 2006. AT&T Missouri filed its answer and a motion to strike portions of the complaint. The Commission directed its Staff to investigate and file a report by May 31, 2006. On May 25, 2006, the Staff requested until June 30 to file its report. On the same day, Mr. Mark filed a motion for summary judgment and a motion to suspend discovery pending resolution of the motion for summary judgment.

On May 26, 2006, after considering these motions, the Commission issued its order denying the motion to strike, granting Staff until June 30th to file its report, and declining to suspend the discovery process.

On June 19, 2006, Mr. Mark filed a motion requesting an extension of time to respond to Respondent's data request. In support of his motion, Mr. Mark indicated health issues necessitated the extension of time.

On June 20, 2006, AT&T Missouri filed a combined motion to compel responses to data requests, response to Complainant's motion to extend time to respond to data requests, and motion for extension of time to respond to the motion for summary judgment. The nine (9) data requests in question are attached to the pleading as Exhibit 1, p. 3. AT&T Missouri indicated that it did not oppose to Mr. Mark's request, so long as it is given sufficient time after receipt of the data request responses at issue to respond to Mr. Mark's motion for summary judgment.

The Commission has considered these motions and will proceed as follows. Mr. Mark's motion for an extension of time to respond to AT&T Missouri's data requests is reasonable and not opposed by any party. It will be granted.

There is no evidence, at this time, that Mr. Mark is unwilling to respond to AT&T Missouri's data requests. In fact, he has requested additional time to respond to the data requests in question. Accordingly, AT&T Missouri's motion to compel is premature and will be denied.

AT&T Missouri's motion for extension of time within which to respond to Complainant's motion for summary judgment is reasonable. As addressed in the Commission's May 26th order, the discovery process is designed to obtain information relevant to each party's claims and defenses and that data requests assist the parties in narrowing the issues for presentation to the Commission. Further, discovery and data requests often form the basis for the prosecution or defense of a motion for summary judgment. AT&T Missouri

will be granted thirty (30) days from receipt of Mr. Mark's responses to the nine (9) data requests attached to its motion to respond to Complainant's motion for summary judgment.

The next step is to move this matter toward resolution. To that end, the Commission will conduct a prehearing conference to address discovery issues and discuss the scheduling of an evidentiary hearing.

IT IS ORDERED THAT:

1. The motion for extension of time to respond to Respondent's data requests filed by Mr. Mark on June 19, 2006, is granted. Mr. Mark's responses will be due on or before July 22, 2006.

2. The motion to compel responses to data request filed by Southwestern Bell Telephone, L.P., d/b/a AT&T Missouri on June 20, 2006, is denied as premature.

3. The motion for extension of time within which to respond to Complainant's motion for summary judgment filed by Southwestern Bell Telephone, L.P., d/b/a AT&T Missouri on June 20, 2006, is granted. Southwestern Bell Telephone, L.P., d/b/a AT&T Missouri's response to the motion for summary judgment will be due thirty (30) days from the date it receives responses to the nine (9) data requests attached to its June 20, 2006 motion.

4. Southwestern Bell Telephone, L.P., d/b/a AT&T Missouri's response to the supplemental motion in support of summary judgment filed by Mr. Mark on June 19, 2006, will be due at the same time as its response to Mr. Mark's initial motion for summary judgment.

5. Any motions not ruled on herein remain pending.

6. A prehearing conference will take place on July 7, 2006, beginning at 1:30 p.m. The prehearing will be held in Room 305 of the Governor Office Building, 200 Madison Street, Jefferson City, Missouri. This prehearing will be held in a building that meets accessibility standards required by the Americans with Disabilities Act. If you need additional accommodations to participate in this conference, please call the Public Service Commission's Hotline at 1-800-392-4211 (voice) or Relay Missouri at 711 before the prehearing. All parties are required to participate in the prehearing conference.

7. This order shall become effective on June 22, 2006.

BY THE COMMISSION

A handwritten signature in black ink, appearing to read 'Colleen M. Dale', is written over a horizontal line.

Colleen M. Dale
Secretary

(S E A L)

Cherlyn D. Voss, Regulatory Law Judge,
by delegation of authority pursuant
to Section 386.240, RSMo 2000.

Dated at Jefferson City, Missouri,
on this 22nd day of June, 2006.