

BEFORE THE MISSOURI PUBLIC SERVICE COMMISSION
STATE OF MISSOURI

R. Mark,)	
)	
Complainant)	
)	
v.)	Cause No. TC-2006-0354
)	
ATT a/k/a SBC a/k/a Southwestern)	
Bell Telephone Company,)	
Respondent)	

FILED
 AUG 30 2006
 Missouri Public Service Commission

**COMPLAINANT'S REQUEST THAT THE COMMISSION
 MODIFY ITS ORDER DATED AUGUST 30, 2006
 OR ENTER A NEW ORDER**

Comes now Complainant with *Complainant's Request that the Commission Modify its Order dated August 30, 2006 or Enter a New Order*, and states:

1. On August 30, 2006 the Commission correctly acknowledged and verified from its own records that the Complainant did not receive various orders/notices mailed to Complainant's service address; it accepted the Complainant's representations that such has been caused through no fault of the Complainant. Accordingly, the Commission properly and appropriately excused the Complainant from previous failures to appear.

2. Then, however, the Commission stated in its Order that future notices/orders would be mailed to the Complainant. It did not indicate in its Order that Complainant's request would be honored that *simultaneously*, a "back-up fax" continued to be faxed to the Complainant's unpublished and confidential fax number--in view of previous delivery problems emanating from the U.S. Post Office.

3. Back up faxes are absolutely essential to insure *not only* due process, but the *appearance* of fairness and due process in view of the undisputed service record of lack of receipt by the Complainant of some notices/orders--all through no fault of Complainant.

3. *Due process* is critical! In light of the service record **in this case**, it is incumbent upon the Commission to insure, in the most expeditious and efficient way possible, that the Complainant *receive* any and all future Commission notices and orders. Although the Post Office indicates that it is/has been making every effort to correct the situation, such cannot be depended upon in the future in view of more than one re-mailing to the Complainant (at the suggestion of the Post Office), which has also been "returned to sender" despite the post office's representations that a remailing "should" be effective.

4. The Commission's Data Center personnel indicate that there is no objection, (and personnel would be willing to continue), to send a back-up fax of any future notices/orders of the

to pay in order to insure that Constitutional *due process* is not only afforded to the Complainant, but that every effort is made to insure that *any inference* to the contrary, is not present.¹

5. Any Order failing to insure that a party absolutely receives Notices/Orders of the Commission would appear on its face (*in light of the undisputed documented service history herein*), to border on a *potential* denial of due process.

6. There is good cause, *very* good cause *in this case*, to grant the Complainant's request that the Commission's data center be allowed to continue to send to the Complainant, back-up faxes of the Orders/Notices of the Commission.

WHEREFORE, Complainant prays that the Commission will modify its August 30, 2006 to include back-up faxes to be faxed in light of previous unique service problems in this case, or alternatively, will enter a new order that the Commission's Data Center shall fax to the Complainant's confidential unpublished fax number, copies of all Notices/Orders issued when such pleadings are also mailed to the Complainant

Respectfully,



Complainant

August 30, 2006

Copies faxed to the Public Service Commission,
General Counsel's Office, 573-751-9285;
Lewis R. Mills, Jr., Office of Public Counsel,
573-751-5562, and mailed to the Attorneys for
AT&T Missouri, Respondent.

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¹ Although the Commission is free to do as it wishes and is not bound by what state and federal courts would do under the same circumstances, the Complainant has talked to clerks of various state and federal courts; ALL indicate, *without exception*, that each would be willing to fax "back-up" copies of Orders/Notices (even without a court order), to insure Constitutional *due process* if there is a service record history in the case (as in this case), of the post office incorrectly, repeatedly, and erroneously returning mail!