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Missouri Public  
Service CommissionBEFORE 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	)	

COMPLAINANT'S MOTION TO COMPEL ANSWERS TO OCTOBER  
2006 DATA REQUESTS PROPOUNDED TO THE RESPONDENT

Comes now Complainant with *Complainant's Motion to Compel Answers to October, 2006 data Requests propounded to the Respondent*, and states:

1. That attached hereto and incorporated herein, are Complainant's Data Requests #17-#44 propounded to Respondent on or about October 16, 2006.

2. That Respondent, instead of responding, indicates *only* that it "will provide a response" to DR #17, #18, #19, #21, #23, #24, #25, #28, #29, #36, #41, #42; but it does not indicate *when* it will provide such a response or *why* it has not immediately provided answers instead of indicating that it "will" respond almost three weeks after it received the data requests! It refuses even to provide any number of days by which it will "provide a response" and has resorted to such subterfuge before! Currently pending is *Complainant's Motion to Compel Answers to Data Requests propounded in JUNE 2006* in which, *inter-alia*, the Respondent used the same subterfuge: it "will provide a response!" As of November 4, 2006, no responses have ever been received from the Respondent to Complainant's JUNE 2006 data requests!

3. DR #20. The Respondent refuses to even indicate that it *will* respond (at some time in the future), to this data request and indicates only that it is "vague and unclear to ATT Missouri." This Data Request request requests, *inter-alia*, the name of each person having "personal knowledge" of the facts on which the Respondent has based its denial of the Complainant's request for waiver of the non published monthly charge--between October 1, 2003 until the time this case was formally filed with the Commission. There is nothing "vague and/or unclear" about this data request. In subparts of this data request, the Respondent is requested to indicate details including the nature and basis of the personal knowledge, date acquired, name of the person having any alleged knowledge + DR 017 information about each person named. This data request is not vague and it is quite clear and precise. COMPLAINANT REQUESTS THAT THE COMMISSION ORDER THE RESPONDENT TO ANSWER DR #020 FULLY AND IN ALL RESPECTS.

4. DR #22. The Respondent for the data request simply uses its standard "boiler plate objection" claiming that this data request "in not likely to lead to the discovery of admissible

evidence, is overly broad," etc. This data request is clear and **IS** likely to lead to the discovery of admissible evidence. From ~November 1, 2003 forward, the Respondent has refused to provide **any** factual basis why it consistently has denied the Complainant requests for waiver of the monthly charged for an unpublished number! DR#22 seeks any "legal" basis (with citations and/or references), giving rise to any conclusion or decision by the Respondent that a fax machine is **NOT** a data terminal. Also, the data request seeks **all** information about any expert or lay witness who will be, or may be, utilized by the Respondent at any forthcoming hearing, his/her opinion, and the basis or support for such opinion. The objection to this data request is specious and has been made in manifestly bad faith. **COMPLAINANT REQUESTS THAT THE COMMISSION ORDER THE RESPONDENT TO ANSWER DR. #22 fully and in all respects.**

5. **DR #26.** Requests whether or not the Respondent has read the Commission's Staff conclusion and the recommendation of that Staff Report that the Commission should find for the Complainant. Whether or not the Respondent has **READ** the report and read Staff's recommendation certainly *cannot be found* in the Staff Report! Then the data request requests "all facts, if any, that the Respondent has within its care, custody, possession, control and/or knowledge to refute the Staff's recommendation and the basis and origin of each such fact. **THIS DATA REQUEST GOES TO THE VERY HEART OF ANY REFUSAL OF THE RESPONDENT TO COMPLY WITH THE TARIFF, G.E.T. §6.12.6(E) FROM NOVEMBER 2003 FORWARD.** Complainant has never been furnished by the Respondent **ANY FACTS** on which the Respondent has failed and refused to comply with the tariff other than from an employee: the "Respondent believes that it has interpreted G.E.T. §6.12.6(e) correctly." This is totally insufficient; data request #26 requests "the basis" for facts, **IF ANY**, that the Respondent has which will refute, or could, or can refute, the Staff's recommendation and the basis or origination of such facts. The objection(s) of Respondent are, once again, made in manifestly bad faith for the purpose of deliberate delay! **COMPLAINANT REQUESTS THAT THE COMMISSION ORDER THE RESPONDENT TO ANSWER DR. #26 FULLY AND IN ALL RESPECTS.**

6. **DR #27.** Respondent objects again in this data request with a "boiler plate" response! Again the Complainant seeks to learn whether the Respondent has read the Staff report and particularly its conclusion that "based on his verified statement, the Staff has no reason to doubt Mr. Mark's assertions" that "his telephone line is used exclusively for facsimile proposes and that no voice us is contemplated on his line." The Complainant is **ABSOLUTELY ENTITLED** to learn whether the Respondent has any **facts** within its care, custody, possession, or control or knows of any facts known by anyone not employed by Respondent to **support any contention that the verified statements of Complainant are not true and correct!** For the Respondent to propound general objections to this data request and simply state that the "Staff Report . . . speaks for itself" demonstrates and indicates an overwhelming lack of good faith on the part of the Respondent and a frivolous and meaningless "response" to a legitimate data request.

COMPLAINANT REQUESTS THAT THE COMMISSION ORDER THE RESPONDENT TO ANSWER DR 27 FULLY AND IN ALL RESPECTS.

7. **DR #30.** Again as previously indicated, the Respondent resorts to a "boiler plate" response to a legitimate data requests which may very well lead to the discovery of admissible evidence. Complainant is entitled to know if the Respondent has not only read the Commission's Staff report, but also, if it has any facts "within its care, custody, possession, or control or knows of any facts known by anyone employed by Respondent to support any contention that the verified statements of Complainant are not true and correct" If so, the Respondent is requested to state such facts. This is legitimate discovery--not work product of the Respondent! Respondent seeks to "hide behind" work product when it refuses to answer legitimate data requests propounded to it! For years since 2003 the Respondent has refused to provide the monthly waiver of a charge for non-published exchange service. **The Complainant is entitled to know all facts supporting, if any, such refusal.** Complainant believes that such a refusal has been arbitrary and capricious--with the Respondent knowing that any informal complaint or formal complaint before this Commission would be an exercise in futility and it has nothing to lose, at any time, by simply refusing any request for compliance with ANY General Exchange Tariff! Complainant has submitted two sworn affidavits, (which the Respondent simply "doesn't like). Complainant is entitled to direct responses to these issues and not a bad-faith boiler-plate paragraph! **COMPLAINANT REQUESTS THAT THE COMMISSION ORDER THE RESPONDENT TO ANSWER DR. 30 FULLY AND IN ALL RESPECTS.**

8. **DR. #31.** Again, we see in the "response" overwhelming bad faith exhibited by the Respondent. This data request requests how and in what way the Respondent disagrees with the Staff's Summary of the Core Items in Dispute, to wit; whether the term "data terminal" is, or is not, a data terminal. What could be more specific or more direct? This would seem to go to the very *heart* of this case, yet the Respondent states that this is "work-product" and is privileged information and is irrelevant and is not reasonably calculated to lead to the discovery of admissible evidence! The "response" of the Respondent wrecks of a total and complete lack of good faith! Complainant is entitled to know what the Respondent considers the "core items in dispute" if it is not what the Staff suggests. Since November 2003 the Respondent has arbitrarily and capriciously refused to provide the monthly waiver of the non-published charge despite the fact that the COMPLAINANT has used a data terminal exclusively and that no voice use was contemplated or actually used since that time. **COMPLAINANT REQUESTS THAT THE COMMISSION ORDER THE RESPONDENT TO ANSWER DR. 31 FULLY AND IN ALL RESPECTS**

9. **DR 32.** Once again, we see overwhelming bad faith exhibited by the Respondent when it again attempts to deliberately mislead the Commission into believing that this data request seeks "work product" and privileged attorney-client information!" The Complainant is absolutely entitled to know of any evidence it intends to introduce or testimony tending to

**refute** the Staff's factual conclusion, after its investigation, that "Mr. Mark has submitted a verified statement indicating that his telephone line is used exclusively for facsimile purposes, that no voice us is contemplated on his line, and that based on this verified statement, the staff has no reason to doubt Mr. mark's assertions." Discovery is for the purpose of preventing surprise so that each party knows what it must address at any future hearing. Complaint is entitled to all "evidentiary facts" the Respondent intends to introduce at any forthcoming hearing, the name of the person who will testify or introduce any document related thereto, and all information about that person as set forth in DR. 017. COMPLAINANT REQUESTS THAT THE COMMISSION ORDER THE RESPONDENT TO ANSWER DR. 32 FULLY AND IN ALL RESPECTS.

10. **DR. 33.** The Respondent has again used its word processor boiler-plate paragraph indiscriminately and has once again frivolously objected on the grounds of "work product" and "attorney-client privilege." This data request requests the "name of each employee of Respondent who received the Respondent's first requests for waiver in November 2003 and the name of each employee with whom the Complainant has had contact through the time of the filing of the formal complaint. For each individual, Complainant requests all information about each said person in accordance with DR. 017. There was no case on file at any time indicated--between November 2003 and the filing of the formal complaint! QUERY: how could anything, therefore, be "work product" or subject to "attorney-client privilege?" It would appear that the Respondent simply uses its "canned" response rather than even bothering to read the data requests propounded to it! Why will not the Respondent furnished the name (and information about each person), who is employed by the Respondent who has had contact with the Complainant about this matter from November 2003 through the time of the filing of the formal Complaint? The Respondent could care less about fundamental fairness and apparently wishes to conceal and obfuscate this information which may lead to the discovery of admissible evidence? The Complainant is absolutely entitled to all such information. The "response" is in overwhelming bad faith and ill-conceived! COMPLAINANT REQUESTS THAT THE COMMISSION ORDER THE RESPONDENT TO ANSWER DR 33 FULLY AND IN ALL RESPECTS.

11. **DR 34.** Once again, the Respondent's *standard* word-processing paragraph is used herein with its standard "boiler plate" objections. This data request requests whether or not the Respondent's employee, Paul G. Lane, stated in a February 20, 2004 letter to the Complainant that:

*"I have reviewed the tariff and continue to believe that the charge is properly assessed."*

Information is requested about this employee specified in DR. 017 and a copy of the letter of stipulation (not with regard to any offer of settlement), is requested. This contact with Paul G. Lane was long before the formal complaint was even filed and there could not possibly be any

"attorney work-product" involved until there was a formal complaint filed! The Respondent has again attempted to pull the wool over the eyes of the Commission; if the Commission believes that "work product" is involved in such a data request, then the Complainant has a beautiful bridge in Brooklyn that Complainant will sell a minimal cost to the Members of the Commission and will even provide a Quit-Claim Deed to the bridge! Paul G. Lane was the Respondent's employee who **made the decision** to deny the Complainant the non-published waiver to which the Complainant was entitled. He was acting as the "decision maker" in doing so. As such, his actions are not privileged whether he was a department manager, an individual with a law degree, or a department head employed by the Respondent. The Respondent's objections to this are in manifestly bad faith and are disingenuous. **COMPLAINANT REQUESTS THAT THE COMMISSION ORDER THE RESPONDENT TO ANSWER DR 34 FULLY AND IN ALL RESPECTS.**

12. **DR 34A.** Once again, Respondent's word processing paragraph using its standard "boiler plate" objection. This data request requests a "yes" or a "no" response as to whether the Respondent **accepts the Conclusion** of the Staff Report at P-11 that:

"The Staff is unaware of any other matter that affects, or that would be affected, by these recommendations."

If the Respondent's response is in the negative, the data request requests "all facts currently *within the knowledge of the Respondent* that dispute the Staff's aforesaid *Conclusion*, the basis for each such fact, how each fact was acquired, and when it was acquired. It further requests that the Respondent "set forth in detail how and in what way such fact(s) dispute the Staff's conclusion." This is **NOT** work-product and this is not protected by any attorney-client privilege; it is not overly broad or burdensome, but specific and on point. **COMPLAINANT REQUESTS THAT THE COMMISSION ORDER THE RESPONDENT TO ANSWER DR 34A FULLY AND IN ALL RESPECTS.**

13. **DR 35.** This data request is obviously, *on its face*, not intended to "harass!" This data request simply inquires whether Paul G. Lane stipulated in 2004 to any of the following facts set forth in subsections A-H in 2004 [attached hereto] (**before the formal complaint was ever filed!**) If he did NOT stipulate or refused to stipulate to any of subparts A-H, the data request requests the "factual basis" for his refusal with regard to each subpart: A-H. Again, how can this be "work-product" if no formal complaint was not filed until 2006? **There was no pending litigation!** How absurd and how disingenuous that the Respondent would again try to "put one over" on the Commission members with such a hokey response! How could anything prior to any filing of any formal complaint be protected by attorney-client privilege when this employee was acting as an employee on behalf of the Respondent in making **THE DECISION** as to whether to grant the Complainant's requests for waiver of the monthly charge for his non-published number? The "response" to this data request is in manifest bad faith and is again,

disingenuous! COMPLAINANT REQUESTS THAT THE COMMISSION ORDER THE RESPONDENT TO ANSWER DR 35. FULLY AND IN ALL RESPECTS.

14. DR 37 is not meant to "harass" in any way as is fully apparent on the face of this data request. It inquires whether Paul Lane "prior to the filing of the formal Complaint" (subsequent to "November 1, 2003"), indicated to the Complainant whether there was "any material fact in dispute relating to the Complainant's contention that he was entitled to a waiver of the monthly unpublished charge in accordance with G.E.T. §6.12.6(E)? If so, it requests a true copy of each said document. How can this be "work product," once again, if no formal complaint was filed until 2006? The Respondent's objection is absurd and is beyond belief how the Respondent could possibly believe that the Members of the Commission could fall for such a deceptive and obstructive "response!" Additionally, Paul G. Lane, Respondent's employee, although he may have a law degree, HE made the decision in 2003 NOT to grant the Complainant's requests for waiver of the monthly non-published charge! The fact that he may have a law degree or now is acting with three other attorneys representing the interests of the Respondent in addition to being an employee, does not insulate him since he was the "decision maker" prior to any filing of any formal complaint which eventually brought about the filing of the formal Complaint with the Commission. The reply of the Respondent to this data request is again disingenuous and is in manifestly bad faith. COMPLAINANT REQUESTS THAT THE COMMISSION ORDER THE RESPONDENT TO ANSWER DR 37. FULLY AND IN ALL RESPECTS.

15. DR 38 has elicited the same "boiler plate response" from Respondent as heretofore set forth. Additionally, Respondent claims that this data request is meant to "harass." Unlike the actions of the Respondent, Complainant does not seek to harass the Respondent! Even on the face of the data request, this should be obvious to the reader. DR. 38 requests the *name of employees* involved in the defense of this Complainant and the total number of hours each has expended in any aspect of the case on behalf of the Respondent from the time of the Respondent's receipt of the Complaint until the present day--and information about each such employee. This does not relate to any "outside" law firm working on the matter, but **Respondent's own employees.** It seeks to determine the Respondent's motivation, bias, and prejudice and the extent to which the Respondent has gone in pursuit of a frivolous "defense" designed SOLELY to harass the Complainant. If the Respondent were to ask the Complainant how much time he has had to expend in this matter, he would freely provide the approximate total number of hours expended in all aspects of this case. Complainant now requests the same information from the Respondent. COMPLAINANT REQUESTS THAT THE COMMISSION ORDER THE RESPONDENT TO ANSWER DR. 38 FULLY AND IN ALL RESPECTS.

16. DR 39 again uses the same boiler plate language heretofore seen; it again alleges that the intent of Complainant is merely to "harass." Not so! This data request simply asks the annual salary of each individual involved in Data request #38. Again, the motivation of the Respondent for frivolously and arbitrarily opposing a proper application of G.E.T. §6.12.6(e)

under the guise of a "defense," and the possible "need" of the Respondent's employees to "make work" when there otherwise may have been nothing for them to do is "fair game" and certainly discoverable. It may lead to the discovery of admissible evidence. **COMPLAINANT REQUESTS THAT THE COMMISSION ORDER THE RESPONDENT TO ANSWER DR 39. FULLY AND IN ALL RESPECTS**

**17. DR 40.** Again, we see the same Respondent's boiler plate language. This is NOT WORK PRODUCT! THIS IS NOT WORK PRODUCT! THIS DATA REQUEST DOES NOT REQUEST WORK PRODUCT! This data requests the annual salary of each individual or hourly wage (if applicable) that the Respondent has expended for this litigation, strategy, decision, and/or considerations in this case from the date of receipt by Respondent of the formal Complaint to the present, the names of individual involved, and the number of hours expended. Each of these individuals are employees of the Respondent, not outside persons employed for the purpose of litigation! Each may have information that will lead to the discovery of admissible evidence and each may provide information with regard to the value of labor expended in this case. It would be farcical to consider that the annual salary of each individual or hourly wage is "work product!" **COMPLAINANT REQUESTS THAT THE COMMISSION ORDER THE RESPONDENT TO ANSWER DR 40. FULLY AND IN ALL RESPECTS**

**WHEREFORE**, Complainant prays, in order to properly prepare for any forthcoming hearing, that the Commission order the Respondent to fully answer Complainant's DRs: #17, #18, #19, #21, #23, #24, #25, #28, #29, #36, #41, #42 (since the *Respondent has already indicated affirmatively it would "provide responses"*). Because the Respondent has used the same ploy, to wit: "the Respondent will respond" (but never has to any of the Complainant's **June 2006** data requests), the Commission should enter its order ordering the Respondent to respond **immediately and without delay!** Complainant further prays that the Commission will not be influenced or beguiled by the power and authority that has been exhibited throughout this litigation by the Respondent and will also order **full and complete answers** to be provided forthwith by the Respondent to **DRs: 20, 22, 26, 27, 30, 31, 32, 33, 34, 34A, 35, 37, 38, 39, and 40.**

Respectfully,



Complainant

November 3, 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:

5029 Gravois View Ct. #C  
St. Louis, Missouri 63123

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

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

**SOUTHWESTERN BELL TELEPHONE, L.P., D/B/A AT&T MISSOURI'S OBJECTIONS  
TO COMPLAINANT'S OCTOBER 16, 2006, DATA REQUESTS**

Southwestern Bell Telephone, L.P., d/b/a AT&T Missouri ("AT&T Missouri"), pursuant to 4 CSR 240-2.090(2), states the following Objections to the Data Requests ("DRs") submitted by Complainant, R. Mark, to AT&T Missouri:<sup>1</sup>

**GENERAL OBJECTIONS**

AT&T Missouri objects to all of the DRs to the extent that they are unduly burdensome and oppressive, in that the total number of requests, together with their multiple and detailed subparts in many instances, exceed a reasonable number of requests given the type of case and the resources which should reasonably be necessary to resolve it.

AT&T Missouri objects to all of the DRs to the extent that they purport to be directed to "ATT" and "SBC" on the grounds that Complainant has not defined either of these terms, AT&T Missouri is unaware of the meaning to be attributed to them, and they are otherwise vague. Subject to and without waiving its objection, AT&T Missouri will respond to the DRs on its own behalf.

AT&T Missouri objects to each DR which relates to or otherwise references the term "unpublished" on the grounds that Complainant has not defined this term, AT&T Missouri is

<sup>1</sup> These data requests, while entitled "Complainant's Data Requests (DR 017 through DR 044) Directed to Respondent ATT (SBC) October 12, 2006," were received by AT&T Missouri via regular U.S. mail on October 16, 2006.



unaware of the meaning to be attributed to it, and it is otherwise vague. Subject to and without waiving its objection, AT&T Missouri will respond to each such DR on the assumption that it relates to or otherwise references the term "non-published."

AT&T Missouri objects to all of the DRs to the extent that they purport to request information that would be regarded as privileged, whether on the basis of the attorney-client and work product privileges, or any other applicable privilege.

AT&T Missouri objects to all of the DRs to the extent that they are unduly burdensome and oppressive in that AT&T Missouri continues to expend time and resources to secure Complainant's own responses to several of AT&T Missouri's Data Requests directed to Complainant that remain unanswered despite the issuance of an October 12, 2006, order by the Commission compelling a response, which efforts are further compromised and made more difficult by the expenditure of time attendant to addressing Complainant's instant Data Requests. AT&T Missouri will, subject to all objections taken herein, provide the information indicated below at such time as Complainant has fully complied with the Commission's October 12, 2006, order compelling Complainant to respond to AT&T Missouri's Data Requests.

AT&T Missouri objects to all of the DRs to the extent that they seek facts and information from AT&T Missouri which AT&T Missouri has sought to discover from the Complainant in its own Data Requests, responses to which the Complainant should already have provided and would reasonably be expected to have in his sole possession, custody and control.

### **SPECIFIC OBJECTIONS**

**AT&T Missouri's Objection to DR 17:** In addition to its General Objections stated above, AT&T Missouri objects to this Data Request on the grounds that it seeks work-product and attorney-client privileged information, is irrelevant and not reasonably calculated to lead to the discovery of admissible evidence, and is overly broad and burdensome. Subject to and without waiving its objections, AT&T Missouri will provide a response.

**AT&T Missouri's Objection to DR 18:** In addition to its General Objections stated above, AT&T Missouri objects to this Data Request on the grounds that it is irrelevant and not reasonably calculated to lead to the discovery of admissible evidence, is overly broad and burdensome, and to

the extent that it seeks information that would constitute Customer Proprietary Network Information or other personally identifiable information. AT&T Missouri further objects to this Data Request on the ground that it requests AT&T Missouri to undertake research on Complainant's behalf that would be protected by the work product privilege even if such efforts were undertaken. Subject to and without waiving its objections, AT&T Missouri will provide a response.

**AT&T Missouri's Objection to DR 19:** In addition to its General Objections stated above, AT&T Missouri objects to this Data Request on the grounds that it is irrelevant and not reasonably calculated to lead to the discovery of admissible evidence, and is overly broad and burdensome. AT&T Missouri further objects to this Data Request on the ground that the definition submitted for "material fact" is vague and unclear to AT&T Missouri and the term is not used in the Data Request. Subject to and without waiving its objections, AT&T Missouri will provide a response..

**AT&T Missouri's Objection to DR 20:** In addition to its General Objections stated above, AT&T Missouri objects to this Data Request on the grounds that it is irrelevant and not reasonably calculated to lead to the discovery of admissible evidence. AT&T Missouri further objects to this Data Request on the ground that it is vague and unclear to AT&T Missouri.

**AT&T Missouri's Objection to DR 21:** In addition to its General Objections stated above, AT&T Missouri objects to this Data Request on the grounds that it seeks work-product and attorney-client privileged information, is irrelevant and not reasonably calculated to lead to the discovery of admissible evidence, and is overly broad and burdensome. Subject to and without waiving its objections, AT&T Missouri will provide a response.

**AT&T Missouri's Objection to DR 22:** In addition to its General Objections stated above, AT&T Missouri objects to this Data Request on the grounds that it seeks work-product and attorney-client privileged information, is irrelevant and not reasonably calculated to lead to the discovery of admissible evidence, and is overly broad and burdensome.

**AT&T Missouri's Objection to DR 23:** In addition to its General Objections stated above, AT&T Missouri objects to this Data Request on the grounds that it seeks work-product and attorney-client privileged information, is irrelevant and not reasonably calculated to lead to the discovery of admissible evidence, and is overly broad and burdensome. Subject to and without waiving its objections, AT&T Missouri will provide a response.

**AT&T Missouri's Objection to DR 24:** In addition to its General Objections stated above, AT&T Missouri objects to this Data Request on the grounds that it seeks work-product and attorney-client privileged information, is irrelevant and not reasonably calculated to lead to the discovery of admissible evidence, and is overly broad and burdensome. Subject to and without waiving its objections, AT&T Missouri will provide a response.

**AT&T Missouri's Objection to DR 25:** In addition to its General Objections stated above, AT&T Missouri objects to this Data Request on the grounds that it is irrelevant and not reasonably calculated to lead to the discovery of admissible evidence. Subject to and without waiving its objections, AT&T Missouri will provide a response.

**AT&T Missouri's Objection to DR 26:** In addition to its General Objections stated above, AT&T Missouri objects to this Data Request on the grounds that it is irrelevant and not reasonably calculated to lead to the discovery of admissible evidence, and is overly broad and burdensome.

AT&T Missouri further objects to the DR's characterization of the Staff's Report, which speaks for itself.

**AT&T Missouri's Objection to DR 27:** In addition to its General Objections stated above, AT&T Missouri objects to this Data Request on the grounds that it is irrelevant and not reasonably calculated to lead to the discovery of admissible evidence, and is overly broad and burdensome. AT&T Missouri further objects to the DR's characterization of the Staff's Report, which speaks for itself.

**AT&T Missouri's Objection to DR 28:** In addition to its General Objections stated above, AT&T Missouri objects to this Data Request on the grounds that it is irrelevant and not reasonably calculated to lead to the discovery of admissible evidence, and is overly broad and burdensome. Subject to and without waiving its objections, AT&T Missouri will provide a response.

**AT&T Missouri's Objection to DR 29:** In addition to its General Objections stated above, AT&T Missouri objects to this Data Request on the grounds that it seeks work-product and attorney-client privileged information, is irrelevant and not reasonably calculated to lead to the discovery of admissible evidence, and is overly broad and burdensome. AT&T Missouri further objects to this Data Request on the ground that the term "material fact" is vague and its meaning is unclear to AT&T Missouri. Subject to and without waiving its objections, AT&T Missouri will provide a response.

**AT&T Missouri's Objection to DR 30:** In addition to its General Objections stated above, AT&T Missouri objects to this Data Request on the grounds that it seeks work-product and attorney-client privileged information, and is irrelevant and not reasonably calculated to lead to the discovery of admissible evidence. AT&T Missouri further objects to the DR's characterization of the Staff's Report, which speaks for itself.

**AT&T Missouri's Objection to DR 31:** In addition to its General Objections stated above, AT&T Missouri objects to this Data Request on the grounds that it seeks work-product and attorney-client privileged information, and is irrelevant and not reasonably calculated to lead to the discovery of admissible evidence. AT&T Missouri further objects to the DR's characterization of the Staff's Report, which speaks for itself.

**AT&T Missouri's Objection to DR 32:** In addition to its General Objections stated above, AT&T Missouri objects to this Data Request on the grounds that it seeks work-product and attorney-client privileged information, and is irrelevant and not reasonably calculated to lead to the discovery of admissible evidence. AT&T Missouri further objects to the DR's characterization of the Staff's Report, which speaks for itself.

**AT&T Missouri's Objection to DR 33:** In addition to its General Objections stated above, AT&T Missouri objects to this Data Request on the grounds that it seeks work-product and attorney-client privileged information, is irrelevant and not reasonably calculated to lead to the discovery of admissible evidence, and is overly broad and burdensome.

**AT&T Missouri's Objection to DR 34:** In addition to its General Objections stated above, AT&T Missouri objects to this Data Request on the grounds that it seeks information protected by the work-product and attorney-client privileges and the privilege which relates to efforts to resolve and/or a dispute, is irrelevant and not reasonably calculated to lead to the discovery of admissible

evidence, is overly broad and burdensome, and on the ground that the intent and/or effect of this Data Request are merely to harass.

**AT&T Missouri's Objection to DR 34A:** In addition to its General Objections stated above, AT&T Missouri objects to this Data Request on the grounds that it seeks work-product and attorney-client privileged information, is irrelevant and not reasonably calculated to lead to the discovery of admissible evidence, and is overly broad and burdensome. AT&T Missouri further objects to the DR's characterization of the Staff's Report, which speaks for itself.

**AT&T Missouri's Objection to DR 35:** In addition to its General Objections stated above, AT&T Missouri objects to this Data Request on the grounds that it seeks information protected by the work-product and attorney-client privileges and the privilege which relates to efforts to resolve and/or a dispute, is irrelevant and not reasonably calculated to lead to the discovery of admissible evidence, is overly broad and burdensome, and on the ground that the intent and/or effect of this Data Request are merely to harass.

**AT&T Missouri's Objection to DR 36:** In addition to its General Objections stated above, AT&T Missouri objects to this Data Request on the grounds that it is irrelevant and not reasonably calculated to lead to the discovery of admissible evidence, and is overly broad and burdensome. Subject to and without waiving its objections, AT&T Missouri will provide a response.

**AT&T Missouri's Objection to DR 37:** In addition to its General Objections stated above, AT&T Missouri objects to this Data Request on the grounds that it seeks information protected by the work-product and attorney-client privileges and the privilege which relates to efforts to resolve and/or a dispute, is irrelevant and not reasonably calculated to lead to the discovery of admissible evidence, is overly broad and burdensome, and on the ground that the intent and/or effect of this Data Request are merely to harass.

**AT&T Missouri's Objection to DR 38:** In addition to its General Objections stated above, AT&T Missouri objects to this Data Request on the grounds that it seeks work-product and attorney-client privileged information, is irrelevant and not reasonably calculated to lead to the discovery of admissible evidence, is overly broad and burdensome, and on the ground that the intent and/or effect of this Data Request are merely to harass.

**AT&T Missouri's Objection to DR 39:** In addition to its General Objections stated above, AT&T Missouri objects to this Data Request on the grounds that it seeks work-product and attorney-client privileged information, is irrelevant and not reasonably calculated to lead to the discovery of admissible evidence, is overly broad and burdensome, and on the ground that the intent and/or effect of this Data Request are merely to harass.

**AT&T Missouri's Objection to DR 40:** In addition to its General Objections stated above, AT&T Missouri objects to this Data Request on the grounds that it seeks work-product and attorney-client privileged information, is irrelevant and not reasonably calculated to lead to the discovery of admissible evidence, is overly broad and burdensome, and on the ground that the intent and/or effect of this Data Request are merely to harass.

**AT&T Missouri's Objection to DR 41:** Subject to and without waiving General Objections stated above, AT&T Missouri will provide a response.

**AT&T Missouri's Objection to DR 42:** Subject to and without waiving General Objections stated above, AT&T Missouri will provide a response.

**AT&T Missouri's Objection to DR 43:** In addition to its General Objections stated above, AT&T Missouri objects to this Data Request on the grounds that it is irrelevant and not reasonably calculated to lead to the discovery of admissible evidence, and on the grounds that the tariff speaks for itself.

**AT&T Missouri's Objection to DR 44:** In addition to its General Objections stated above, AT&T Missouri objects to this Data Request on the grounds that it is irrelevant and not reasonably calculated to lead to the discovery of admissible evidence, and on the grounds that the tariff speaks for itself.

\_\_\_\_\_  
Submitted,

**CASE NO. TC-2006-0354**

Mark v. SBC d/b/a ATT Missouri

**COMPLAINANT'S DATA REQUESTS (DR 017 through DR 044)****DIRECTED TO RESPONDENT ATT (SBC)****OCTOBER 12, 2006.**

**DR 017.** Please state the following with regard to **each named person** in response to any of the data requests enumerated hereinbelow:

- A. Name
- B. Home address
- C. Home telephone number(s)
- D. Home fax number(s)
- E. All cell numbers: personal/business
- F. The name of the provider of each cell phone and land line telephone number
- G. All E-mail addresses used: personal/business
- H. Business address
- I. Business telephone number(s)
- J. Business fax number(s)

If the named individual will be, could be, or may be, called as a witness by the Respondent at any forthcoming hearing, **additionally state:**

- K. Summary and Nature of personal knowledge and anticipated testimony
- L. The verbatim contents of any document(s) the witness will produce or identify, or furnish a true copy thereof in response to this data request.
- M. Educational background and training of said individual from H.S. graduation forward, including in area of claimed expertise.
- N. The purported area of expertise, if any, of the named individual.
- O. If the witness will testify to any disputed fact, state all ultimate facts about which the witness may or will testify and the basis for each such statement of fact including, but not limited to, the fact, how, when, and in what manner such information related to the disputed fact was acquired or learned, the name of the person from whom (if anyone) it was learned, and all details relating to said disputed fact.
- P. If the anticipated testimony relates to **other than** facts, state whether or not the witness will be called as an expert witness.
- Q. If the witness anticipated or possibly to be called is to be offered as an expert witness, state the training and education of said witness, employment during the previous ten years, fee charged for testimony (if any), as well as state verbatim all papers or research published or written by said individual; in lieu thereof, attached a true copy hereto of each document.
- R. State all cases, whether administrative or civil, in which the proposed witness has previously testified during the previous ten (10) years including:

- 1. Style of case
- 2. Name of administrative judge or tribunal
- 3. Venue

3. Nature of testimony
4. Case Number
5. Date of case
6. Issues
7. Disposition of the case
8. Name of the judge
9. Whether jury trial or bench trial
10. Whether the Respondent has a transcript of said testimony. If so, state verbatim such testimony or furnish a copy thereof.

S. If the individual indicated above is, or has been, an employee of Respondent at any time, additionally state:

1. Date of initial employment and total length of employment
2. Position or title
3. Nature of duties
4. Date(s) of each and every contact with Complainant, if any.
5. Nature of each contact with the Complainant if any, including:
  - a. date
  - b. time
  - c. whether by phone or in writing.
6. Nature of anticipated testimony and/or knowledge relating to any aspect of this case by said employee
7. All material facts about which the potential witness will testify, if any, and all details about the basis, nature, and origin of such material facts.
8. Verbatim all E-mails or other communications (or attached a true copy in response to this data request), sent or received to Complainant or to any other employee of Respondent, relating to the Complainant and/or Complainant's request for waiver of the monthly non-published charge under G.E.T. §6.12.6(e).

T. With regard to each employee of Respondent who has orally communicated with the Complainant, and/or has sent correspondence to Complainant, and/or written about or e-mailed (to anyone) any aspect of the Complainant's request for waiver of the non-published charge [between October 1, 2003], (with the exception of any attorney *personally* representing the named employee), and/or has been involved in any aspect of the denial and/or consideration(s) applicable to the decision to deny the Complainant relief requested pursuant to G.E.T. §6.12.6(E) state, in addition to the above:

1. Date of each contact with the Complainant
2. Whether contact was in writing or oral
3. Whether any memoranda or written document exists with regard to said contact; if so, attached a true copy.
4. The purpose of each contact and a summary thereof
5. State any action taken by Respondent as a result of such contact and if so, the name

of the person who implemented and/or directed said action.

6. State the name of each individual to whom the contact was communicated or discussed and the nature of each such discussion or relation.

**DR 018:** During the period January 1, 1996 through October 1, 2006, has any residential telephone customer of Respondent requested a waiver pursuant to G.E.T. §6.12.6(e)? If affirmative, state:

- A. The name, address, and telephone number of each said customer and the date of each request by each such telephone customer.
- B. All information indicated above (DR 017), relating to each **employee of Respondent** involved.
- C. With regard to each request hereinabove, whether the request was granted or denied and whether such request was initiated by the telephone customer orally or in writing (if in writing or if a memoranda or data entry exists, furnish a true copy thereof).
- D. All material facts utilized or considered by Respondent in support of each grant or denial of each said request.
- E. The representations/statements made by each telephone customer to the Respondent who requested a waiver of the charge pursuant to §6.12.6(E).
- F. The response by the Respondent's employee to each representation/statement made by the customer who requested the waiver
- G. The name of the Respondent's employee in each such instance stated hereinabove in addition to information about Respondent's employee (DR 017).
- H. Whether each of the aforesaid *other* telephone customers was requested by Respondent to provide:
  - 1. Any telephone numbers used for **oral** communication by said telephone customer.
  - 2. Any business in which the other telephone customer was involved if any, and title, if any, of the telephone customer at said business.
  - 3. Employment, if any, of the telephone customer.
  - 4. Make and model of the data terminal used by the telephone customer.
  - 5. Any other addresses of each said telephone customer.
  - 6. Any other additional facts required or requested by the Respondent related to the customer's request for a G.E.T. §6.12.6(E) waiver. If any other additional facts were required/requested by the Respondent of any *other* telephone customer, state all details and facts applicable, the date of each such request by Respondent, and the response by the telephone customer to each such Respondent's request.

**DR 019:** "Material fact" shall be defined in this data request as any fact required by Respondent in order for Complainant to obtain a waiver of the non-published monthly charge in accordance with G.E.T. §6.12.6(E):



- A. State the first date on which Respondent received a request for a waiver of the monthly non-published charges for Complainant's residential P.O.T.S. telephone line in this case.
- B. State the name of the Respondent's employee receiving the initial request and the name of each subsequent employee involved in, or who has made any decision about, the granting or denying of the Complainant's request for waiver. With regard to each employee, furnish all information pursuant to DR 017.
- C. State each material fact, *if any*, in the care, custody, possession, or control of Respondent for the period of October 1, 2003 until the time this case was filed with the Missouri Public Service Commission, on which the Respondent based its denial of the Complainant's request for waiver of the non-published monthly charge pursuant to G.E.T. §6.12.6(E).
- D. State whether Respondent made any request to the Complainant for the period November 1, 2003 through the time of the filing of this case for any additional facts or statements [i.e., to supplement/expand on the prior oral statements of the Complainant to the Respondent that the Complainant that his P.O.T.S. residential line was being used: 1) With a data terminal, and 2) No voice use was contemplated]. If affirmative, state the name(s) of the Respondent's employee(s) involved, the date of each said request, the nature of each said request, all details related thereto, and furnish a true copy of any written request made by Respondent to Complainant. If oral, attach a copy of each and every memoranda or notation related thereto and a recitation of each oral communication, if any.
- E. State each date on which any employee of Respondent denied, either orally or in writing, Complainant's request for waiver of the non-published monthly charge of the Respondent between November 1, 2003 until the time of the filing of Complainant's formal complaint. Each date shall also include each Offer of Settlement made by the Complainant or the Respondent during said period. If reduced to writing or in writing, furnish true copies of all memoranda, documents, offers, etc.
- F. With regard to each of the above dates set forth in "E" above, state the name of each of Respondent's employees who denied the request of the Complainant for waiver of the monthly charge for a non-published number in addition to all information relating to said employee pursuant to DR 017.

**DR 020:** State with regard to each person having personal knowledge of the facts on which the Respondent has based its denial of the Complainant's Request for waiver of the non-published monthly charge between October 1, 2003 until the time that this case was filed with the Missouri Public Service Commission, the following:

Q. (If any of the following is answered in the affirmative, state all details including the nature and basis of the personal knowledge, date acquired, name of the person having any alleged personal knowledge + DR 017 information relating to each named person). State whether any proposed witness for the Respondent and/or any present or past employee of the Respondent has any personal knowledge that:

1. The Complainant at any time since November 1, 2003 until the date of filing of the formal complaint in this case has **NOT** utilized a fax machine attached to the P.O.T.S. residential line which is the subject of this case.
2. The Complaint at any time since November 1, 2003 until the time of the filing of the formal complaint **has utilized** said P.O.T.S. line for voice communications.
3. The Complainant at any time since November 1, 2003 to the date of the filing of the Formal complaint **has utilized** said residential telephone line for any purpose **other than data**, to wit: the transmission/reception of faxes.
4. The Complainant at any time since November 1, 2003 through the time of the filing of the Formal Complaint **has used** voice communication on said residential telephone line.
5. Whether the Respondent has within its care, custody, possession, or control any document which refutes, tends to refute, or might refute or dispute the Complainant's two sworn affidavits heretofore filed in this case in support of *Complainant Motion for Summary Judgment*. If so, furnish verbatim the contents of each said document or attach a true copy hereto in your response to this data request.
6. Whether any document the Respondent intends to introduce at any hearing or which the Respondent possesses, disputes the Complainant's sworn affidavit that his P.O.T.S. residential line **has NOT been used** at any time for voice communications since November 1, 2003. If affirmative, state verbatim the contents of each said document or attached a true copy hereto.
7. Whether, prior to the time the Respondent propounded data requests to the Complainant, the Respondent had within its care, custody, possession, and/or control, the name of the Complainant, his service address, and the billing address of the P.O.T.S. line of the Complaint which is the subject matter of this case.
8. Whether, subsequent to the propounding by Respondent of its data requests to the Complainant, the Respondent furnished to the Commission Staff the service address and billing address of the Complainant which is the subject matter of this case.
9. Whether the Respondent at any time indicated to the Commission that it **did not wish to compel** a response to its data request of the Complainant for the service address and billing address of the Complainant since it had such

information (already) within its care, custody, possession, and/or control.

10. Each and every instance (time, date, participants, place, details), that the Respondent by any employee, has orally indicated to the Complainant or to anyone else, that the issue in this case is one of interpretation of G.E.T. §6.12.6(e), to wit: that the Respondent "does not agree" that a fax machine is a data terminal or that the Respondent does not agree with the Complainant's "interpretation" of §6.12.6(e). If a writing exists reflecting each such instance, attach a true copy there, additionally, to your response.
11. Each and every instance that the Respondent, through any employee, has written to the Complainant or to anyone else that the issue in this case is one of interpretation of G.E.T. §6.12.6(e), (or words to that effect), to wit: that the Respondent does not agree that a fax machine is a data terminal or that the Respondent does not agree on the interpretation or application of G.E.T. §6.12.6(e), to wit: that a fax machine is a data terminal within the meaning of the aforesaid G.E.T. In each said case, state with regard to each named employee all information indicated hereinabove in DR 017 and all details of each such instance. If a writing or E-mail exists related thereto, attached a true copy hereto.

**DR 021.** State each and every **factual** basis giving rise to any conclusion or decision by the Respondent that a fax machine is **NOT** a data terminal.

**DR 022.** State each and every **legal** basis (with citations and/or references), giving rise to any conclusion or decision by the Respondent that a fax machine is **NOT** a data terminal. State all information in DR 017 about any expert or lay witness who will be, or may be, utilized by the Respondent at any forthcoming hearing, state his opinion thereon, and the basis or support for such an opinion.

**DR 023.** State any words in G.E.T. §6.12.6(e) which refer to, indicate, or mention **anything** about **THE USE** of the data terminal attached, to wit: whether the data terminal is used for **business or personal purposes**. Furnish a true copy of any provision of §6.12.6(e) referring to **ANY** particular use, if any, Of the data terminal attached to the customer's P.O.T.S. residential telephone line on which a waiver of the non-published monthly charge is requested.

**DR 024.** Please produce all documents referring to, or relating to, any contention or allegation or conclusion by the Respondent that a fax machine is **NOT** a data terminal.

**DR 025.** State whether or not the Respondent has received a copy of the Commission Staff Report in this case supported by a sworn affidavit and dated 30 June 2006.

**DR 026:** State whether the Respondent has read the Commission's Staff Conclusion that the Commission Staff recommends that the Commission find for the Complainant. (Related to the entitlement of the Complainant to a waiver of monthly non-published charges and a waiver of such future monthly non-published charges.) State all facts, if any, that the Respondent has within its

care, custody, possession, control and/or knowledge to refute the Staff's recommendation and the basis and origin of each such fact.

**DR 027:** State whether the Respondent has read the Commission's Staff Conclusion (at page 6 of the Staff Report), that after investigation thereof, that "Based on his verified statement, the Staff has no reason to doubt Mr. Mark's assertions" that "his telephone line is used exclusively for facsimile purposes and that no voice use is contemplated on his line." State whether the Respondent has any facts within its care, custody, possession, or control or knows of any facts known by anyone not employed by Respondent to support any contention that the verified statements of Complainant are not true or correct; if so, state all such facts, the basis for such facts, the names of each and every individual applicable including DR 017, and the origin of such facts.

**DR 028.** State whether the Respondent possesses any document or any employee of Respondent has any personal knowledge, that Complainant's assertion that "his telephone line is used exclusively for facsimile purposes and that no voice use is contemplated on his line" is NOT true or correct. If the Respondent possesses any document or personal knowledge, furnish a true copy of each such document or recite a summary of the personal knowledge applicable. If any person known to the Respondent claims to have personal knowledge that any of the Complainant's assertion in his affidavits is NOT true and/or correct, state the name of each such person and all information about said person as required pursuant to DR.017.

**DR 029.** State whether, at any time since the request for waiver to the Respondent by the Complainant made in November 2003 through the present, the Respondent has been in possession of, or knows of, any material fact which would dispute, or could dispute, the Complainant's contention that he qualifies for the non-published monthly rate exception in accordance with G.E.T. §6.12.6(e). If so, state each fact, the basis for each fact, the origin of such fact, and the name of each individual, if any, having such knowledge along with all information requested in DR.017.

**DR 030.** State whether the Respondent has read, and/or is aware, of the Commission's Staff's conclusion that the Staff, after investigation, recommends that the Commission find for the Complaint and that the Complaint qualifies for future non-published rate exemptions.

**DR 031.** State how and in what way, if any, the Respondent disagrees with the Staff's Summary of the Core Items in Dispute, to wit: whether the term "data terminal" is, or is not, a data terminal.

**DR 032.** Does the Respondent intend to introduce any evidence or testimony tending to refute the Staff Report's factual conclusion, after its investigation, that "Mr. Mark has submitted a verified statement indicating that his telephone line is used exclusively for facsimile purposes, that no voice use is contemplated on his line, and that based on his verified statement, the staff has no reason to doubt Mr. Mark's assertions." If so, state each evidentiary fact the Respondent intends to introduce at any forthcoming hearing as well as all information relating to the name of the person who will testify or introduce any document related thereto as set forth hereinabove in DR 017.

**DR 033.** State the name of each employee of the Respondent starting with the Respondent's telephone representative who received the Complainant's first request for waiver in November 2003

through the time of the filing of Complainant's Formal Complaint who has obtained any factual information related to the Complainant's request for waiver (either from the Complainant or elsewhere), or who has been involved in the consideration and/or decision of Complainant's request for waiver. For each said individual state all information indicated in DR 017 as well as the nature of involvement of each said person, the date(s) of involvement, and all facts and details known to each named employee as well as a summary of all factual information.

**DR 034** State whether or not the Respondent's employee, Paul G. Lane, stated in a letter dated February 20, 2004 to the Complainant that "I have reviewed the tariff and continue to believe that the charge is properly assessed. I have also reviewed your proposed stipulation of facts." State all information requested in **DR. 017** about Paul G. Lane and furnish a **true copy of the Stipulation** received by Paul G. Lane from the Complainant to which his letter of February 20, 2004 responded.

**DR 034A.** Does the Respondent accept the statement in the *Conclusion* of the Staff Report at P-11 of the Report that: "The Staff is unaware of any other matter that affects, or that would be affected by, these recommendations. If the Respondent's answer to this DR is negative, state all facts currently within the knowledge of the Respondent that dispute the Staff's aforesaid Conclusion, state the basis for each such fact, how acquired, and when and set forth in detail how and in what way such facts dispute the Staff's Conclusion.

**DR 035.** State whether Paul G. Lane stipulated in 2004 or thereafter to any of the following facts in accordance with the Complainant's request to stipulate. If he **did NOT** so stipulate or refused to stipulate to any of the following, state the factual basis for his refusal of each of the following requests of him to stipulate:

**A.** The Complainant subscribes to a (P.O.T.S.) residential telephone line within St. Louis Missouri from the Respondent.

**B.** That the Complainant has heretofore paid a monthly charge to the Respondent for unpublished telephone service for the aforesaid Complainant's residential line in accordance with G.E.T. 6.12.4, 15th Revised, Sheet 11.

**C.** That on or about November 1, 2003, the Complainant advised the Respondent that the Respondent had placed a fax machine data terminal on the telephone line for the transmission and reception of fax, non-voice data.

**D.** That in the aforesaid November 2003 conversation the Complainant also advised the Respondent that no further voice use was contemplated for the aforesaid P.O.T.S. residential line.

**E.** That in accordance with Sec. 6.12.6(E) of Southwestern Bell Telephone's General Exchange Tariff, Complainant requested that Respondent discontinue any further non-published monthly billing charge, effective as of the date of the Complainant's notification, for the Complainant's non-published residential exchange service.

**F. That the Respondent refused to discontinue the monthly charge charged for the Complainant's non-published residential exchange service.**

**G. That the parties agree and stipulate that Section 6.12 of SBT's General Exchange Tariff states the following with regard to the nonpublished monthly rate *not* applying, to wit: \$2.14 per month (§6.12.4), for residential service:**

**6.12.6: "*E. When a customer who has service which involves data terminals where there is no voice use contemplated.*"**

**H. That the Respondent advised Complainant on or about January 28, 2004 that Respondent does "not agree" that Section 6.12.6(E) provides that the charge for nonpublished Exchange Service shall be waived for residential non-published service under the aforesaid circumstances.**

**DR 036:** At any time subsequent to November 1, 2003 and prior to the Complaint being filed, did the Respondent communicate with the Complainant to indicate it specifically disputed any of the statements enumerated above as A-H in DR 035? If so, furnish a true copy of each such communication and specifically state each item disputed by Respondent, by letter (A-H), along with setting forth in detail how and in what way the Respondent disputed/disputes each item.

**DR 037:** At any time did Paul G. Lane or any employee of the Respondent, prior to the filing of the formal Complaint in this case and subsequent to November 1, 2003, indicate to the Complainant that there was any material fact in dispute relating to the Complainant's contention that he was entitled to a waiver of the monthly unpublished charge in accordance with G.E.T. §6.12.6(E)? If so, furnish a true copy of each said document.

**DR 038:** State the name of all individuals involved at any time in the litigation of the Complainant's formal complaint and state the total number of hours each has expended in any aspect of the case on behalf of the Respondent from the time of the Respondent's receipt of the Complaint until the present day. Furnish all information about each named individual requested in DR 017.

**DR 039:** State the annual salary of each individual indicated in DR 038.

**DR 040:** State the total dollar value of the time, based on the annual salary of each individual or hourly wage, (if applicable), that the Respondent, (through each of its employees), has expended in the litigation, strategy, decisions, and/or considerations in this case from the date of receipt by the Respondent of the Complaint to the present or state each named individual or department and the number of hours expended as well as the salary/cost expended by the Respondent for said time.

**DR 041:** State the total dollar value of the charges paid, (under protest), by the Complainant *specifically* for the *unpublished monthly charges* of Respondent from November 2003 to the present date, and separately state each charge charged **for each month** that an unpublished monthly charge was charged by Respondent from November 2003 to the present.

**DR 042:** State the total dollar value of the charges that will be billed in the future at the current non-published rate for each month which is attributable to the unpublished monthly charge from the last dated indicated in DR.041 through December 12, 2006

**DR 043:** In order for any telephone customer to receive a waiver of monthly unpublished charges from the Respondent in accordance with G.E.T. §6.12.6(e), state:

1. Whether the request was/is required by the Respondent to be in writing.
2. Whether the request was/is required by the Respondent to be submitted under oath.
3. Whether the customer was/is required by the Respondent to orally state anything to the Respondent other than:

That a data terminal was/is attached to the telephone line.

B. That no further voice use was/is contemplated

4. Whether the customer was/is required to furnish to the Respondent at the time of such request any method of oral communication used by the customer unrelated to the telephone line at issue
5. Whether the customer was/is required to furnish to the Respondent any telephone number or information related to oral communications used unrelated to the telephone line in question
6. Whether the customer was/is required to furnish to the Respondent the business employment, if any, of the customer, unrelated to the telephone line at issue.
7. Whether the customer was/is required to furnish to the Respondent any business telephone number used by the customer unrelated to the telephone line at issue.
8. Whether the customer was/is required to furnish to the Respondent whether or not the data terminal was used for any specific purpose, i.e. business or personal.

**DR. 044** If any of the above enumerated: 1-8, is requested/required pursuant to any tariff provision on file, state in full each such tariff provision, the citation and/or authorization for the Respondent to make such request/inquiry of a telephone customer prior to the Respondent's consideration and decision of whether to grant or to deny the customer relief pursuant to G.E.T. §6.12.6(E)