

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

**FILED<sup>2</sup>**

SEP 27 2006  
Missouri Public  
Service Commission

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

**COMPLAINANT'S REQUEST FOR ADMISSIONS  
DIRECTED TO RESPONDENT**

Comes now Complainant with *Complainant's Request for Admissions Directed to Respondent*, requests that the Respondent ADMIT the following:

1. That the Respondent denied the Complainant's Request for waiver of the monthly charge for a non-published number on Complainant's Residential P.O.T.S. exchange line in November 2003.
2. That at the time of Complainant's initial request of Respondent, he stated:
  - A. That he had a data terminal on his telephone line.
  - B. That no further voice use was contemplated.
3. That at the time of the denial of the Complainant's first request for waiver of the monthly non-published exchange service, the Respondent had no evidence to indicate that he did not have a data terminal (to wit, fax machine) on his residential telephone line.
4. That at the time of the denial of the Complainant's first request for waiver of the monthly non-published exchange service, the Respondent had no evidence to indicate that further voice use was NOT contemplated on the telephone line.
5. That between the time of the first denial by the Respondent of waive of the monthly service charge for the Complainant's non-published residential telephone line until the time of the filing of the formal complaint in this case, Respondent has had no evidence to indicate that the statements made, to wit: "A" and "B" hereinabove, were not true and correct.
6. That at no time from November 2003 until the time of the formal complaint, did the Respondent ever request of the Complainant:
  - A. Whether the use of his data terminal was for business or personal use.
  - B. The name of the provider of any alternate voice communication used by the Complainant.
  - C. The telephone number of any alternate voice communication used by the Complainant in view of the use on the telephone line in question for data purposes only.
  - C. Any other addresses of the Complainant.

- D. The name, address, and telephone number of any business employing the Complainant.
- E. The duties and/or title of the Complainant at any business employing the Complainant, if any.
- F. The model, manufacturer, and serial number of the data terminal, i.e., fax machine utilized by the Respondent.
- G. The date of purchase of the data terminal, i.e. fax machine, being used on the P.O.T.S. residential exchange telephone line in question.
- H. ANY information related to documentation or facts to support the Complainant's November 2003 oral request for waiver.
- I. Whether the Complainant received any business income.

7. That G.E.T. §6.12.6(E) on its face does not require a telephone customer to state to the telephone utility, in order to receive a waiver of the nonpublished exchange service charge for a residential telephone line, anything more than

- A. A data terminal is involved on the telephone line
- B. That no voice use is contemplated.

8. That on one or more occasions, the only written statement of the Respondent to the Complainant between November 2003 and the time of the filing of the Formal Complainant relating to Respondent's refusal to waive the monthly rate charged for the non-published residential telephone number at issue was that "the tariff is being interpreted and applied correctly."

9. That G.E.T. §6.12.6 states the rate (for nonpublished residential exchange service), will **not apply:**

- (E) When a customer who has service which involves data terminals where there is no voice use contemplated.

10. That G.E.T. §6.12.6(E) requires nothing more (no further information), from a residential telephone customer other than an oral statement from the customer stating what is set forth in subpart (E) in order for the customer to receive the monthly non-published rate charge waiver.

11. That G.E.T. §6.12.6, (E) makes no mention of anything *other than* "data terminal" and does not state in said tariff any words or anything about:

- A. Hearing impaired devices
- B. Teletype equipment
- C. "DataSpeed" terminals
- E. Typed or printed messages
- F. Keyboard
- G. Electronic display for reading text

- H. TDD
- I. TTY
- J. Self-contained closed products
- K. Hard of hearing devices
- L. Two way communications
- M. C.P.E. (Customer Provided Equipment)
- N. Copy machines
- O. Equipment used by a person with disabilities
- P. SCPE
- Q. Computer

12. That a residential P.O.T.S. telephone line can be used for two types of transmissions:

- A. Voice
- B. Data

13. That a fax machine **does NOT** transmit or receive voice communications that is understandable to a homosapien but receives data which is converted to pictures or words on paper by the terminal.

14. That a TTY machine **does NOT** transmit or receive voice communications that is understandable to a homosapien but receives data which is converted to pictures and/or words on paper by the terminal.

15. That a TDD telecommunications for deaf persons **does NOT** transmit or receive voice communications that is understandable to a homosapien but receives data which is converted to pictures or words on a video screen, LCD, or LED.

16. That a fax machine, a TTY machine, a TDD machine, and SCPE, are all data terminals.

17. That a TTY machine can be used by a homosapien with normal hearing ability as well as by a person without normal hearing ability.

18. That S.C.P.E. (Specialized Customer Premises Equipment), is a data terminal that can be used by a normal hearing homosapien as well as a homosapien with a lack of ability to hear normal voice-range audio frequencies.

19. That a pager **can be** a device which receives and displays data in lieu of emitting a tone or voice and can be used if it displays data in lieu of emitting an audio signal by both normal hearing homosapiens and those with a hearing disability.

20. When the terminals indicated in #12-18 are used as the sole terminal on a residential telephone line, no voice use is utilized.

21. That a computer (without more, i.e. accessories for audio transmission or reception), is a data terminal for the transmission and reception of data.

22. That a computer, without more, i.e., accessories (speakers, etc.)/supplemental software programs, does not contemplate the use of transmission or reception of voice capable of being understood by homosapiens.

23. That the quintessential words in G.E.T. §6.12.6(E) are that whatever data terminal is utilized by the residential telephone customer, that there is **"no voice use contemplated."**

24. That if voice use "were contemplated" with a data terminal on a residential telephone customer's exchange line, then the customer would **NOT** qualify for the monthly residential non-published charge waiver.

25. That the non-published residential monthly charge contemplates and/or assumes that the telephone utility customer utilizes the residential telephone line where voice use **IS** contemplated!

26. That G.E.T. §6.12.6 refers to "residence nonpublished exchange service" and not to business exchange service.

27. That nothing in G.E.T. §6.12.6 refers to "business" or "business exchange service."

28. That the Respondent does not charge a business exchange telephone customer for nonpublished service within the State of Missouri.

29. That at all times indicated in this Complaint and for over a decade prior to the filing of the formal complaint in this case, the Complainant has paid Respondent for residential telephone exchange service for the telephone line.

30. That at no time between November 2003 when the Complainant first requested **not** to thereafter be charged a monthly non-published charge, and the time of the filing of the formal complaint, has the Respondent ever advised the Complainant that he was **not** entitled to receive *residential* telephone exchange service.

31. That the Respondent has no documentary evidence that the Complainant's telephone line has ever been used for business communication.

32. That the Respondent has no *personal knowledge*, by any person, that the Complainant's telephone line has ever been used for business communications.

33. That *there is no reason* to "publish" a telephone line number in any telephone directory that is not being use for voice communications *unless* the telephone customer **specifically requests** that it be published and that the line number is designated as a fax telephone line.

34. That no useful purpose would be served by the publication in a telephone directory or with directory assistance of a telephone line number which is **not** capable of voice communication--that is, unless the line were so *specifically designated* in the directory or with directory assistance as a telephone line number with some **other purpose** or some **other use other than** voice communication.

35. That the Respondent, ATT, in California currently charges California residential customers twenty eight cents (\$ .28)/month for a non-published telephone number.

36. That the Respondent, ATT, in Missouri currently charges a Missouri Residential customer two dollars and forty nine cents (\$2.49)/month for a non-published telephone number.

37. That the non-published exchange service provided by Respondent to a residential telephone customer for the aforesaid **28 cents** in California and **\$2.49** in Missouri are identical and do not differ in any material respect.

38. That there is no limit or cap as to what the Respondent may charge to Missouri Residential customers for non-basic exchange service, as long as it files a tariff stating the amount and notifies its customers in advance of the charge.

39. Under current Missouri law, the Missouri Public Service Commission may not inquire or investigate as to the basis or cost involved for any rate desired to be charged by the Respondent for residential non-basic auxiliary services, i.e., non-published monthly telephone charges, call-waiting, etc.

40. Under current Missouri law, the Missouri Public Service Commission may not inquire or investigate as to the basis or cost involved for any rate desired to be charged by the Respondent for basic residential telephone exchange service.

41. That in order to charge any specific amount for any additional non-basic auxiliary telephone monthly charge to a residential telephone exchange customer, all that is required is that the Respondent notify its customers of the new charge and file a tariff with the Missouri Public Service Commission prior to the charging of any monthly rate Respondent desires.

42. That the Respondent lobbied the Missouri legislature to pass a law that prevented and/or prohibited the Missouri Public Service Commission from reviewing any rate that the Respondent desires to charge a residential telephone exchange customer for telephone service and that such a law applies to St. Louis.

43. That the Missouri legislature passed legislation desired/requested by the Respondent (Senate Bill 237 and 507), and such was signed into law by the Missouri Governor.

44. That Respondent paid one or more lobbyist over \$100,000 to assist it in obtaining legislature approval of Senate Bill #237 and/or Senate Bill #507 which later became R.S.Mo. §392.200, *et al.* and *et seq.*

45. That none of the following words/phrases is contained within G.E.T. §6.12.6:

- A. U.S. Access Board
- B. FCC Consumer Facts
- C. People with disabilities
- D. Missouri Assistive Technology Counsel

46. That the Respondent *could* charge \$10.00/month *or more* for non-published service/month to a Missouri residential exchange customer if it merely filed a tariff stating that such was the rate that it desired to charge and it notified its customers that it was going to be charging such amount for such service. (There is no viable *statutory* impairment within Mo. Revised. Stats Chapter 392 preventing the Respondent from charging whatever it wishes for auxiliary (non-basic) supplemental monthly charges [i.e., non-published charge, call waiting charge, etc.], to a Missouri residential telephone customer).

47. That the Respondent has set its monthly charge for non-published residential service based on whatever the market will bear.

48. That there is no external limit as to the amount of money the Respondent may expend for the "defense" of formal complainants such as in this case.

49. That based on the yearly salaries of the attorneys, paralegals, and other Respondent employees involved on behalf of the Respondent "defending" the Formal Complaint in this case, it has expended *at least* \$25,000.

50. That there is no rule/regulation prohibiting the Missouri Public Service Commission from awarding or compensating a prevailing telephone customer for the value of the customer's time, effort, and expense which, in the opinion of the Commission, is applicable and appropriate if the customer prevails on a Formal Complaint based on a frivolous denial by a Respondent to abide by a General Exchange Tariff.

51. That there is no current financial penalty or cost to the Respondent to arbitrarily and/or capriciously deny the applicability of any G.E.T. tariff, thus forcing the telephone customer ("Complainant") to file a formal complaint if the customer wishes to obtain the remedy that the customer believes is applicable and appropriate under a General Exchange Tariff.

Respectfully,



Complainant

October 27, 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  
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