

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

FILED²

AUG 23 2006

Missouri Public
Service Commission

R. MARK,)
Complainant)
)
v.)
)
Southwestern Bell Telephone, L.P.)
d/b/a AT&T Missouri)
Respondent)

Case No. TC-2006-0354

**COMPLAINT'S RESPONSE TO ORDER DATED AUGUST 16
FOR THE COMPLAINANT TO SHOW CAUSE WHY HIS
COMPLAINT SHOULD NOT BE DISMISSED**

Comes now Complainant with *Complaint's Response to the Order dated August 16, 2006 for the Complainant to Show Cause Why his Complaint Should Not be Dismissed*, and states:

1. Subsequent to August 16, 2006, Complainant received an *Order to Show Cause why Complainant's Complaint* should not be dismissed. The *Order to Show cause* ordered that, "not later than August 28, 2006," THE COMPLAINANT IS ORDERED TO SHOW CAUSE WHY HIS COMPLAINT AGAINST SOUTHWESTERN BELL TELEPHONE, L.P. D/B/A ATT&T MISSOURI SHOULD NOT BE DISMISSED.

2. As the Commission's file indicates, and as the Commission's Secretary can attest and verify, *at least* two notices/orders mailed to the Complainant were erroneously and improperly returned by the Post Office to the Commission as "not deliverable as addressed--unable to forward." These facts are incontestable. The return of this mail has been through no fault and no knowledge of the Complainant!

3. Although the Complainant **did** receive the pretrial conference notice for a prehearing set for 7 July 2006, it was not received until *very late in the day* on 7 July when Complainant returned from an extended trip--too late for Complainant's appearance.

4. At no time did the Complainant receive **any** Notice for the pretrial conference set for August 15, 2006; had the Complainant received such a Notice, he would have *absolutely* responded.

5. Complainant, in response to a Commission Order¹ received indicating that, for the "second time," a Commission Order mailed to the Complainant had been returned as "undeliverable," immediately initiated a postal investigation and remedial action;² thereafter, Complainant was ultimately advised by the Post Office that another postal patron with the same surname as the

¹ which indicates *Union Electric* as the Respondent; the Complainant is not a party to any case *Union Electric*.

² The Commission's Office was provided with an alternate/supplement method to insure that Notices/Orders were received by the Complainant.

Complainant, had moved without leaving a forwarding address. Because of temporary mail carriers assigned to the route (and unfamiliar with its postal patrons) for an extended period of time, some of Complainant's mail, therefore, was erroneously returned to the senders as "*not deliverable as addressed; unable to forward.*"

6. The Respondent has apparently now moved to have the Complaint against it dismissed because of Complainant's failure to appear; Respondent's motion is not well taken. Although this Respondent would obviously much prefer to have a dismissal rather than have a ruling by the Commission on the merits, such would deny the Complainant his right to due process under the circumstances as hereinabove stated.


7. Constitutional due process under the 14th Amendment of the U.S. Constitution and Article I, §10 of the Missouri Constitution and certainly under the Rules and Regulations of the Commission, **require** that a party must be afforded **due process**: to wit, the party must **receive NOTICE** (and thereafter, be afforded an opportunity to be heard). As indicated hereinabove, through no fault of the Complainant, one notice of a prehearing conference was not received until after the fact, and at least two notices/orders were **not even received** but erroneously returned to the Commission.

8. The facts stated hereinabove are not just based on the representations of the Complainant, but also on what mail was actually returned to the Commission.

9. The Complainant has diligently, vigorously, and conscientiously responded to all Commission orders and notices received and has consistently pursued his Complaint through a myriad of obstacles. Although the Respondent, no doubt, would react with unbridled glee if this matter simply "disappeared" without an amicable and equitable settlement between the parties or without a fair resolution of the Complaint before the Commission, such would be an egregious denial of the Complainant's Constitutional right of due process under the circumstances. Complainant should not be prejudiced for something entirely beyond his control.

WHEREFORE, Complainant prays that the Commission will find that the Complainant has shown and demonstrated good cause why his Complaint should not be dismissed.

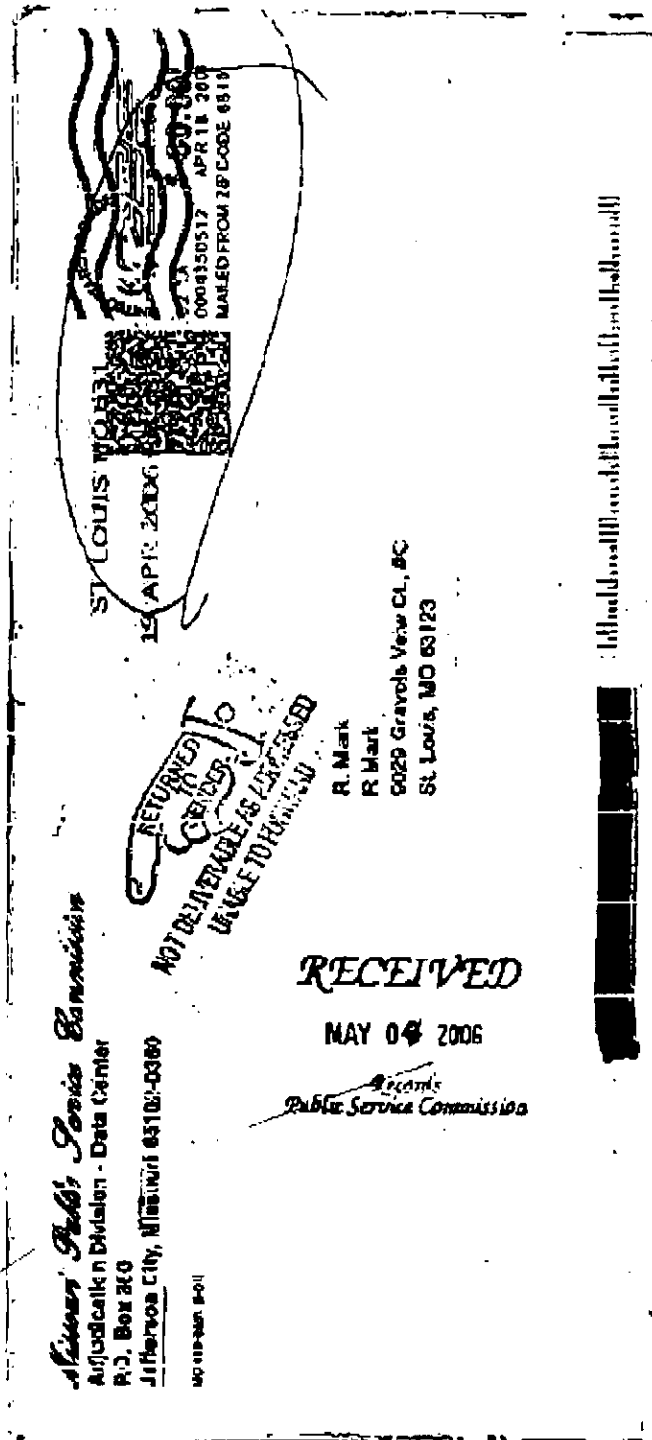
Respectfully,


Complainant

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.

9029 Gravois View Ct. #C
St. Louis, Missouri 63123
August 23, 2006

(A)



May 22 2006 13:10 P.02

MO PSC RECORDS

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

R. Mark,

Complainant,

v.

Union Electric Company,
d/b/a AmerenUE,

Respondent.

Case No. TC-2006-0354

**NOTICE TO PARTIES
AND ORDER DIRECTING RESPONSE**

Issue Date: July 12, 2006

Effective Date: July 12, 2006

On July 5, 2006, the Missouri Public Service Commission received notice that the copy of a Commission order sent to Mr. Mark had been returned as undeliverable. This is the second time a Commission order sent to Mr. Mark has been returned as undeliverable, another order was returned on May 4, 2006. Due to an inability to consistently serve Mr. Mark with pleadings and orders pertaining to this complaint, as required by Commission Rule 4 CSR 240-2.080(18), if the only mailing address he provided to the Commission, an alternate address or means of serving Mr. Mark is required.

The Commission requests that Mr. Mark provide the Commission with an alternate service address or authorize the Commission and parties to this docket to serve him using the confidential facsimile number included as part of his original complaint.

IT IS ORDERED THAT:

1. Mr. R. Mark shall file written notice with the Missouri Public Service Commission indicating a valid service address or authorize the Commission and parties to this docket to serve him using the confidential facsimile number included as part of his original complaint by July 20, 2006.

2. This order shall be served upon Mr. R. Mark through regular mail at his service address and by facsimile at the confidential facsimile number attached to his original complaint.

3. This order shall become effective on July 12, 2006.

BY THE COMMISSION



Colleen M. Dale
Secretary

(SEAL)

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

Dated at Jefferson City, Missouri,
on this 12th day of July, 2006.