

**STATE OF MISSOURI
PUBLIC SERVICE COMMISSION**

At a session of the Public Service
Commission held at its office in
Jefferson City on the 22nd day
of September, 2016.

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|-------------------------------------|---|-------------------------------------|
| DeLana Smith-Sattarin, |) | |
| |) | |
| |) | |
| v. |) | <u>File No. TC-2015-0205</u> |
| |) | |
| Southwestern Bell Telephone Company |) | |
| d/b/a AT&T Missouri, |) | |
| Respondent. |) | |

ORDER DISMISSING COMPLAINT

Issue Date: September 22, 2016

Effective Date: October 2, 2016

This matter came before the Commission on a complaint filed by DeLana Smith-Sattarin against Southwestern Bell Telephone Company, d/b/a AT&T Missouri (AT&T). Over the lengthy course of this action, the Staff of the Missouri Public Service Commission has conducted an investigation, Ms. Smith-Sattarin and AT&T have attempted mediation, and a prehearing conference has been held. None of these actions have brought resolution. Additionally, numerous technical calls have been made to the complainant's home to complete various equipment and wiring replacements.

Currently, the Commission has pending before it AT&T's May 11, 2016 motion to dismiss this matter for lack of jurisdiction. AT&T argues that this complaint makes only billing and quality of service claims which are beyond the Commission's jurisdiction. AT&T cites Section 392.611.1 RSMo., which states in part:

A telecommunications company certified under this chapter or holding a state charter authorizing it to engage in the telephone business shall not be subject to any statute in chapter 386 or this chapter (nor any rule promulgated or order issued under such chapters) that imposes duties, obligations, conditions, or regulations on retail telecommunications services provided to end-user customers, except to the extent it elects to remain subject to certain statutes, rules, or orders by notification to the commission. Telecommunications companies shall remain subject to general, nontelecommunications-specific statutory provisions other than those in chapter 386 and this chapter to the extent applicable . . .

The complainant filed a response on June 21, 2016 arguing that she continues to have service issues including her internet shutting down and having delays (the complainant notes that her internet service provider is not AT&T); intermittent short rings when her phone rings; dropped calls; and disconnection notice practices that are inconvenient and unsatisfactory. The complainant also admitted that AT&T staff visited her home on August 20, 2015 and five additional times replacing various parts of her service lines. Although Ms. Smith-Sattarin states that she understands the Commission's limited jurisdiction, she still maintains that AT&T has a duty to provide quality service and she has a right to bring that service to the attention of the Commission.

AT&T filed an additional reply on July 1, 2016. In that reply, AT&T stated that even though the company is no longer governed by the Commission's quality of service rules, it had attempted to address the complainant's service complaints. AT&T reported that it found no issues on its side of the service demarcation point. AT&T further reported that its technicians believe that the problems being experienced by the complainant is caused by equipment or devices owned by the complainant and connected to telephone wires within her home. AT&T reported that the complainant has dial-up internet access provided by a third party, Net Zero. The technicians also

indicated that the complainant has an ADT Security System connected to her home telephone service. AT&T reported that even though the complainant is no longer an ADT subscriber, this equipment continues to attempt to connect to her home system and “it will seize the telephone line . . .” while doing so.

Staff filed a status report on March 30, 2016, in which it agreed with AT&T that the Commission lacks jurisdiction to offer a remedy to the complainant. Staff recommended that this complaint be dismissed due to the provisions of Section 392.611, RSMo., which Staff summarized as stating that:

telecommunications providers have no duty to provide a specific level of quality of phone service and due to the deregulation of the telecommunications industry, the Missouri Public Service Commission does not have authority to order a specific level of quality. Additionally, Staff has conducted a thorough investigation of this matter and finds no available remedy for the complainant beyond the actions AT&T has already performed.¹

As argued by AT&T and Staff, “[t]he Public Service Commission is an agency of limited jurisdiction and has only such powers as are conferred upon it by statute and powers reasonably incidental thereto.”² Recent deregulation of the telecommunications industry includes Section 392.611, RSMo., stating that a telecommunications company, such as AT&T, is “not . . . subject to any statute . . . nor any rule promulgated or order issued . . . that imposes duties, obligations, conditions, or regulations on retail telecommunications services provided to end-user customers. . .” The complaint alleges only billing and service-related issues that are outside the jurisdiction of this

¹ Staff Status Report, filed March 30, 2016, in Case No. TC-2015-0205, at p. 2.

² AT&T Missouri’s Motion to Dismiss, filed May 11, 2016, in Case No. TC-2015-0205, at p. 2, citing *Inter-City Beverage Co., Inc. v. Kansas City Power & Light Co.*, 889 S.W.2d 875, 877 (Mo. App., W.D. 1994); and *State ex. rel. Kansas City Power & Light Co. v. Buzard*, 350 Mo. 763, 168 S.W.2d 1044, 1045 (Mo. Banc 1943).

Commission. Because the claims raised in the complaint are outside its statutory jurisdiction, the Commission will dismiss the complaint.

THE COMMISSION ORDERS THAT:

1. AT&T's Motion to Dismiss is granted.
2. This complaint is dismissed for lack of jurisdiction.
3. This order shall become effective on October 2, 2016.
4. This case may be closed on October 3, 2016.

BY THE COMMISSION



A handwritten signature in cursive script that reads "Morris L. Woodruff".

Morris L. Woodruff
Secretary

Dippell, Regulatory Law Judge

STATE OF MISSOURI

OFFICE OF THE PUBLIC SERVICE COMMISSION

I have compared the preceding copy with the original on file in this office and I do hereby certify the same to be a true copy therefrom and the whole thereof.

WITNESS my hand and seal of the Public Service Commission, at Jefferson City, Missouri, this 22nd day of September 2016.




Morris L. Woodruff
Secretary

MISSOURI PUBLIC SERVICE COMMISSION

September 22, 2016

File/Case No. TC-2015-0205

**Missouri Public Service
Commission**

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Commission**

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Enclosed find a certified copy of an Order or Notice issued in the above-referenced matter(s).

Sincerely,



**Morris L. Woodruff
Secretary**

Recipients listed above with a valid e-mail address will receive electronic service. Recipients without a valid e-mail address will receive paper service.