

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

In the Matter of Southwestern Bell Telephone)	
Company, d/b/a AT&T Missouri's Application)	
for Waiver of the General Distribution)	Case No. IE-2009-0357
Requirement of White Page Directories Under)	
4 CSR 240-32.050(4)(B).)	

AT&T MISSOURI'S MOTION TO STRIKE

AT&T Missouri¹ respectfully requests the Missouri Public Service Commission ("Commission") strike the direct testimony of Billy Wildoner filed by the Communications Workers of America ("CWA") on June 8, 2009, as non responsive with the Commission's May 20, 2009 Order Adopting Procedural Schedule and as raising issues beyond the scope of this proceeding.

For the past several months, AT&T has been engaged in national negotiations with the CWA for new labor agreements covering its various regions across the country. On April 4, 2009, the parties' labor agreement for AT&T's Southwest Region (which covers Missouri) expired and CWA has been working without a contract. The "testimony" the CWA filed makes clear that the issues it seeks to press here are workplace issues that are outside the Commission's statutory jurisdiction.

In support of its Motion, AT&T Missouri states:

1. The Commission's Order specifically states that the "parties file factual affidavits." An affidavit is a "a voluntary written statement of fact under oath sworn to or affirmed by the person making it before some person who has authority under the law to administer oaths individually certified to by the officer under his seal of office."² Here, the

¹ Southwestern Bell Telephone Company, d/b/a AT&T Missouri, will be referred to in this pleading as "AT&T Missouri."

² Am Jur2d Affidavits, Section 1.

CWA's filing is neither signed nor sworn. Since it is essential to the validity of an affidavit that it be sworn to or affirmed before an appropriate official, the requirements for an affidavit are not met.³

2. The Commission's Order does not permit the prefiling of testimony. And even if it did, the CWA's filing does not comply with the minimum requirements of the Commission's rules for the filing of testimony as the CWA's filing is not "accompanied by an affidavit providing the witness' oath."⁴

3. The CWA "testimony" is irrelevant. It focuses primarily on workplace issues unrelated to the merits of the requested waiver. Specifically, the CWA testimony:

- Complains that CWA members "will have to face the ire of the consumers who do not receive a copy of the Residential White Pages."⁵
- Complains that "AT&T has chosen to use contractors/vendors to manage and handle the 800 number."⁶
- Expresses concerns "that without guarantees from AT&T, its proposed changes will cause layoffs in Missouri and a shift in the work from Missouri in favor of other states or other nations."⁷
- Complains that "a portion of CWA members' work with AT&T includes the selling of advertising in the Residential White Pages" and that this work "will be lost because businesses will no longer want to advertise in a directory that is only going to be distributed to those who call in to request the directory."⁸
- Complains that "during the on-going collective bargaining process, AT&T has expressed to CWA that it wants CWA members to pay for more of the costs of medical health care costs and benefits."⁹

³ State ex rel. Nixon v. McIntyre, 234 S.W.3d 474, 477 (Mo. App. W.D. 2007) (an affidavit that is neither signed nor notarized is not competent evidence); Fitzpatrick v. Hoehn, 746 S.W.2d 652, 655 (Mo. App. E.D. 1988) (holding a trial court properly refused to consider an affidavit that was signed and notarized but not verified under oath).

⁴ 4 CSR 240-2.130(6).

⁵ Direct Testimony of Billy Wildoner, p. 5.

⁶ Id., p. 6.

⁷ Id., p. 6.

⁸ Id., p. 8.

⁹ Id., p. 9.

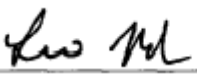
4. The CWA is free to raise, and routinely raises, perceived workplace concerns under the grievance and arbitration process established by and subject to the parties' collective bargaining agreement. CWA is also free to raise such issues during the negotiations currently being conducted between the CWA and AT&T for a new collective bargaining agreement. But such workplace issues have no relevance to the requested waiver and raise issues beyond the Commission's jurisdiction. By statute, the Commission is not permitted to change the terms of employment subject to collective bargaining agreements. Section 386.315.1 RSMo (2000) states:

In establishing public utilities rates, the Commission shall not reduce or otherwise change any wage rate, benefit, working condition or other term or condition of employment that is the subject of a collective bargaining agreement between the public utility and the labor organization.

WHEREFORE, AT&T Missouri respectfully requests the Commission strike the testimony filed by the CWA as non responsive to the Commission's Order and as raising issues beyond the scope of this proceeding.

Respectfully submitted,

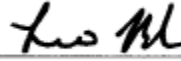
SOUTHWESTERN BELL TELEPHONE COMPANY,
D/B/A AT&T MISSOURI

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CERTIFICATE OF SERVICE

Copies of this document were served on the following parties by e-mail on June 11, 2009.



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