

**STATE OF MISSOURI
PUBLIC SERVICE COMMISSION
JEFFERSON CITY
January 3, 2000**

CASE NO: TC-2000-401

Office of the Public Counsel

P.O. Box 7800
Jefferson City, MO 65102

Paul G. Lane/Leo J. Bub

Anthony K. Conroy/Katherine C. Swaller
Southwestern Bell Telephone Company
One Bell Center, Room 3518
St Louis, MO 63101

Seneca Telephone Company

P. O. Box 329
Seneca, MO 64865

William R. England, III

Brydon, Swearengen & England
P O Box 456
Jefferson City, MO 65102

General Counsel

Missouri Public Service Commission
P.O. Box 360
Jefferson City, MO 65102

Jim Levin, Director

Center for Dispute Resolution
206 Hulston Hall
Columbia, MO 65211

Goodman Telephone Company

P. O. Box 592
Seneca, MO 64856

Enclosed find certified copy of a NOTICE in the above-numbered case(s).

Sincerely,



**Dale Hardy Roberts
Secretary/Chief Regulatory Law Judge**

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

Southwestern Bell Telephone Company,)	
)	
Complainant,)	
)	
v.)	<u>Case No. TC-2000-401</u>
)	
Seneca and Goodman Telephone Companies,)	
)	
Respondents.)	

NOTICE OF COMPLAINT

Seneca Telephone Company
P.O. Box 329
Seneca, Missouri 64865

and

Goodman Telephone Company
P.O. Box 592
Seneca, Missouri 64856
CERTIFIED MAIL

On December 30, 1999, Southwestern Bell Telephone Company (SWBT) filed a complaint with the Missouri Public Service Commission against Seneca and Goodman Telephone Companies (Seneca-Goodman). A copy of that Complaint is enclosed. As provided in 4 CSR 240-2.070, Respondents, Seneca-Goodman, shall have **30 days** from the date of this notice to file an answer or to file notice that the complaint has been satisfied.

In the alternative, Seneca-Goodman may file a written request that the complaint be referred to a neutral third-party mediator for **voluntary mediation** of the complaint. Upon receipt of a request for mediation, the 30-day time period shall be tolled while the Commission determines whether or not SWBT is also willing to submit to voluntary mediation. If SWBT agrees to mediation, the time period within which an answer is due will be suspended while the mediation process proceeds. Additional information regarding the mediation process is enclosed.

If SWBT declines the opportunity to seek mediation, Seneca-Goodman will be notified in writing that the tolling has ceased and will also be notified of the date by which an answer or notice of

satisfaction must be filed. That period will usually be the remainder of the original 30-day period.

All pleadings (the answer, the notice of satisfaction of complaint, or request for mediation) shall be mailed to:

Secretary of the Public Service Commission
P.O. Box 360
Jefferson City, Missouri 65102-0360

A copy shall be served upon SWBT at:

Paul Lane
Leo J. Bub
Anthony K. Conroy
Katherine C. Swaller
Attorneys for Southwestern Bell Telephone Company
One Bell Center, Room 3518
St. Louis, Missouri, 63101

A copy of this notice has been mailed to SWBT.

BY THE COMMISSION



Dale Hardy Roberts
Secretary/Chief Regulatory Law Judge

(S E A L)

Dated at Jefferson City, Missouri,
on this 3rd day of January, 2000.

Copy to: Southwestern Bell Telephone Company
W.R. England III

Woodruff, Regulatory Law Judge

FILED

DEC 30 1999

BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI

Southwestern Bell Telephone Company's)
Complaint Against Goodman and Seneca)
Telephone Companies and Request for an)
Order Prohibiting Them from Cutting Off)
Southwestern Bell's 800 MaxiMizer Traffic.)

Missouri Public
Service Commission

Case No. TC - 2000 - 401

COMPLAINT

Southwestern Bell Telephone Company, pursuant to 4 CSR 240-2.070(1), files this Complaint with the Missouri Public Service Commission against Goodman and Seneca Telephone Companies for violating a Commission Order and respectfully requests the Commission issue an order prohibiting Goodman and Seneca from cutting off Southwestern Bell's 800 MaxiMizer Traffic. In support of its Complaint, Southwestern Bell states:

1. Southwestern Bell is a Missouri Corporation duly authorized to conduct business in Missouri with its principal Missouri office at One Bell Center, St. Louis, Missouri, 63101. Southwestern Bell is a "local exchange telecommunications company" and a "public utility," and is duly authorized to provide "telecommunications service" within the State of Missouri as each of those phrases are defined in §386.020 RSMo (1994).
2. All correspondence, pleadings, orders, decisions and communications regarding this proceeding should be sent to:

Paul G. Lane
Leo J. Bub
Anthony K. Conroy
Katherine C. Swaller
Attorneys for Southwestern Bell
Telephone Company
One Bell Center, Room 3518
St. Louis, Missouri, 63101

3. Goodman and Seneca are Missouri corporations authorized to transact business within the State of Missouri with their principal office at Seneca, Missouri. Goodman and Seneca each is a "local exchange telecommunications company" and a "public utility," and duly authorized to provide "telecommunications service" within the State of Missouri as each of those phrases are defined in §386.020 RSMo (1994).

4. In its Report and Order terminating the PTC Plan, the Commission denied the request made by a small number of secondary carriers that all intrastate intraLATA toll traffic being transported in Missouri over FGC facilities be converted to FGD. See, In the Matter of an Investigation Concerning the Primary Toll Carrier Plan and IntraLATA Presubscription, Case No. TO-98-254, et al, Report and Order, issued June 10, 1999, at pp. 7-8.

5. In December, 1999, Southwestern Bell discovered that Goodman and Seneca were blocking calls from their exchanges to Southwestern Bell 800 MaxiMizer customers.

6. 800 MaxiMizer service is an intrastate, intraLATA toll service with reverse billing offered by Southwestern Bell. It allows end users throughout an 800 MaxiMizer subscriber's LATA to call that subscriber without incurring toll charges. Such charges are instead paid by the 800 MaxiMizer subscriber who receives the call. Until very recently, calls placed by customers in Goodman and Seneca's exchanges to a Southwestern Bell 800 MaxiMizer subscriber were handled over the LEC-to-LEC Feature Group (FG) C network.

7. The Commission has jurisdiction under Section 386.250(2) (1998 Supp.) over Southwestern Bell's 800 MaxiMizer service and Goodman and Seneca's intraLATA access service (through which this 800 service may be originated) as both are intrastate telecommunications services as defined by §386.020(53) and use telecommunications facilities as defined in §382.020(54). In addition, the Commission has jurisdiction here under Section

392.240(3) RSMo (1994) which provides for the connection of communications facilities between carriers.

8. Southwestern Bell requested Goodman and Seneca continue to route Southwestern Bell's 800 MaxiMizer calls over the existing FGC trunk groups (just like they had previously been) until the networking issues pertaining to the PTC Plan's elimination have been resolved. Goodman and Seneca, however, would not agree to this request

9. Southwestern Bell, through its attorney, wrote Goodman and Seneca's attorney on December 14, 1999 asking that Southwestern Bell's 800 MaxiMizer traffic be restored. (A copy of this letter is appended to this complaint as Attachment 1.) Goodman and Seneca have refused.

10. Currently, an industry technical committee composed of large and small LECs in Missouri is considering how a number of technical issues should be handled from a network perspective once the PTC Plan is eliminated. Southwestern Bell has raised this 800 issue for discussion. Through their representatives, Goodman and Seneca have been participating in these meetings.

11. Goodman and Seneca's unilaterally cutting off calls to Southwestern Bell's 800 MaxiMizer customers unless Southwestern Bell converts it to FGD access is directly contrary to the Commission's Report and Order in Case No. TO-98-254, supra, in which the Commission ruled against the conversion to FGD.

12. There is no justification for Goodman and Seneca to cut off Southwestern Bell's 800 MaxiMizer traffic. Unlike terminating FGC intraLATA toll traffic (e.g., PTC to SC), Goodman and Seneca themselves have the information necessary to bill Southwestern Bell access charges on these calls. They will not have to rely on the records produced by another


carrier since these 800 calls will originate in their territory and they will be the ones creating the records, just like they did previously.

13. The specific facts set out in this Complaint are supported by the Affidavit of Joyce Dunlap, Area Manager-Industry Relations for Southwestern Bell Telephone Company who is responsible for managing relationship between Southwestern Bell and the various independent telephone companies throughout the State of Missouri (appended as Attachment 2).

WHEREFORE, Southwestern Bell respectfully requests the Commission to issue an order (1) finding that Goodman and Seneca's unilaterally cutting off Southwestern Bell's 800 MaxiMizer traffic violates the Commission's June 10, 1999 Report and Order in Case No. TO-99-254, et al., and (2) prohibiting Goodman and Seneca from cutting off calls from their exchanges to Southwestern Bell's MaxiMizer 800 customers that previously had been transported over FGC facilities.


Respectfully submitted,

SOUTHWESTERN BELL TELEPHONE COMPANY

BY 
PAUL G. LANE #27011
LEO J. BUB #34326
ANTHONY K. CONROY #35199
KATHERINE C. SWALLER #34271
Attorneys for Southwestern Bell Telephone Company
One Bell Center, Room 3518
St. Louis, Missouri 63101
314-235-2508 (Telephone)
314-247-0014 (Facsimile)

VERIFICATION

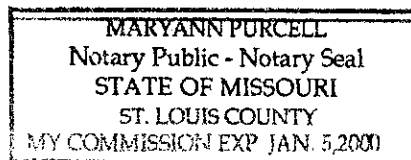
I hereby verify that the above facts are true to the best of my knowledge,
information and belief.


Joyce L. Dunlap
Area Manager-Industry Relations
Southwestern Bell Telephone Company

Subscribed and sworn to before me on this 29th day of December, 1999.


Notary Public

My Commission Expires: January 5, 2000





VIA FACSIMILE

December 14, 1999

Mr. William R. England III
Brydon. Swearengen & England
312 E. Capitol Avenue
Jefferson City, Missouri 65101

Dear Trip:

We have been advised by W. Jay Mitchell, Vice President of Seneca Telephone Company that it has unilaterally began blocking 800 calls from its exchanges to Southwestern Bell MaxiMizer 800 customers. Mr. Mitchell informed us that Seneca would only resume transporting these calls if Southwestern Bell ordered originating Feature Group D (FGD) 800 trunks from it.

We believe what Seneca has done is contrary to the Commission's decision in the PTC Plan case (TO-99-254) against requiring the conversion to FGD. Seneca's action is particularly inappropriate here since the reasons some SC's asserted during the PTC case for moving to FGD are not even present here. Unlike terminating FGC traffic (e.g., PTC to SC), Seneca will not have to rely on the records produced by another carrier since these 800 calls will originate in Seneca's territory and Seneca will be the one creating the originating records (just like it is doing today). And it is Seneca's record that forms the basis both for Southwestern Bell's billing to its 800 customers and Southwestern Bell's originating access payments to Seneca.

As Terry Miles of our Company discussed with Mr. Mitchell, there is no need to change the existing network arrangements. The trunks already in place are two way and can technically handle our originating 800 traffic. Apparently, Seneca has simply disabled these calls from going through by changing the translations in its switch. If Seneca has a need to free up capacity on its network for other uses, we certainly would be willing to work with Mr. Mitchell as we have done with other former SCs to achieve network efficiencies by rearranging the network in a mutually agreeable fashion. But unilaterally cutting off this traffic to force us to move to FGD facilities is inappropriate. Instead, we would like to suggest that we take up the issue at the next scheduled industry technical group conference call.

We would respectfully request that you discuss with Mr. Mitchell the actions Seneca has taken and the impact of its apparent decision not to comply with the Commission's order. We would like Seneca's assurance by Friday, December 17, 1999 that it will restore Southwestern Bell's 800 traffic and refrain from taking any action against this traffic until the network issues relating to this traffic have been resolved either at the industry technical committee or by the Commission. If we do not receive these assurances by the end of day on Friday, we will file a complaint with the Commission for Seneca's inappropriate refusal to transport this 800 traffic

Mr. William R. England
December 14, 1999
Page 2

and will seek to hold Seneca responsible for any damages caused by its refusal to comply with the Commission's order.

I trust that you appreciate the severity of this situation and are willing to help resolve it without Commission intervention.

Very truly yours.

A handwritten signature in black ink, appearing to read "Leo M.", written in a cursive style.

Leo J. Bub

cc: Mr. Terry Miles

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

Southwestern Bell Telephone Company's)
 Complaint Against Goodman and Seneca)
 Telephone Companies and Request for an) Case No. _____
 Order Prohibiting Them from Cutting Off)
 Southwestern Bell's 800 MaxiMizer Traffic.)

AFFIDAVIT OF JOYCE L. DUNLAP

STATE OF MISSOURI)
) SS
 CITY OF ST. LOUIS)


Before me, the Undersigned Authority, on the 29th day of December, 1999, personally appeared Joyce L. Dunlap, Area Manager-Industry Relations for Southwestern Bell Telephone Company in Missouri, who, upon being by me duly sworn on oath deposed and said the following:

1. My name is Joyce L. Dunlap. I am Area Manager-Industry Relations for Southwestern Bell Telephone Company. My address is One Bell Center, 36-L-04, St. Louis, Missouri 63101. I am responsible for managing the relationship between Southwestern Bell and the various independent telephone companies throughout the State of Missouri.
2. In December, 1999 we discovered that Goodman and Seneca Telephone Companies have been cutting off calls from their exchanges to Southwestern Bell 800 MaxiMizer subscribers. It is my understanding that these companies have made changes to their switch translations that prevent those calls from going through.
3. 800 MaxiMizer service is a reverse billing service offered by Southwestern Bell which allows end users throughout the 800 MaxiMizer subscriber's LATA to call that subscriber without incurring toll charges. Such charges are instead paid by the 800 MaxiMizer subscriber who receives the call.
4. Presently, calls placed by nearly all independent telephone company customers throughout the State of Missouri to a Southwestern Bell 800 MaxiMizer subscriber are handled over the LEC-to-LEC Feature Group (FG) C network. The only exception to my knowledge is the Chariton Valley, Mid-Missouri, and Goodman and Seneca Telephone exchanges where such calls are now being blocked.
5. Southwestern Bell spoke with Jay Mitchell of Goodman and Seneca and asked him to restore the traffic and to route these 800 MaxiMizer calls over the existing

FGC trunk groups (just like they had, until recently, been doing) until the networking issues pertaining to the PTC Plan's elimination have been resolved. Mr. Mitchell told us that his companies would not agree to this request. He told us that they would not permit Southwestern Bell's 800 MaxiMizer calls to go through unless Southwestern Bell orders FGD access service from Goodman and Seneca for the provision of this type of service.

6. Currently, an industry technical committee composed of large and small LECs in Missouri is considering numerous technical issues arising from the PTC Plan's elimination. Southwestern Bell has raised this 800 issue for discussion. Through their representatives, Goodman and Seneca have been participating in these meetings.
7. Southwestern Bell through its attorney, wrote Goodman and Seneca on December 14, 1999 expressing serious concern that Goodman and Seneca unilaterally cut off Southwestern Bell's 800 MaxiMizer traffic and seeking assurances that they would restore the connection. To my knowledge, Goodman and Seneca have not reconsidered the actions they have taken and Southwestern Bell's 800 MaxiMizer traffic is still being blocked by them.

Further affiant sayeth not.



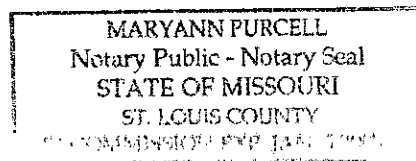
Joyce I. Duclap, Area Manager-Industry Relations
Southwestern Bell Telephone Company

Subscribed and sworn to before me this 29th day of December, 1999.



Notary Public

My Commission Expires: January 5, 2000



CERTIFICATE OF SERVICE

Copies of this document were served on the following parties by first-class, postage prepaid, U.S. Mail this 30th day of December, 1999.



Leo J. Bub

DAN JOYCE
MISSOURI PUBLIC SERVICE
COMMISSION
301 W. HIGH STREET, SUITE 530
JEFFERSON CITY, MO 65101

MICHAEL F. DANDINO
OFFICE OF THE PUBLIC COUNSEL
301 W. HIGH STREET, SUITE 250
JEFFERSON CITY, MO 65101

WILLIAM R. ENGLAND, III
BRYDON, SWEARENGEN & ENGLAND
PO BOX 456
JEFFERSON CITY, MO 65102



Commissioners

SHEILA LUMPE
Chair

HAROLD CRUMPTON

CONNIE MURRAY

ROBERT G. SCHEMENAUER

M. DIANNE DRAINER
Vice Chair

Missouri Public Service Commission

POST OFFICE BOX 360
JEFFERSON CITY, MISSOURI 65102
573-751-3234
573-751-1847 (Fax Number)
<http://www.ecodev.state.mo.us/psc/>

GORDON L. PERSINGER
Acting Executive Director
Director, Research and Public Affairs

WESS A. HENDERSON
Director, Utility Operations

ROBERT SCHALLENBERG
Director, Utility Services

DONNA M. KOLILIS
Director, Administration

DALE HARDY ROBERTS
Secretary/Chief Regulatory Law Judge

DANA K. JOYCE
General Counsel

Information Sheet Regarding Mediation of Commission Formal Complaint Cases

Mediation is process whereby the parties themselves work to resolve their dispute with the aid of a neutral third-party mediator. This process is sometimes referred to as "facilitated negotiation." The mediator's role is advisory and although the mediator may offer suggestions, the mediator has no authority to impose a solution nor will the mediator determine who "wins." Instead, the mediator simply works with both parties to facilitate communications and to attempt to enable the parties to reach an agreement which is mutually agreeable to both the complainant and the respondent.

The mediation process is explicitly a problem-solving one in which neither the parties nor the mediator are bound by the usual constraints such as the rules of evidence or the other formal procedures required in hearings before the Missouri Public Service Commission. Although many private mediators charge as much as \$250 per hour, the University of Missouri-Columbia School of Law has agreed to provide this service to parties who have formal complaints pending before the Public Service Commission at no charge. Not only is the service provided free of charge, but mediation is also less expensive than the formal complaint process because the assistance of an attorney is not necessary for mediation. In fact, the parties are encouraged not to bring an attorney to the mediation meeting.

The formal complaint process before the Commission invariably results in a determination by which there is a "winner" and a "loser" although the value of winning may well be offset by the cost of attorneys fees and the delays of protracted litigation. Mediation is not only a much quicker process but it also offers the unique opportunity for informal, direct communication between the two parties to the complaint and mediation is far more likely to result in a settlement which, because it was mutually agreed to, pleases both parties. This is traditionally referred to as "win-win" agreement.

The traditional mediator's role is to (1) help the participants understand the mediation process, (2) facilitate their ability to speak directly to each other, (3) maintain order, (4) clarify misunderstandings, (5) assist in identifying issues, (6) diffuse unrealistic expectations, (7) assist in translating one participant's perspective or proposal into a form that is more understandable and acceptable to the other participant, (8) assist the participants with the actual negotiation process, (9) occasionally a mediator may propose a possible solution, and (10) on rare occasions a mediator may encourage a participant to accept a particular solution. The mediator will not possess any specialized knowledge of the utility industry or of utility law.

In order for the Commission to refer a complaint case to mediation, the parties must both agree to mediate their conflict in good faith. The party filing the complaint must agree to appear and to make a good faith effort to mediate and the utility company against which the complaint has been filed must send a representative who has full authority to settle the complaint case. The essence of mediation stems from the fact that the participants are both genuinely interested in resolving the complaint.

Because mediation thrives in an atmosphere of free and open discussion, all settlement offers and other information which is revealed during mediation is shielded against subsequent disclosure in front of the Missouri Public Service Commission and is considered to be privileged information. The only information which must be disclosed to the Public Service Commission is (a) whether the case has been settled and (b) whether, irrespective of the outcome, the mediation effort was considered to be a worthwhile endeavor. The Commission will not ask what took place during the mediation.

If the dispute is settled at the mediation, the Commission will require a signed release from the complainant in order for the Commission to dismiss the formal complaint case.

If the dispute is not resolved through the mediation process, neither party will be prejudiced for having taken part in the mediation and, at that point, the formal complaint case will simply resume its normal course.

Date: January 25, 1999

Dale Hardy Roberts
Secretary of the Commission

Is your RETURN ADDRESS completed on the reverse side?

SENDER:

- Complete items 1 and/or 2 for additional services.
- Complete items 3, 4a, and 4b.
- Print your name and address on the reverse of this form so that we can return this card to you.
- Attach this form to the front of the mailpiece, or on the back if space does not permit.
- Write "Return Receipt Requested" on the mailpiece below the article number.
- The Return Receipt will show to whom the article was delivered and the date delivered.

I also wish to receive the following services (for an extra fee):

- 1. ☐ Addressee's Address
- 2. ☐ Restricted Delivery

Consult postmaster for fee.

3. Article Addressed to:

Goodman Telephone Co.
P.O. Box 592
Seneca, Mo. 64856

4a. Article Number

P102316534

4b. Service Type

- ☐ Registered ☒ Certified
- ☐ Express Mail ☐ Insured
- ☐ Return Receipt for Merchandise ☐ COD

7. Date of Delivery

1-6-00

5. Received By: (Print Name)

6. Signature: (Addressee or Agent)

X

PS Form 3811, December 1994

Domestic Return Receipt

Thank you for using Return Receipt Service.

PS Form 3800, April 1995

P 102 316 534

TC-2000-401

US Postal Service

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Seneca Mo 64856	
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Return Receipt Showing to Whom & Date Delivered	
Return Receipt Showing to Whom, Date, & Addressee's Address	
TOTAL Postage & Fees	\$
Postmark or Data	

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 3rd day of January 2000.

Dale Hardy Roberts

Dale Hardy Roberts

Secretary/Chief Regulatory Law Judge

