STATE OF MISSOURI PUBLIC SERVICE COMMISSION

At a Session of the Public Service Commission held at its office in Jefferson City on the 2nd day of June, 1992.

| Charles H. Bybee, 512 South Benton |) |
|------------------------------------|-----------------------------|
| Ave., St. Charles, Missouri 63301 |) |
| |) |
| Complainant, v. |) |
| |) <u>CASE NO. TC-92-182</u> |
| |) |
| Southwestern Bell Telephone, |) |
| 100 No. Tucker Blvd., St. Louis, |) |
| Missouri 63101 |) |

ORDER DISMISSING COMPLAINT

On February 3, 1992, 1 Charles H. Bybee (Complainant) filed a formal complaint against Southwestern Bell Telephone Company (Company or Respondent). Company filed its answer and motion to dismiss on March 13. On April 17, following additional allegations by Mr. Bybee, Company filed a Supplemental Answer and Motion to Dismiss. In the alternative, Company offered to assign new residential telephone numbers to both Mr. and Mrs. Bybee, with free intercept service.

On April 10, Complainant advised the Commission by letter that he did not desire intercept service from Respondent, wanted his telephone service restored "without any further delay," and that he desired a "settlement" for Respondent's neglect in furnishing his telephone service.

Prior thereto, on April 3, the Commission ordered its Staff to investigate Mr. Bybee's complaint and to make a recommendation to the Commission on or before May 4. By the same order, the Commission held Respondent's pending motion to dismiss in abeyance.

¹Unless otherwise indicated, all dates hereafter occur in 1992.

Staff filed its formal recommendation on May 4, a copy of which was sent to all parties. Staff recommends that Mr. Bybee's complaint be dismissed, stating that in Staff's view, Southwestern Bell Telephone acted in a "reasonable manner."

The Commission has considered all relevant factors which Mr. Bybee, Company, and Staff have presented. Having done so, the Commission can perceive no substantial unresolved questions of fact in this matter; as a result, a formal on-the-record hearing to establish disputed facts is unnecessary. Taking the facts as alleged by Complainant, and confirmed by Respondent and by Staff's investigation, Mr. Bybee's complaint fails to allege facts which violate Respondent's tariff, or this Commission's rules or statutes.

Given Complainant's refusal to accept Respondent's offer of a new telephone number, and this Commission's lack of jurisdiction to award money damages or a "settlement," as prayed in Mr. Bybee's letter of April 21, the Commission has determined that Respondent's pending motion to dismiss this matter should be granted.

IT IS THEREFORE ORDERED:

- 1. That the motion to dismiss Case No. TC-92-182, filed by Respondent Southwestern Bell Telephone Company, on April 17, 1992, is hereby granted.
 - 2. That this order shall be effective on June 12, 1992.

BY THE COMMISSION

Brent Stewart
Executive Secretary

(SEAL)

McClure, Chm., Mueller, Rauch Perkins and Kincheloe, CC., Concur.