

EASEMENT ACQUISITION AND RELEASE

<u>CONTENTS</u>	<u>PAGE</u>
1. GENERAL.....	1
2. ACQUISITION OF REAL ESTATE EASEMENTS.....	1
3. RELEASE OF REAL ESTATE EASEMENTS.....	3

<u>EXHIBITS</u>	
EXHIBIT 1.....	5,6
EXHIBIT 2.....	7,8
EXHIBIT 3.....	9,10
EXHIBIT 4.....	11,12
EXHIBIT 5.....	13
EXHIBIT 6.....	14,15
EXHIBIT 7.....	16

1. GENERAL

1.01 This section provides information and guidelines for acquiring easements which are needed for the location of buildings such as repeater buildings, Subscriber Line Carrier (SLC96) buildings, remote terminal buildings, or portable buildings. It also provides information and guidelines for the release of these easements.

1.02 Whenever this section is reissued, the reason(s) for reissue will be listed in this paragraph.

1.03 Acquisition and release of these easements shall generally be the responsibility of the division level manager of the Real Estate and Architecture organization. This is in accordance with Joint Practice No. 46, Part 4A, which defines real estate. (The acquisition of right-of-ways and easements for outside plant is the responsibility of Distribution Services.) This practice, however, may vary depending upon each individual state policy.

1.04 The forms mentioned in this practice are available through the local copy bureaus.

2. ACQUISITION OF REAL ESTATE EASEMENTS

2.01 An easement is a right to use another's land for a specific purpose which is not inconsistent with the general property rights of the landowner.

2.02 It is necessary to acquire an easement from a landowner in advance of Telephone Company construction or placement of a building on the landowner's property.

2.03 The Network segment is responsible for forwarding a written request to the division level manager of the Real Estate and Architecture organization, requesting an easement be acquired for a building to house Telephone Company equipment. The request shall be forwarded in sufficient time to allow for the acquisition of the easement in an orderly manner.

NOTICE

Not for use or disclosure outside Southwestern Bell Telephone Company except under written agreement.

2.04 The following information is needed to begin site selection of the easement: land size, project vicinity map, copy of approved Network Project Estimate or Plant Extension Study (when applicable), and desired completion date of the building. Topography, available utilities, accessibility, zoning, and restrictions should be considered when selecting an easement site.

2.05 Once an easement is selected, current property ownership must be determined. Ownership can be determined with the assistance of an abstract company, title company, or by searching county records. Concurrence by the Network segment of the selected easement site is required.

2.06 After an acquisition price has been negotiated with the property owner, a specific estimate or keep cost order shall be prepared in accordance with Joint Practice No. 46, Part 4A, Section 2. Approval of the estimate or keep cost order is required in accordance with the Schedule of Authorizations [Paragraph 4.02(d), Estimates or Paragraph 4.06(a), Purchases, Other Acquisitions or Sales of Telephone Plant, Covered by Routine Estimates]. Authorization of payment of the easement is required in accordance with Paragraph 4.18, Acquisition of Rights of Way, of the Schedule of Authorizations.

2.07 To strengthen the Company's position, it is recommended that a land survey be obtained at the time of payment to provide a legal description of the easement site. As an added protection, the owner's signature may be obtained on the land survey. This serves to ease communication with the landowner and avoid misunderstandings concerning the easement site.

2.08 The Southwestern Bell Telephone Company - Real Estate Easement, Form SW-5083 (Exhibit 1), shall be used for real estate easements. This form may be modified as needed to conform with the easement's current and future intended uses. This document must be approved as to form by the appropriate Legal Department.

This document is similar to a warranty deed (a deed conveying real property in which the usual covenants of title are contained) in that the Company is granted exclusive use of the plot of ground. The duration of the easement is until it is relinquished or abandoned by the Company. In any event, law causes an easement to revert to the property owner when abandoned and no longer used for the purpose stated in the easement document. The use of this easement form still requires approval of abstract and title when the investment will be large or the payment for the land is substantial (in accordance with Joint Practice No. 46, Part 4A, Section 2). In such cases regular warranty deed is preferable from the Company standpoint. It is recommended that the land survey sketch be attached to the Real Estate Easement form as part of the easement description for clarification. The warranty deed may or may not contain the right of reverter dependent on the situation. Exhibit 2 provides a more detailed explanation of the Southwestern Bell Telephone Company - Real Estate Easement, Form SW-5083.

2.09 The Southwestern Bell Telephone Company - Subordination Agreement, Form SW-5084 (Exhibit 3), should be used when a subordination agreement is obtained for a real estate easement. If the property owner has borrowed money on the property, a Deed of Trust or Mortgage may have been filed which would have priority over subsequent conveyances until released. If foreclosed, the purchaser at the foreclosure sale may have the right to have the Telephone Company facilities removed. For real estate easements, inquiry should be made about outstanding liens and a subordination agreement obtained.

On Form SW-5084, one of the phrases "Deed of Trust" or "Mortgages" should be inserted depending upon what type of instrument created the lien. There are other types of liens that may be attached to land other than Deeds of Trust and Mortgages, and the form may be modified for them as appropriate (i.e., judgement liens, mechanic liens, etc).

2.10 All documents must be approved as to form by the appropriate Legal Department. These documents shall be filed of record as soon as practical after execution at the proper county record office.

2.11 Closing procedures shall be in accordance with Joint Practice No. 46, Part 4A, Section 2.

3. RELEASE OF REAL ESTATE EASEMENTS

3.01 The Network segment or any other user group is responsible for determining when a real estate easement is no longer required by the Company for present or future use. Written notification is required from Network to the division level manager of the Real Estate and Architecture organization advising that the building and easement should be disposed of.

3.02 Current property ownership of the easement must be determined before the easement can be released. As with the acquisition of an easement, this can be accomplished with the assistance of an abstract company, title company, or by searching county records. The original Real Estate Easement form should be obtained for reference.

3.03 The current property owner is informed of the Company's intent to release the easement. The building located on the easement is offered for sale to the property owner and if accepted, a selling price is negotiated. If the property owner is not willing to purchase the building, it can be disposed of at the Company's expense or given to the property owner. Another alternative would be to offer the building for sale to an outside party provided that it be removed from the easement at the purchaser's expense.

3.04 A specific estimate or keep cost order for the release of the easement and disposition of the building shall be prepared in accordance with Joint Practice No. 46, specifically Part 4A, Section 3 for the sale of the building. Approval is required in accordance with the Schedule of Authorizations, Section 4.

3.05 The Southwestern Bell Telephone Company - Release of Real Estate Easement, Form SW-5085 (Exhibit 4), shall be used for the release of real estate easements. This form may be modified as needed to conform with the specific type of easement released. This document must be approved as to form by the Legal Department. A copy of the land survey sketch, signed by the property owner, may be attached to the Release of Real Estate Easement form as part of the easement description. The original Real Estate Easement form may also be attached.

Exhibit 5 provides a more detailed explanation of the Southwestern Bell Telephone Company - Release of Real Estate Easement, Form SW-5085.

3.06 Approval of the easement release is required in accordance with the Schedule of Authorizations, Paragraph 4.19, Granting Easements or Releasing Rights of Way.

3.07 The Southwestern Bell Telephone Company - Bill of Sale, Form SW-5086 (Exhibit 6), shall be used in the sale of the building located on the easement. The land survey may be attached and made part of the bill of sale for clarification. This form may be modified as needed to meet the requirements of the transaction. This document must be approved as to form by the appropriate Legal Department.

Exhibit 7 provides a more detailed explanation of the Southwestern Bell Telephone Company - Bill of Sale, Form SW-5086.

3.08 All documents pertaining to the release of the easement and sale of the building must be approved as to form, execution, and acknowledgement by the appropriate Legal Department. Attestation of these documents is required by the Corporate Secretary. These documents shall be recorded in the proper county office.

3.09 Closing procedures for the sale shall be in accordance with Joint Practice, No. 46, Part 4A, Section 3.

EXHIBIT 1



Retain 6 years, until _____

SW-5083
(9-85)

**SOUTHWESTERN BELL TELEPHONE COMPANY —
REAL ESTATE EASEMENT**

THIS EASEMENT, entered into by the undersigned, herein referred to as GRANTORS, and SOUTHWESTERN BELL TELEPHONE COMPANY, GRANTEE, wherein GRANTORS, in consideration of the sum of Dollars (\$) _____, and other valuable consideration, receipt of which is hereby acknowledged, do by these presents GRANT, BARGAIN AND SELL, CONVEY AND CONFIRM unto GRANTEE, its associated and allied companies, its and their respective successors and assigns a permanent right and easement to construct, operate, maintain, reconstruct, inspect, fence and remove a building upon Grantors' land, situated in _____ County, State of _____, and described as follows:

TO HAVE AND TO HOLD same, together with all rights and appurtenances to the same belonging, unto Grantee, and to its successors and assigns forever, including (1) the right to connect said building with the Grantee's communications systems by means of aerial and underground cables, conduits, wires and antennas, (2) the right to enclose said land with a fence, (3) the right of ingress and egress to and from said building by reasonable routes across the adjoining property of the Grantors, (4) the right to construct, improve and maintain a roadway suitable for vehicular traffic _____ feet wide to said building, (5) the right to construct, operate and maintain, or license others to do so, service lines for utility services upon, over and under said roadway, (6) to install gates in any fences crossing said roadway, and (7) to clear and keep cleared all trees, overhanging branches, roots, brush and other obstructions from said land and roadway.

Grantors covenant that they and their heirs, successors, administrators and assigns, shall and will WARRANT AND DEFEND the title to the premises unto the said Grantee, and to its successors and assigns forever against the lawful claims of all persons whomsoever; and further that the Grantee, its successors and assigns, may quietly enjoy the premises for the uses herein stated.

Signed and executed this _____ day of _____, 19 _____

Witness: _____

EXHIBIT 1
(Continued)

ACKNOWLEDGEMENT

STATE OF

COUNTY OF

BEFORE ME, the undersigned authority, on this day

personally appeared _____, known to me to be the person/s

whose name/s is/are subscribed to the foregoing instrument, and acknowledged to me that he/she/they executed the same for the uses, purposes and considerations therein expressed as his/her/their free and voluntary act and deed.

Given under my hand and seal of office this the _____ day of _____, A.D. 19 _____.

Notary Public,
My Commission Expires _____

STATE OF

COUNTY OF

BEFORE ME, the undersigned authority, on this day

personally appeared _____, known to me to be the person/s

whose name/s is/are subscribed to the foregoing instrument, and acknowledged to me that he/she/they executed the same for the uses, purposes and considerations therein expressed as his/her/their free and voluntary act and deed.

Given under my hand and seal of office this the _____ day of _____, A.D. 19 _____.

Notary Public,
My Commission Expires _____

CORPORATION ACKNOWLEDGEMENT

STATE OF

COUNTY OF

BEFORE ME, the undersigned authority, on this day

personally appeared _____, known to me to be the person

whose name is subscribed to the foregoing instrument, and upon being duly sworn did state and acknowledge that he/she is

_____ of _____, a Corporation organized under the laws of the State of _____

and that he/she executed the foregoing instrument in the capacity stated under authority of its Board of Directors and had affixed thereto the corporate seal for the uses, purposes and considerations therein expressed as the free and voluntary act and deed of the Corporation.

Given under my hand and seal of office this the _____ day of _____, A.D. 19 _____.

Notary Public,
My Commission Expires _____

EXHIBIT 2

EXPLANATION OF THE SOUTHWESTERN BELL TELEPHONE COMPANY -
REAL ESTATE EASEMENT, FORM SW-5083

- 1) Grantor - is the property owner. Use exact name as on Owner's Deed.
- 2) Grantee - is Southwestern Bell Telephone Company.
- 3) Consideration - applies to the acquisition price negotiated with the property owner. May use \$1.00 in lieu of the actual acquisition price.
- 4) Building - is the type of building to be constructed on the easement in accordance with the Network segment (repeater building) or other user groups' needs (portable building).
- 5) Property Description - describes the entire property with legal description and then route of easement across property.

Legal descriptions may be obtained from an old deed, Deed of Trust, Title Insurance or local abstractor. Where the legal description is unusually long, the following may be used:

"All that certain tract of land as described in a deed from _____, Grantor to _____, Grantee, dated _____, and filed for record in Volume _____, Page _____, Deed Records of _____ County, State of _____."

- 6) Easement Description - The easement should be described in accordance with the description on the land survey which shall be attached. If the easement is not described, it becomes a "blanket" easement on the property.

When describing easement use general language and approximate distances unless route is surveyed. Example: "The route of the easement runs generally parallel and adjacent to the (fence on the north property line), (county road), (U.S. Highway 81), (a private road extending north and south through the property), etc."

- 7) Easement Rights
 - a) Right to connect a building with other Telephone Company facilities (i.e., aerial and underground cables, wires, conduits, etc.) may be necessary for a building easement.
 - b) Right to fence the building site may be desirable at the building locations.
 - c) Right of ingress and egress may be limited to a private road constructed by the company.
 - d) Many buildings will require an improved driveway to the building and if not adjacent to a public road, a private roadway of some length may have to be installed.
 - e) Provision is made for constructing a local power and telephone line along this roadway.

EXHIBIT 3



Retain 6 years, until _____

SW-5084
(9-85)

SOUTHWESTERN BELL TELEPHONE COMPANY — SUBORDINATION AGREEMENT

WHEREAS, _____, GRANTORS, executed and delivered a written easement dated _____ in favor of SOUTHWESTERN BELL TELEPHONE COMPANY, GRANTEE, affecting land hereinafter described, and WHEREAS said land is subject to an encumbrance in favor of UNDERSIGNED that was created by _____, dated _____ and filed for record in Book _____, Page _____, of the Deed Records of _____ County, State of _____, which encumbrance is prior to Grantee's easement.

NOW THEREFORE, UNDERSIGNED, in consideration of the sum of _____ Dollars (\$ _____), and other valuable consideration, receipt of which is hereby acknowledged, hereby SUBORDINATES said encumbrance to Grantee's easement, so that Grantee's easement shall have validity and effect as if the grant had been executed, delivered and recorded prior to the date of Undersigned's encumbrance upon land situated in _____ County, State of _____, and described as follows:

Said easement having been recorded in Book _____, Page _____, of the Deed Records of _____ County, State of _____.

Signed and executed this _____ day of _____, 19 _____.

Witness: _____

(Corporate Seal)

ATTEST _____
Secretary

By _____
(Title)

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EXHIBIT 3
(Continued)

ACKNOWLEDGEMENT

STATE OF

COUNTY OF

BEFORE ME, the undersigned authority, on this day

personally appeared

, known to me to be the person/s

whose name/s is/are subscribed to the foregoing instrument, and acknowledged to me that he/she/they executed the same for the uses, purposes and considerations therein expressed as his/her/their free and voluntary act and deed.

Given under my hand and seal of office this the day of , A.D. 19 .

Notary Public.
My Commission Expires

STATE OF

COUNTY OF

BEFORE ME, the undersigned authority, on this day

personally appeared

, known to me to be the person/s

whose name/s is/are subscribed to the foregoing instrument, and acknowledged to me that he/she/they executed the same for the uses, purposes and considerations therein expressed as his/her/their free and voluntary act and deed.

Given under my hand and seal of office this the day of , A.D. 19 .

Notary Public.
My Commission Expires

CORPORATION ACKNOWLEDGEMENT

STATE OF

COUNTY OF

BEFORE ME, the undersigned authority, on this day

personally appeared

, known to me to be the person

whose name is subscribed to the foregoing instrument, and upon being duly sworn did state and acknowledge that he/she is

of , a Corporation organized under the laws of the State of

and that he/she executed the foregoing instrument in the capacity stated under authority of its Board of Directors and had affixed thereto the corporate seal for the uses, purposes and considerations therein expressed as the free and voluntary act and deed of the Corporation.

Given under my hand and seal of office this the day of , A.D. 19 .

Notary Public.
My Commission Expires

EXHIBIT 4



Retain 6 years, until _____

SW-5085
(9-85)

SOUTHWESTERN BELL TELEPHONE COMPANY — RELEASE OF REAL ESTATE EASEMENT

THIS RELEASE OF EASEMENT, entered into by SOUTHWESTERN BELL TELEPHONE COMPANY, GRANTOR, and _____, GRANTEE(s), wherein GRANTOR, does by these presents ABANDON, RELEASE, RELINQUISH AND DISCLAIM to GRANTEE(s), all or a specific portion of a certain easement for telephone communication purposes hereinafter described that affects land owned by GRANTEE(s) situated in _____ County, State of _____, and described as follows:

Said land of GRANTEE(s) being subject to:

The portion of said easement to be hereby released is described as follows:

TO HAVE AND TO HOLD same, together with all rights and appurtenances to the same belonging, unto GRANTEE(s), their heirs, successors and assigns forever.

In consideration of the relinquishment of said easement, the GRANTEE hereby relinquishes Southwestern Bell Telephone Company, its agents and employees, and agrees to indemnify and hold said GRANTOR harmless from any and all future loss, claims, damage, or expense occasioned by or arising out of claims for injury received in, around or on account of the building, by any and all persons or property.

In WITNESS WHEREOF, GRANTOR has caused this Release of Easement to be executed by its duly authorized officers this _____ day of _____ 19 _____

ATTEST:

SOUTHWESTERN BELL TELEPHONE COMPANY

Assistant Secretary

By _____
(Title)

STATE OF _____

COUNTY OF _____

personally appeared _____

BEFORE ME, the undersigned authority, on this day _____

, known to me to be the person

whose name is subscribed to the foregoing instrument, and upon duly sworn did state and acknowledge that he is

_____ of Southwestern Bell Telephone Company, a Corporation organized under the laws of the State of Missouri, and that he executed the foregoing instrument in the capacity stated under authority of its Board of Directors and had affixed thereto the corporate seal for the uses, purposes and considerations therein expressed as the free and voluntary act and deed of Southwestern Bell Telephone Company.

Given under my hand and seal of office this the _____ day of _____, A.D. 19 _____

Notary Public.
My Commission Expires _____

Official File Copy, unless reproduced

EXHIBIT 4
(Continued)

ACKNOWLEDGEMENT

STATE OF

COUNTY OF

BEFORE ME, the undersigned authority, on this day

personally appeared

, known to me to be the person/s

whose name/s is/are subscribed to the foregoing instrument, and acknowledged to me that he/she/they executed the same for the uses, purposes and considerations therein expressed as his/her/their free and voluntary act and deed.

Given under my hand and seal of office this the day of , A.D. 19 .

Notary Public,
My Commission Expires

STATE OF

COUNTY OF

BEFORE ME, the undersigned authority, on this day

personally appeared

, known to me to be the person/s

whose name/s is/are subscribed to the foregoing instrument, and acknowledged to me that he/she/they executed the same for the uses, purposes and considerations therein expressed as his/her/their free and voluntary act and deed.

Given under my hand and seal of office this the day of , A.D. 19 .

Notary Public,
My Commission Expires

CORPORATION ACKNOWLEDGEMENT

STATE OF

COUNTY OF

BEFORE ME, the undersigned authority, on this day

personally appeared

, known to me to be the person

whose name is subscribed to the foregoing instrument, and upon being duly sworn did state and acknowledge that he/she is

of , a Corporation organized under the laws of the State of

and that he/she executed the foregoing instrument in the capacity stated under authority of its Board of Directors and had affixed thereto the corporate seal for the uses, purposes and considerations therein expressed as the free and voluntary act and deed of the Corporation.

Given under my hand and seal of office this the day of , A.D. 19 .

Notary Public,
My Commission Expires

EXHIBIT 5

EXPLANATION OF THE SOUTHWESTERN BELL TELEPHONE COMPANY
RELEASE OF REAL ESTATE EASEMENT, FORM SW-5085

- 1) Grantee - is the property owner on which Southwestern Bell Telephone Company retains an easement. Use exact name as on Owner's Deed.
- 2) Grantor - is Southwestern Bell Telephone Company.
- 3) Property Description - describes entire property with legal description and then route of easement across property.

Legal description may be obtained from an old deed, Deed of Trust, Title Insurance or local abstractor.

- 4) Subject Provision - One of the following may be used:

An easement from _____, Grantors, to Southwestern Bell Telephone Company, Grantee, dated _____, 19__, and filed for record in Book _____, Page _____, Deed Records of _____ County, State of _____.

An easement dedicated to public utility uses in _____, a Subdivision of _____ County, by a plat recorded in Plat Book _____, Page _____, Record of Deeds, _____ County, State of _____.

An easement created by a public right of way in the City of _____, _____ County, State of _____, and known as _____.

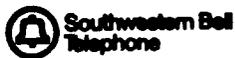
- 5) Description of Released Portion -

If a complete release is intended, use the description contained in the recorded easement, or say "All of said described easement."

If a partial release is intended, state a legal description for the specific portion of the easement to be released, e.g., "The West one foot of a ten foot easement along the north line of Lot 33 and the south line of Lot 34 as shown by the aforesaid Plat."

- 6) Execution - The easement should be signed by all owners and any life tenant, exactly as their name is written in the deed in which the Grantors receive the property.
- 7) Acknowledgement - All signatures should be acknowledged before a notary public. Fill in the names exactly as signed by the Grantee and make appropriate changes in plural and gender and striking that which is inapplicable. Corporation acknowledgement may be used for trusts, estates, cities, etc., by carefully making appropriate modifications and striking through the word "Corporation."
- 8) Certification of Recording - There is no preprinted certification block on the easement form. Practices differ from county to county but normally the Recorder of Deeds will stamp or affix a certification form on the easement. This is filled in and executed by the Recorder of Deeds. Grantee's names should be inserted in the title.

EXHIBIT 6



Retain 6 years, until _____

SW-6006
(9-85)

SOUTHWESTERN BELL TELEPHONE COMPANY — BILL OF SALE

This indenture made this _____ day of _____, 19____, by and between Southwestern Bell Telephone Company, Missouri Corporation, hereinafter called the Vendor and _____ in _____ County, State of _____, herein after called the Vendees:

WITNESSETH:

That the said Vendor for and in consideration of the sum of _____ this day paid it by the Vendees, the receipt whereof is hereby acknowledged, does by the presents sell, assign, transfer, and convey unto said Vendees, their executors, administrators, heirs, successors, and assigns, all its right, title and interest in and to the following and no other described property to with:

Subject building is situated on land owned by the Vendees and on which the Vendor presently retains an easement. The land measures _____ feet by _____ feet and is further described as follows:

For additional reference, refer to survey, hereto attached, and made a part of this Bill of Sale.

It is understood that the Vendor does not warrant the title to any right of way or easement upon which the property herein described is or may be located.

Upon completion of this property sale, the Vendor will arrange in the release of the above easement to the Vendees.

Vendees hereby agree to indemnify and hold harmless Vendor, its agents, and employees from all claims, damages, or judgement which may arise out of the sale of the above described building.

IN WITNESS WHEREOF, the Vendor has caused this instrument to be executed by its officers and agents hereunto duly authorized at _____, the day and year first above written.

VENDEE:

VENDOR:
SOUTHWESTERN BELL TELEPHONE COMPANY

By: _____
(Name)

By: _____
(Name)

(Title)

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EXHIBIT 6
(Continued)

ACKNOWLEDGEMENT

STATE OF _____
COUNTY OF _____ BEFORE ME, the undersigned authority, on this day
personally appeared _____, known to me to be the person/s
whose name/s is/are subscribed to the foregoing instrument, and acknowledged to me that he/she/they executed the same for
the uses, purposes and considerations therein expressed as his/her/their free and voluntary act and deed.

Given under my hand and seal of office this the _____ day of _____, A.D. 19 _____.

Notary Public,
My Commission Expires _____

STATE OF _____
COUNTY OF _____ BEFORE ME, the undersigned authority, on this day
personally appeared _____, known to me to be the person/s
whose name/s is/are subscribed to the foregoing instrument, and acknowledged to me that he/she/they executed the same for
the uses, purposes and considerations therein expressed as his/her/their free and voluntary act and deed.

Given under my hand and seal of office this the _____ day of _____, A.D. 19 _____.

Notary Public,
My Commission Expires _____

CORPORATION ACKNOWLEDGEMENT

STATE OF _____
COUNTY OF _____ BEFORE ME, the undersigned authority, on this day
personally appeared _____, known to me to be the person
whose name is subscribed to the foregoing instrument, and upon being duly sworn did state and acknowledge that he/she is
of _____, a Corporation organized under the laws of the State of _____
and that he/she executed the foregoing instrument in the capacity stated under authority of its Board of Directors and had affixed
thereto the corporate seal for the uses, purposes and considerations therein expressed as the free and voluntary act and deed of
the Corporation.

Given under my hand and seal of office this the _____ day of _____, A.D. 19 _____.

Notary Public,
My Commission Expires _____

EXHIBIT 7

EXPLANATION OF THE SOUTHWESTERN BELL TELEPHONE COMPANY
BILL OF SALE, FORM SW-5086

- 1) Vendor - is Southwestern Bell Telephone Company.
- 2) Vendee - is the property owner on which Southwestern Bell Telephone Company retains an easement.
- 3) Property Building Description - is a brief description of the size and construction of the building being conveyed.
- 4) Property Description - is a legal description of the property on which the building is situated and Southwestern Bell Telephone Company retains an easement.
- 5) Execution - Bill of Sale should be signed by all owners of the property and any life tenant, exactly as their name is written in deed which Vendees receive property.
- 6) Acknowledgement - All signatures should be signed before a notary public. Fill in names exactly as signed by Vendee and make appropriate changes in plural and gender and striking that which is inapplicable.