

CITY OF LITTLE ROCK and Arkansas Public Service  
Commission v. AT&T COMMUNICATIONS  
OF THE SOUTHWEST, INC.

93-1251

870 S.W.2d 217

Supreme Court of Arkansas  
Opinion delivered February 21, 1994

APPEAL & ERROR — ARGUMENTS OF *AMICUS CURIAE* CANNOT ENLARGE ISSUES BEYOND THOSE RAISED IN PLEADINGS IN THE LOWER COURT. — The appellate court addresses *amicus curiae* arguments similar to the way it addresses arguments by intervenors; intervenors on appeal cannot enlarge the issues beyond those raised by the pleadings of the parties in the lower court.

Motion to File Amicus Curiae Briefs, and Motion to Grant Appellee Additional Brief Pages to Respond to Amicus Briefs; granted.

*Thomas M. Carpenter*, for appellant.

*Wright, Lindsey & Jennings*, by: *N. M. Norton, Jr.*, for appellee.

PER CURIAM. The City of Fort Smith and the Arkansas Municipal League have filed motions for permission to file *amicus curiae* briefs supporting appellants' side of this case. Appellee American Telephone and Telegraph Communications of the Southwest, Inc. has responded and asked for additional pages of argument to respond to the *amicus curiae* briefs. We grant permission to file the *amicus curiae* briefs and also grant appellee an additional ten pages of argument to respond.

[1] In its motion, appellee states that it needs the extra pages to respond to new issues raised in the *amicus curiae* briefs. In order to prevent any possible misunderstanding, we state that we do not know if the new issues were raised by the pleadings and ruled on by the trial court, but we ordinarily address *amicus curiae* arguments similar to the way we address arguments by intervenors, and intervenors on appeal cannot enlarge the issues beyond those raised by the pleadings of the parties in the lower court. *Weber v. Pryor*, 259 Ark. 153, 531 S.W.2d 708 (1976).

NEWBERN, J., not participating.