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January 12, 2005

FILED<sup>4</sup>

JAN 12 2005

EUGENE E. ANDERECK (1923-2004)  
GREGORY C. STOCKARD (1904-1993)  
PHIL HAUCK (1924-1991)

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

Missouri Public  
Service Commission

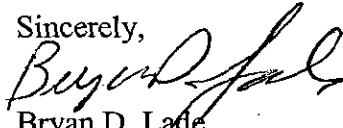
Re: Application of Mogan Dial, Inc., for Approval of a Traffic Termination  
Agreement Under the Telecommunications Act of 1996

Dear Secretary:

Enclosed for filing please find an original and eight copies of the Application of Mogan Dial, Inc., for Approval of a Traffic Termination Agreement Under the Telecommunications Act of 1996 in the above referenced case.

If you have any questions, please contact me at the number listed above.

Sincerely,

  
Bryan D. Lade

BDL:lw

Encl.

CC: Michael Dandino  
Dana K. Joyce  
Larry Dority  
ALLTEL Director of Communications  
Jane Prettyman

FILED<sup>4</sup>

BEFORE THE PUBLIC SERVICE COMMISSION  
STATE OF MISSOURI

JAN 12 2005

Missouri Public  
Service Commission

Application of MoKan Dial, Inc. for Approval )  
of a Traffic Termination Agreement under the ) Case No. \_\_\_\_\_  
Telecommunications Act of 1996 )

**APPLICATION OF MOKAN DIAL, INC. FOR APPROVAL OF A  
TRAFFIC TERMINATION AGREEMENT UNDER THE  
TELECOMMUNICATIONS ACT OF 1996**

COMES NOW MoKan Dial, Inc. ("MoKan") and hereby files its Application for Approval of a Traffic Termination Agreement between MoKan and ALLTEL Communications, Inc. ("ALLTEL") under the Telecommunications Act of 1996 ("the Act"). In support of this application, MoKan states to the Commission as follows:

**I. AGREEMENT REACHED**

MoKan is a local exchange carrier operating in Missouri. MoKan is a Missouri corporation in good standing with the Missouri Secretary of State. In Case No. TK-2003-0427, MoKan filed a Certificate of Good Standing from the Missouri Secretary of State which MoKan requests be incorporated by reference in this case. MoKan is not aware of any pending action or final unsatisfied judgments or decisions against it from any state or federal agency or court which involve customer services or rates. MoKan's annual report and assessment fees are not overdue. This information is still current and correct, as evidenced by the notarized affidavit of Ms. Jane Prettyman.

ALLTEL is a commercial mobile radio service carrier operating in Missouri.

On December 21, 2004, after good faith negotiations, MoKan and ALLTEL executed a Traffic Termination Agreement ("Agreement") for the state of Missouri pursuant to the terms of the Act (see Agreement, Attachment I). Pursuant to the Act, MoKan hereby submits this Agreement for approval by the Commission. The Agreement complies fully with Section 252(e) of the Act because the Agreement is consistent with the public interest, convenience, and necessity and does not discriminate against any telecommunications carrier. The Agreement consists of 20 pages. There are no outstanding issues between MoKan and ALLTEL that need the assistance of mediation or arbitration.

## **II. REQUEST FOR APPROVAL**

MoKan seeks the Commission's approval of the Agreement, consistent with the provisions of the Act and Missouri Law. MoKan represents that the implementation of this negotiated and executed agreement complies fully with both Missouri Law and section 252(e) of the act, because the agreement is consistent with the public interest, convenience and necessity and does not discriminate against any telecommunications carrier. MoKan respectfully requests that the Commission grant expeditious approval of this agreement, without change, suspension or delay in its implementation. This is a bilateral agreement, reached as a result of negotiations and compromise between the parties. Correspondence, orders, and decisions in this matter should be addressed to:

Jane Prettyman  
MoKan Dial, Inc.  
112 S. Broadway  
Louisburg, KS 66053-0429

Craig S. Johnson/Bryan D. Lade  
Andereck, Evans, Milne, Peace &  
Johnson, L.L.C.  
P.O. Box 1438  
Jefferson City, MO 65102-1438  
[cjohnson@aempb.com](mailto:cjohnson@aempb.com)  
[blade@aempb.com](mailto:blade@aempb.com)

### **III. COMMISSION AUTHORITY**

Under the Federal Telecommunications Act of 1996 ("the Act"), the Commission has the authority to grant the relief requested by MoKan.

Specifically, section 252 (a) of the act provides:

#### **(a) Agreements Arrived at Through Negotiations**

(1) **Voluntary Negotiations** - upon receiving a request for interconnection, services, or network elements pursuant to section 251, an incumbent local exchange carrier may negotiate and enter into a binding agreement with requesting telecommunications carrier or carriers without regard to the standards set forth in subsections (b) and (c) of section 251. The agreement shall include a detailed schedule of itemized charges for interconnection in each service or network element included in the agreement. The agreement, including any interconnection agreement negotiated before the date of enactment of the Telecommunications Act of 1996, shall be submitted to the state commission under subsection (e) of this section.

### **IV. STANDARD OF REVIEW**

Under Section 252 of the Act, the Commission has the authority to approve this negotiated agreement. The Commission may only reject an agreement, if the agreement is discriminatory to a nonparty or is inconsistent with the public interest, convenience, and necessity. Section 252(e)(2) of the act provides as follows:

**Grounds for Rejection --** The State Commission may only reject --

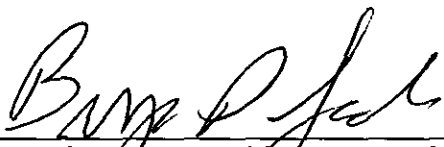
- (A) an agreement (or any portion thereof) adopted by negotiation under section (a) if it finds that --
  - (i) the agreement (or portion thereof) discriminates against a telecommunications carrier, not a party to the agreement; or
  - (ii) the implementation of such agreement or portion is not consistent with the public interest, convenience, and necessity;

The affidavit of Ms. Jane Prettyman, Co-Manager of MoKan Dial, Inc., establishes that the agreement satisfies the standards (see Affidavit, Attachment II).

**V. CONCLUSION**

WHEREFORE, MoKan respectfully request the Commission to issue an order that: (1) approves expeditiously the traffic termination agreement between MoKan and ALLTEL, and (2) grant such other relief as is reasonable in circumstances.

ANDERECK, EVANS, MILNE, PEACE  
& JOHNSON, L.L.C.

By   
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Bryan D. Lade MO Bar No. 55232  
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ATTORNEYS FOR MOKAN DIAL,  
INC.

### CERTIFICATE OF SERVICE

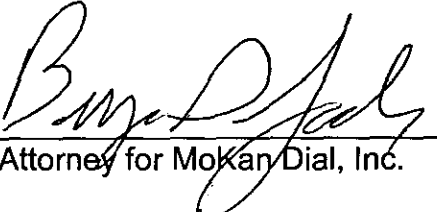
The undersigned does hereby certify that a true and accurate copy of the foregoing was hand delivered or mailed, via U.S. Mail, postage prepaid, this 12<sup>th</sup> day of January, 2005, to the following parties to:

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

Michael F. Dandino  
Office of the Public Counsel  
P.O. Box 7800  
Jefferson City, MO 65102

Director of Negotiations  
ALLTEL Communications, Inc.  
One Allied Drive  
Little Rock, AR 72202

Larry W. Dority  
Fischer & Dority, PC  
101 Madison St., Suite 400  
Jefferson City, MO 65101

  
Attorney for Mogan Dial, Inc.

VERIFICATION

I, Jane Prettyman, Co-Manager MoKan Dial, Inc., hereby verify and affirm that I have read the foregoing APPLICATION OF MOKAN DIAL, INC. FOR APPROVAL OF A TRAFFIC TERMINATION AGREEMENT UNDER THE TELECOMMUNICATIONS ACT OF 1996 and that the statements contained therein are true and correct to the best of my information and belief.

Jane Prettyman  
JANE PRETTYMAN

STATE OF KANSAS       )  
                                  )  
COUNTY OF *Miami*    )

Subscribed and sworn to me, a Notary Public, on this 4th day of January, 2005.

Cynthia M. Rundel  
Notary Public

My commission expires 6-10-2005.

