

STATE OF MISSOURI  
PUBLIC SERVICE COMMISSION  
Jefferson City

March 1, 1979

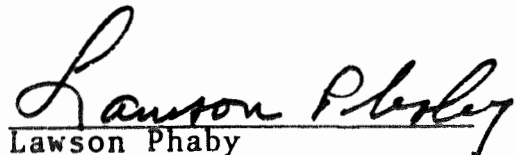
CASE NO. TA-79-66

Gentlemen:

Enclosed find certified copy of Report and/or Order in the  
above numbered case.

Don Krattli, President, Control Center, Inc., 227 Capitol Ave.,  
Jefferson City, Mo. 65101  
Charles J. Fain, Attorney, 333 Madison St., Jefferson City, Mo. 65101  
Central Mobilphone, Inc., 604 Nebraska, Columbia, Mo. 65201  
Donald H. Zehnder, Vice President & General Mgr., United Telephone  
Company, 311 Ellis Blvd., Jefferson City, Mo. 65101  
Richard S. Brownlee, III, Attorney, P. O. Box 1069, Jefferson City,  
Mo. 65102  
W. R. England, III, Attorney, 312 E. Capitol Ave., Jefferson City, Mo.  
Geo. Hartsfield, United Telephone Company, 614 Central Trust Bldg.,  
Jefferson City, Mo. 65101

Sincerely,

  
Lawson Phaby  
Acting Secretary

STATE OF MISSOURI  
PUBLIC SERVICE COMMISSION

At a Session of the Public Service  
Commission held at its office  
in Jefferson City on the 1st  
day of March, 1979.

CASE NO. TA-79-66

In the matter of the application  
of Control Center, Inc., for a  
Certificate of Convenience and  
Necessity to operate a non-  
interconnected paging service.

ORDER TO CEASE AND DESIST AND  
GRANTING MOTION OF DISMISSAL

On February 13, 1979, Control Center, Inc., (Applicant), by and through its attorneys filed with the Commission a "Motion to Dismiss", wherein, it requested the Commission to dismiss its application now pending. Said application requests the Commission to enter an order granting to Applicant a Certificate of Public Convenience and Necessity allowing operation of a non-interconnected paging service within fifteen (15) miles of Jefferson City, Missouri.

On February 20, 1979, Capital City Telephone Company and Central Mobile Phone, Inc. (Protestants) filed with the Commission a joint Motion, wherein, they requested the Commission to issue a cease and desist order on Control Center, Inc., directing it to stop providing unauthorized, non-interconnected one-way radio paging service within the State of Missouri.

In regards to the request for a dismissal, the Commission cites  
4 CSR 240-2.110(7) in part as follows:

"...after either such introduction of evidence has been commenced, an applicant or complainant may dismiss his action by leave of the commission or by written consent of the adverse parties."

The Commission notes that Applicant tried and rested his case on October 20, 1978. A further hearing had been set for February 14, 1979, for the purpose of receiving Protestants' evidence in this matter. The Commission concludes that Applicant should be allowed to dismiss its case as it sees fit. In passing, the Commission wishes to note that there is no dismissal with prejudice under the rules of the Commission, thus Applicant is free to refile his cause of action at any time.

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Turning to the request for a cease and desist order, the Commission believes it helpful to go into more detail on this issue.

As mentioned above, Applicant has presented its case for authority in this matter. Initially, in Applicant's opening statement, the Commission was beseeched to expedite the decision in this matter. Applicant recognized that the Commission had taken jurisdiction over one-way radio paging in Case No. TO-77-80, styled "In the matter of the nature of a paging service". While not concurring with said order, Applicant felt it necessary to obtain a certificate of public convenience and necessity in the event that the Commission's ruling is not reversed on appeal. Ordered 3 of the above-mentioned order reads as follows and was recited by Applicant in his opening statement:

"ORDERED: 3. That all persons, partnerships, and corporations providing or intending to provide radio paging service with signals originating within the State of Missouri and not presently holding authority from this Commission shall file proper application with this Commission to obtain a certificate of public convenience and necessity before providing such service."

Applicant's operating witness in the authority case was the President of Control Center, Inc. His testimony on the record reveals the following:

1. That Control Center, Inc., is a corporation duly organized and existing within the State of Missouri with its principal place of business located at 227 East Capitol, Jefferson City, Missouri 65101.
2. That Applicant's Articles of Incorporation state that one of the purposes for formation of the corporation is to own, operate and manage a general communications system for private and public use and any associated businesses therewith.
3. That Control Center, Inc., doing business as Answer Jefferson City, a fictitious name, offers a non-interconnected one-way paging service as an alleged agent for Mid-Missouri Emergency Association.
4. That Mid-Missouri Emergency Association is the licensee association and Answer Jefferson City owns the paging equipment and does the dispatching for Mid-Missouri Emergency Association.
5. That said service is offered 24-hours a day, on a personalized basis.
6. That when the business was purchased there were 71 pagers and at the time of the hearing in this matter the business had grown to 145 pagers.

7. That Applicant's Exhibit No. 2, an income statement, shows a net profit of \$24,000 for the past year through September 30, 1978.
8. That Mid-Missouri Emergency Association is presently operating under a Section 95 License from the Federal Communications Commission.
9. That the service is offered for \$20.00 per month per pager.
10. That Applicant is not interested in going after its competitors' customers, but desires a chance to be in the field, grow and be competitive.
11. That Answer Jefferson City currently advertises in the official Jefferson City telephone book as offering a paging service without any mention of Mid-Missouri Emergency Association to the general public.
12. That Control Center, Inc., d/b/a Answer Jefferson City has no valid agency agreement with Mid-Missouri Emergency Association.
13. That membership in Mid-Missouri Emergency Association, is unlimited, and any individual who desires a pager and completes a membership application is a customer.

In rendering this order, the Commission makes no conclusions of law in regards to the legality or illegality of the Mid-Missouri Emergency Association's existence. Such a determination is within the jurisdiction of the Federal Communications Commission. However, it is obvious that Mid-Missouri Emergency Association through Control Center, Inc., d/b/a Answer Jefferson City is offering a non-interconnected one-way paging service to: (1) the public; (2) in Jefferson City, Missouri; (3) for hire; (4) for profit.

Title 47 entitled "Telecommunication" in Section 95.67 under the Federal Code of Regulations sets forth that it is permissible for a Section 95 Licensee to install a transmitting unit of its station on the premises of a telephone answering service. However, in all cases, the licensee must enter into a written agreement with the answering service, setting forth standards as required by the FCC.

From the record in this proceeding, it is obvious that Control Center, Inc., d/b/a Answer Jefferson City has no agency agreement with Mid-Missouri Emergency Association. As such, the end result is that Control Center Inc., d/b/a Answer Jefferson City is offering a paging service without a license and Mid-Missouri Emergency Association is improperly rendering its service through an unauthorized telephone answering service. However, the important factor is that these interrelated entities are in fact offering a paging service originating signals

within the State of Missouri to the general public without a Certificate of Convenience and Necessity from this Commission. The public witnesses who testified at the hearing in this matter consider Control Center, Inc., d/b/a Answer Jefferson City and Mid-Missouri Emergency Association as one and the same, thus the Commission has no problem in rendering similar treatment to the entities. As was set forth at the start of this Order, Control Center, Inc., has dismissed its application for such certificate. The Commission concludes in light of said fact, that a good faith effort is no longer being made on the part of Applicant to comply with the Commission's Rules and Regulations and as such should be ordered to cease and desist operations completely as are subject to the Commission's jurisdiction. In regards to Mid-Missouri Emergency Association, the Commission concludes only that it should be prohibited from offering a non-interconnected one-way radio paging service to the general public within the State of Missouri.

It is, therefore,

ORDERED: 1. That Control Center, Inc., d/b/a Answer Jefferson City be, and is, hereby ordered to cease and desist its operations in their entirety by the effective date of this Order.

ORDERED: 2. That Mid-Missouri Emergency Association be, and is, hereby ordered to cease and desist from the offering of a non-interconnected one-way radio paging service to the general public within the State of Missouri by the effective date of this Order.

ORDERED: 3. That if compliance with Ordered 1 and Ordered 2 hereof is not effected by the effective date of this Order, that the General Counsel of the Missouri Public Service Commission be, and hereby is, directed to file appropriate action in a court of competent jurisdiction for the purpose of having such violations stopped and other appropriate penalties.

ORDERED: 4. That this Order shall become effective on April 3, 1979.

BY THE COMMISSION

*Lawson Phaby*  
Lawson Phaby  
Acting Secretary

(S E A L)

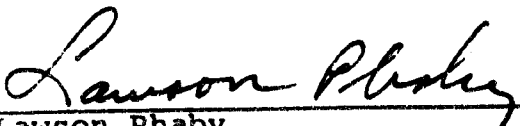
Fraas, Chm., Sprague, Jones,  
and McCartney, CC., Concur.  
Slavin, C., Absent.

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, this 1st day of March 1979.

  
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Lawson Phaby  
Acting Secretary