

**STATE OF MISSOURI
PUBLIC SERVICE COMMISSION
JEFFERSON CITY**

August 24, 1999

CASE NO: TC-2000-176

Office of the Public Counsel

P.O. Box 7800
Jefferson City, MO 65102

Legal Department

Missouri Comm South, Inc.
6830 Walling Lane
Dallas, TX 75231

General Counsel

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

Enclosed find certified copy of a NOTICE in the above-numbered case(s).

Sincerely,



Dale Hardy Roberts

Secretary/Chief Regulatory Law Judge

Uncertified Copy:

BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI

Nixa Area E-911 Board,)	
)	
Complainant,)	
)	
v.)	<u>Case No. TC-2000-176</u>
)	
Missouri Comm South, Inc.,)	
)	
Respondent.)	

NOTICE OF COMPLAINT

Legal Department
Missouri Comm South, Inc.
6830 Walling Lane
Dallas, Texas 75231
CERTIFIED MAIL

On August 20, 1999, the Nixa Area E-911 Board filed a complaint with the Missouri Public Service Commission against Missouri Comm South, Inc., a copy of which is enclosed. Pursuant to 4 CSR 240-2.070, Respondent Missouri Comm South, Inc., shall have **30 days** from the date of this notice to file an answer or to file notice that the complaint has been satisfied.

In the alternative, the Respondent may file a written request that the complaint be referred to a neutral third-party mediator for **voluntary mediation** of the complaint. Upon receipt of a request for mediation, the 30-day time period shall be tolled while the Commission ascertains whether or not the Complainant is also willing to submit to voluntary mediation. If the Complainant agrees to mediation, the time period within which an answer shall be due shall be suspended pending the resolution of the mediation process. Additional information regarding the mediation process is enclosed.

If the Complainant declines the opportunity to seek mediation, the Respondent will be notified in writing that the tolling has ceased and will also be notified of the date by which an answer or notice of satisfaction must be filed. That period will usually be the remainder of the original 30-day period.

All pleadings (the answer, the notice of satisfaction of complaint or request for mediation) shall be mailed to:

Secretary of the Public Service Commission
P.O. Box 360
Jefferson City, Missouri 65102-0360

A copy shall be served upon the Complainant at the Complainant's address as listed within the enclosed complaint. A copy of this notice has been mailed to the Complainant.

BY THE COMMISSION



Dale Hardy Roberts
Secretary/Chief Regulatory Law Judge

(S E A L)

Dated at Jefferson City, Missouri,
on this 24th day of August, 1999.

Copy to: John W. Housley, Esq.
Lowther, Johnson, Joyner, Lowther,
Cully & Housley, L.L.C.
901 St. Louis Street, 20th Floor
Springfield, Missouri 65806

Ruth, Regulatory Law Judge

FILED

AUG 20 1999

BEFORE THE PUBLIC SERVICE COMMISSION OF THE
STATE OF MISSOURI

Missouri Public
Service Commission

NIXA AREA E-911 BOARD,)
)
Complainant,)
)
vs.)
)
MISSOURI COMM SOUTH, INC.,)
)
Respondent.)

Case No. TC-2000-176

COMPLAINT

1. Complainant is the governing body of an emergency telephone service created pursuant to Chapter 190 of the Missouri Revised Statutes with its principal place of business being located in Nixa, Christian County, Missouri.

2. Respondent Missouri Comm South, Inc. of Arlington, Texas, is a public entity and under the jurisdiction of the Public Service Commission of the State of Missouri.

3. Complainant has come into the possession of the phone bill of one Salvador R. Soto, a resident of Nixa, Christian County, Missouri. A copy of said bill is attached hereto as Exhibit "A". Salvador Soto's telephone bill, issued to Mr. Soto by the Respondent, properly charges Mr. Soto for the fifteen percent (15%) surcharge levied by the Complainant, totaling \$6.08 on this bill.

4. To date, the Respondent has not submitted to the Complainant any list of amounts uncollected as provided for in Section 190.305 of the Missouri Revised Statutes.

5. To date, the Respondent has remitted no collected tax amounts to the Complainant as required by Section 190.310 of the Missouri Revised Statutes.

6. The Respondent has filed no quarterly returns with the Complainant as required by Section 190.310 of the Missouri Revised Statutes.

7. The Complainant has made direct telephone and written contact with the Respondent, requesting an accounting of all amounts collected by the Respondent and all users serviced by the Respondent, but the Respondent has failed to provide such information. A copy of the correspondence mailed to the Respondent is attached hereto as Exhibit "B".

WHEREFORE, Complainant now requests the Commission order the Respondent to provide an accounting of all amounts collected on behalf of the Complainant, to provide an accounting of all service users in the Complainant's area serviced by the Respondent, to remit all taxes collected on behalf of the Complainant to the Complainant, to comply with all statutory requirements and procedures governing the Respondent's collection of taxes on behalf of the Complainant, and for any other relief deemed just and equitable by the Commission.

LOWTHER, JOHNSON, JOYNER
LOWTHER, GULLY & HOUSLEY, L.L.C.

BY: 

John W. Housley
Missouri Bar Number 28708
901 St. Louis Street, 20th Floor
Springfield, MO 65806
Telephone: 417-866-7777
Fax: 417-866-1752
Attorney for Complainant

Comm South Companies

P.O. Box 821269

Dallas, Texas 75382-1269

PERSONAL CHECKS ARE NOT ACCEPTED. MONEY ORDERS ONLY PLEASE.



SALVADOR R SOTO
702 SCOTT WAYNE DR
NIXA MO 65714-9374

ACCOUNT NUMBER	AMOUNT DUE
965612	54.49
BILLING PHONE	DUE DATE
417-725-5234	03/01/99
BILLING DATE	AFTER DUE DATE PAY
02/15/99	54.49



Billing Telephone: 417-725-5234
Carrier: SWB Primary Agent: 00004947000

TO ASSURE PROPER CREDIT - DETACH AND RETURN THE TOP PORTION OF THIS STATEMENT WITH YOUR PAYMENT

SERVICE ADDRESS

SALVADOR R SOTO
702 SCOTT WAYNE DR
NIXA MO 65714-9374
Billing Telephone: 417-725-5234
Carrier: SWB Primary Agent:
00004947000
Carrier: SWB
Billing Period: March 1, 1999 to March 31, 1999

If the Company does not receive payment in full by the due date printed on the statement, a Late Payment Notice will be mailed. And, if the Company does not receive payment in full by the last day of the 7-day grace period, the customer's service will be disconnected. If you have an existing unpaid balance, your account is subject to termination at this time. Please call our billing department with questions concerning your statement at 1-800-936-5223.

If you have already made your payment, you can confirm that we have received it by calling 1-888-770-8225 and entering your account number located at the top right of this statement. Paying your bill preserves your rights and you will not be disconnected.

DESCRIPTION	BILLING PERIOD	TAX APPLIED	AMOUNT
FCC Approved Line Fee	3/1/1999 to 3/31/1999		3.50
Basic Telephone Service	3/1/1999 to 3/31/1999		40.50
		Total Tax: FEDERAL EXCISE TAX 3.0%	1.22
		Total Tax: STATE SALES TAX 4.225%	1.71
		Total Tax: COUNTY SALES TAX 1.25%	0.51
		Total Tax: CITY SALES TAX 1.5%	0.61
		Total Tax: MO TRS & ATEP FUND SURCHARGE 0	0.13
		Total Tax: NIXA 911 SURCHARGE 15.0%	6.08
		Total Tax: FEDERAL UNIVERSAL SCHOOLS & LI	0.23



CURRENT CHARGES 54.49

BILLING PHONE	PREVIOUS BALANCE	ACCOUNT NUMBER	BILLING DATE	AFTER DUE DATE PAY THIS AMOUNT	DUE DATE	AMOUNT NOW DUE
417-725-5234	0.00	965612	02/15/99	54.49	03/01/99	54.49

2367608 YOUR ACCOUNT IS NOW PAST DUE AND YOUR SERVICE IS SUBJECT TO IMMEDIATE TERMINATION - PLEASE REMIT THE FULL AMOUNT AT ONCE. IF YOUR MONEY ORDER IS ALREADY IN THE MAIL, PLEASE DISREGARD THIS NOTICE. THANK YOU FOR YOUR BUSINESS.

LAW OFFICES OF
LOWTHER, JOHNSON, JOYNER, LOWTHER,
CULLY & HOUSLEY, L.L.C.

GERALD H. LOWTHER
THEODORE L. JOHNSON, III
F. WILLIAM JOYNER
CRAIG F. LOWTHER
MICHAEL K. CULLY
JOHN W. HOUSLEY
KENDALL R. McPHAIL
LISA A. GHAN
GREGGORY D. GROVES
DAVID A. FIELDER
GLENN P. GREEN

901 St. Louis Street, 20th Floor
Springfield, Missouri 65806
Telephone: (417) 866-7777
Telecopier: (417) 866-1752

E-mail:
EMAIL@LOWTHERJOHNSON.COM
Direct E-mail:
JVAUGHAN@LOWTHERJOHNSON.COM

JANA A. PHILLIPS
THOMAS M. BENSON
RANDY J. REICHARD
NICOLE O'NEAL SUHR
JOHN N. VAUGHAN

Paralegals

SANDRA S. KIMBROUGH
PATSY S. ALTMAN
CARMEN G. COKER
ANNE E. WINN
B. MAXINE GREEN

July 23, 1999

Mr. Tom Wilkins
Comm South Companies
P.O. Box 821269
Dallas, TX 75382-1269

Re: Nixa, Missouri E-911 Tax Collections

Dear Mr. Wilkins:

Thank you for your recent voice mail response to my phone call in regard to your company's collections of the E-911 taxes for Nixa, Missouri. As I stated in my voice mail to you, the Nixa E-911 tax has been in effect since 1994, and we have evidence that your company has been collecting that tax on behalf of the Nixa E-911 from some of your customers since that time. Unfortunately, the Nixa E-911 has not received any funds from you that represent taxes collected by you.

Section 190.305 of the Missouri Revised Statutes authorizes the Nixa E-911 governing body to levy a tax in an amount not to exceed 15 percent of the tariff local service rate or 75 cents per access line per month. As you know, the Nixa E-911 has established a surcharge of 15 percent of the tariffs at local service rate. Section 190.310 of the Missouri Revised Statutes states that the tax amounts you are required to collect are due quarterly and shall be remitted to the governing body no later than 60 days after the close of a calendar quarter. On or before the 60th day of each calendar quarter, you are required to file a return for the preceding quarter with the governing body in such form as the governing body and your company shall agree upon. With that return, you should include the list of any service users refusing to pay the tax imposed, and this return should be filed with the remittance of the amount of tax collected. These records should be maintained for a period of one year from the time the tax is collected. That same statute allows the governing body to require an audit of your books and records concerning the collection and remittance of the tax authorized by the Missouri statutes.

Pursuant to its rights under §190.310 of the Missouri Revised Statutes, the Nixa E-911 governing body hereby requests that you provide a list of any and all service users from whom you have collected or have attempted to collect the tax imposed by the Nixa E-911 governing body. In

EXHIBIT

"B"

Mr. Tom Wilkins

July 23, 1999

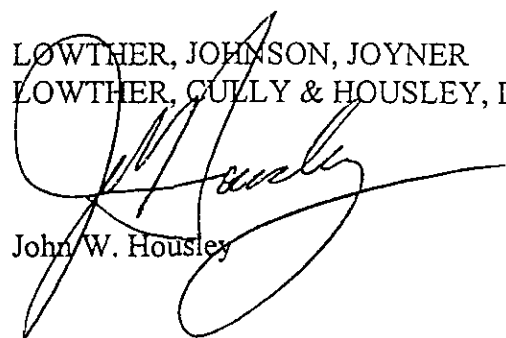
Page 2

addition, the Nixa E-911 governing body requests an accounting of all Nixa E-911 taxes collected by your company from any and all service users required to pay such taxes. If you fail to forward these user lists to our office within ten days of your receipt of this letter, we will be required to file a complaint with the Missouri Public Service Commission on behalf of Nixa E-911.

If you have any questions in regard to this matter, please feel free to give me a call.

Sincere regards,

LOWTHER, JOHNSON, JOYNER
LOWTHER, CULLY & HOUSLEY, L.L.C.



John W. Housley

JWH:lsm



Commissioners

SHEILA LUMPE
Chair

HAROLD CRUMPTON

CONNIE MURRAY

ROBERT G. SCHEMENAUER

M. DIANNE DRAINER
Vice Chair

Missouri Public Service Commission

POST OFFICE BOX 360
JEFFERSON CITY, MISSOURI 65102
573-751-3234
573-751-1847 (Fax Number)
<http://www.ecodev.state.mo.us/psc/>

GORDON L. PERSINGER
Acting Executive Director
Director, Research and Public Affairs

WESS A. HENDERSON
Director, Utility Operations

ROBERT SCHALLENBERG
Director, Utility Services

DONNA M. KOLILIS
Director, Administration

DALE HARDY ROBERTS
Secretary/Chief Regulatory Law Judge

DANA K. JOYCE
General Counsel

Information Sheet Regarding Mediation of Commission Formal Complaint Cases

Mediation is a process whereby the parties themselves work to resolve their dispute with the aid of a neutral third-party mediator. This process is sometimes referred to as "facilitated negotiation." The mediator's role is advisory and although the mediator may offer suggestions, the mediator has no authority to impose a solution nor will the mediator determine who "wins." Instead, the mediator simply works with both parties to facilitate communications and to attempt to enable the parties to reach an agreement which is mutually agreeable to both the complainant and the respondent.

The mediation process is explicitly a problem-solving one in which neither the parties nor the mediator are bound by the usual constraints such as the rules of evidence or the other formal procedures required in hearings before the Missouri Public Service Commission. Although many private mediators charge as much as \$250 per hour, the University of Missouri-Columbia School of Law has agreed to provide this service to parties who have formal complaints pending before the Public Service Commission at no charge. Not only is the service provided free of charge, but mediation is also less expensive than the formal complaint process because the assistance of an attorney is not necessary for mediation. In fact, the parties are encouraged not to bring an attorney to the mediation meeting.

The formal complaint process before the Commission invariably results in a determination by which there is a "winner" and a "loser" although the value of winning may well be offset by the cost of attorneys fees and the delays of protracted litigation. Mediation is not only a much quicker process but it also offers the unique opportunity for informal, direct communication between the two parties to the complaint and mediation is far more likely to result in a settlement which, because it was mutually agreed to, pleases both parties. This is traditionally referred to as "win-win" agreement.

The traditional mediator's role is to (1) help the participants understand the mediation process, (2) facilitate their ability to speak directly to each other, (3) maintain order, (4) clarify misunderstandings, (5) assist in identifying issues, (6) diffuse unrealistic expectations, (7) assist in translating one participant's perspective or proposal into a form that is more understandable and acceptable to the other participant, (8) assist the participants with the actual negotiation process, (9) occasionally a mediator may propose a possible solution, and (10) on rare occasions a mediator may encourage a participant to accept a particular solution. The mediator will not possess any specialized knowledge of the utility industry or of utility law.

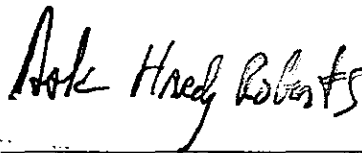
In order for the Commission to refer a complaint case to mediation, the parties must both agree to mediate their conflict in good faith. The party filing the complaint must agree to appear and to make a good faith effort to mediate and the utility company against which the complaint has been filed must send a representative who has full authority to settle the complaint case. The essence of mediation stems from the fact that the participants are both genuinely interested in resolving the complaint.

Because mediation thrives in an atmosphere of free and open discussion, all settlement offers and other information which is revealed during mediation is shielded against subsequent disclosure in front of the Missouri Public Service Commission and is considered to be privileged information. The only information which must be disclosed to the Public Service Commission is (a) whether the case has been settled and (b) whether, irrespective of the outcome, the mediation effort was considered to be a worthwhile endeavor. The Commission will not ask what took place during the mediation.

If the dispute is settled at the mediation, the Commission will require a signed release from the complainant in order for the Commission to dismiss the formal complaint case.

If the dispute is not resolved through the mediation process, neither party will be prejudiced for having taken part in the mediation and, at that point, the formal complaint case will simply resume its normal course.

Date: January 25, 1999



Dale Hardy Roberts
Secretary of the Commission

PS Form 3800, April 1995

P 505 766 663

US Postal Service TC-2000-176
Receipt for Certified Mail

No Insurance Coverage Provided;
Do not use for International Mail (See reverse)

Sent to	LEGAL DEPARTMENT
Street & Number	150 WALLING LANE
Post Office, State, & ZIP Code	SALIS, TX 75231
Postage	\$
Certified Fee	
Special Delivery Fee	
Restricted Delivery Fee	
Return Receipt Showing to Whom & Date Delivered	
Return Receipt Showing to Whom, Date, & Addressee's Address	
TOTAL Postage & Fees	\$
Postmark or Date	

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,

Missouri, this 24TH day of AUGUST, 1999.

Dale Hardy Roberts

Dale Hardy Roberts
Secretary/Chief Regulatory Law Judge

