

**BEFORE THE PUBLIC SERVICE COMMISSION OF
THE STATE OF MISSOURI**

Tari Christ, d/b/a ANJ Communications, et al.)	
)	
Complainants,)	
)	Case No. TC-2005-0067
Southwestern Bell Telephone Company, L.P., d/b/a)	
Southwestern Bell Telephone Company,)	
)	
Respondent.)	

**COMPLAINANTS' REQUEST TO SUSPEND PROCEEDINGS
FOR AN ADDITIONAL 180 DAYS**

Come now the Complainants,¹ by and through counsel, and in support of their request to further suspend these proceedings for an additional 180 days submit the following to the Commission:

Background

1. On July 28, 2011 the Commission entered an order directing the Respondent, Southwestern Bell Telephone Company, L.P., to answer the complaint in this proceeding. The order essentially removed the matter from the mediation phase in which it had been pending, admittedly, for a prolonged period of time.

2. On August 7, 2011, Complainants filed a Motion for Rehearing or Reconsideration of the Commission's July 28, 2011 Order (the "Recon Motion"). The relief sought in the Recon Motion was in essence for the Commission to grant a further suspension of the instant proceeding for 180 days to see if the Federal Communications Commission ("FCC")

¹ The named complainants are Tari Christ, d/b/a ANJ Communications, Bev Coleman, an Individual, Commercial Communication Services, L.L.C., Community Payphones, Inc., Com-Tech Resources, Inc., d/b/a Com-Tech Systems, Coyote Call, Inc., William J. Crews, d/b/a Bell-Tone Enterprises, Davidson Telecom LLC, Evercom Systems, Inc., Harold B. Flora, d/b/a American Telephone Service, Illinois Payphone Systems, Inc., JOLTRAN Communications Corp., Lind-Comm, L.L.C., John Mabe, an Individual, Midwest Communication Solutions, Inc., Missouri Telephone & Telegraph, Inc., Jerry Myers, an Individual, Pay Phone Concepts, Inc., Jerry Perry, an Individual, PhoneTel Technologies, Inc., Craig D. Rash, an Individual, Sunset Enterprises, Inc., Telaleasing Enterprises, Inc., Teletrust, Inc., Tel Pro, Inc., Toni M. Tolley, d/b/a Payphones of America North, Tom Tucker, d/b/a Herschel's Coin Communications Company, and HKH Management Services, Inc.

would take action in proceedings pending before the FCC that would give this Commission further guidance in its deliberations in the instant matter. On August 22, 2011, the Commission granted the Recon Motion and suspended these proceedings until February 17, 2012.

3. The FCC did not act within the period of suspension and on February 16, 2012, Complainants filed another motion requesting a 180-day suspension of the complaint proceedings (the February 16 Request). Based on the Complainants' motion, the Commission further suspended the proceedings regarding this complaint until August 15, 2012.

4. Complainants now come before the Commission seeking a further extension of 180 days. The basis of this request is as follows.

5. As previously explained, the FCC has had before it for a lengthy period of time petitions and other requests for rulings to address the issue of the appropriate rates for payphone line services and whether payphone services providers ("PSP"s) should be awarded refunds for payphone line rates exceeding rates that comply with the FCC's New Services Test. Those issues are the very issues at issue before this Commission in the instant proceeding. This Commission has patiently awaited FCC action, which has so far not been forthcoming.

6. Complainants submit that it is appropriate for the Commission to continue to await an FCC ruling for another six months given developments at the federal level.

7. Since the order granting the February 16 Request, there have been a number of developments both in Congress and at the FCC. The February 16 Request referred to "The Federal Communications Commission Process Reform Act of 2011." That bill contained several provisions that would affect the precise issues of delay affecting the draft FCC Order currently on circulation that is awaiting votes by additional FCC Commissioners.

8. One provision of the new law would require publication of which Commissioners have voted once an item, such as a draft order to resolve a particular controversy, is in circulation for a vote by the FCC Commissioners. Another provision would require the FCC to set deadlines for action on petitions, such as those currently pending before the FCC that address the issues of concern in the instant proceeding.

9. On March 6, 2012, the full Committee on Energy and Commerce of the House of Representatives approved the legislation. Moreover, the full House of Representatives approved the legislation on March 27, 2012. The bill has been referred to the Senate. The provisions that would address the FCC Order currently awaiting action have remained intact through the House legislative process. Thus, the FCC Commissioners are well aware that the failure to address the very FCC items that would give this Commission guidance are under direct Congressional scrutiny.

10. The February 16 Request also referred to several direct inquiries from members of Congress regarding this specific proceeding and its status at the FCC. There have been continuing bipartisan inquiries from Congress as to the status and the FCC's failure to act. Just recently, on July 10, the full FCC testified in oversight hearings conducted by the Communications and Technology Subcommittee of the Energy and Commerce Committee of the House of Representatives. In his opening remarks, Representative Cliff Stearns, Chairman, Oversight and Investigations Subcommittee, specifically referred to the need for the FCC to act on the pending petitions addressing this matter.

11. Later in the hearing, Representative Jan Schakowsky, the Chief Deputy Whip for the Democrats, also queried the FCC members about the proceeding. Each of the FCC Commissioners individually pledged to review the matter. The FCC Chairman stated that he

expected “to see action in the near future.” Another Commissioner expressed agreement with the Chairman. Others stated that “we should get to work on this” and that the Commissioner “will take appropriate action within a short period of time.”

12. In sum, the Commissioners have stated the view that the matter will be resolved in the near future.

13. Moreover, this is the first time in about a year that the FCC has been at a full complement. The FCC functioned from June, 2011 to the end of 2011 with just four commissioners. As of January 1, another commissioner left the FCC. Thus, until just three months ago the FCC had only three of its usual five members. Recently, about three months ago or so, Commissioners Jessica Rosenworcel and Agit Pai were sworn in. Whatever the apparent stalemate was when the FCC was not at full strength will apparently be broken by the presence of the new FCC Commissioners, both of whom stated they would move promptly on this matter.

14. All indications are that the Commissioners’ pledge to address this matter will be met. Even before the hearing just discussed, there were renewed meetings by outside parties with the respective new Commissioners’ staffs and with one of the sitting Commissioners.

15. Beginning in the last week in July and carrying over into the first week in August, one of the lead petitioners in this matter held a meeting with four Commissioners’ offices, including the Chairman’s office and with each of the new Commissioners, and submitted additional papers.²

16. AT&T and Verizon have also begun meeting with the new Commissioners, meeting with Commissioner Pai’s office in the same time frame.³ Additional meetings are to be anticipated.

² See FCC web page under Docket No. 96-128.

³ *Id.*

17. Complainants submit that with the FCC acting under the supervision of its full panel of commissioners and scrutiny of its case load continuing by legislative overseers, the FCC has considerable motivation to act soon on the FCC Order, the anticipated import of which has been the cause of delay for this proceeding. But the additional investment of time, with no expenditure of additional Missouri Commission resources, warrants yet a further delay.

18. As noted in previous filings, the parties and the Commission have waited a long time for FCC guidance and Complainants assert there is still good reason for that. While the Commission has authority to proceed, FCC action would presumably provide dispositive guidance to the Commission and eliminate the likelihood of a Commission decision in tension with the FCC Order. The Commission has already, correctly in Complainants' view, accepted any risk, such as may be, that parties or evidence needed to resolve this matter may grow stale. There is little risk of any further, to the extent there has been any thus far, loss of information needed for the Commission to address this matter.

WHEREFORE, Complainants respectfully request that the Commission extend the suspension period for this case for at least another 180 days.

Respectfully submitted,

/s/ Mark W. Comley

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CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the above and foregoing document was sent via e-mail on this 14th day of August, 2012, to Leo Bub at lb7809@att.com; General Counsel's Office at gencounsel@psc.mo.gov; and Office of Public Counsel at opcservice@ded.mo.gov.

/s/ Mark W. Comley

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