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August 27, 2004

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FILED

AUG 27 2004

Missouri Public
Service Commission

The Honorable Dale Hardy Roberts
Secretary/Chief Regulatory Law Judge
Missouri Public Service Commission
P.O. Box 360
Jefferson City, MO 65102-0360

Re: Tari Christ, d/b/a ANJ Communications, et al. v. Southwestern Bell Telephone Company,
L.P., d/b/a Southwestern Bell Telephone Company

Dear Judge Roberts:

Please find enclosed for filing in the referenced matter the original and five copies of a Complaint.

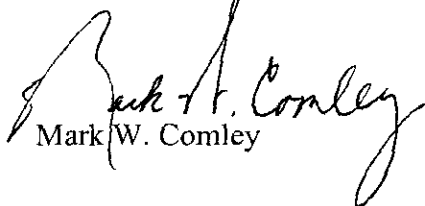
Would you please bring this to the attention of the appropriate Commission personnel.

Please contact me if you have any questions regarding this filing. Thank you.

Very truly yours,

NEWMAN, COMLEY & RUTH P.C.

By:


Mark W. Comley

MWC:ab

Enclosure

cc: Office of Public Counsel
General Counsel's Office
Lin Harvey

BEFORE THE PUBLIC SERVICE COMMISSION OF
THE STATE OF MISSOURI

FILED

AUG 27 2004

Missouri Public
Service Commission

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., Bob)
Lindeman, d/b/a Lindeman Communications,)
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,)
HKH Management Services, Inc.,)
Complainants,)
Southwestern Bell Telephone Company, L.P., d/b/a)
Southwestern Bell Telephone Company,)
Respondent.)

Case No. _____

COMPLAINT

The Complainants identified below, by their attorneys, NEWMAN, COMLEY & RUTH P.C., pursuant to §§ 386.330.3, 386.390.1, 386.400, 392.200.1 RSMo 2000, 4 CSR 240-2.070, and § 276 of the Federal Telecommunications Act of 1996, state as follows for their Complaint against Southwestern Bell Telephone Company L.P, d/b/a Southwestern Bell Telephone Company:

NATURE OF THE COMPLAINT

This Complaint is brought to compel the Respondent to comply with the nonstructural safeguards ordered by the Federal Communications Commission (FCC) to promote competition in the payphone industry. The FCC has held that one such nonstructural safeguard is the requirement that the Respondent price the network services made available to payphone providers at the cost of the service, plus a reasonable amount to recover the local exchange company's (LEC's) overhead expenses. *In the Matter of the Implementation of the Pay Telephone Reclassification Provisions of the Telecommunications Act of 1996*, CC Docket No. 96-128, Report and Order, FCC 96-388 (released September 20, 1996) ("Payphone Order"), at ¶147; Order on Reconsideration, FCC 96-439 (released November 8, 1996) ("Order on Reconsideration"), at ¶163. By failing to comply with the FCC payphone orders, Respondent has set its rates for service provided to independent payphone service providers (PSP's) unlawfully and excessively in violation of the laws of the State of Missouri. This Commission has jurisdiction over the respondent and the rates it charges.

THE PARTIES¹

1. Tari Christ, d/b/a ANJ Communications (ANJ), is an individual authorized to provide private pay telephone service in the State of Missouri.
2. Bev Coleman is an individual authorized to provide private pay telephone service in the State of Missouri.
3. Commercial Communication Services, L.L.C. (CCS) is a Missouri limited liability company authorized to provide private pay telephone service in the State of Missouri. A copy of

¹The addresses, phone and fax numbers, and electronic mail address, if applicable, of the parties are set out on Appendix A attached to this complaint.

CCS's Certificate of Good Standing issued by the Missouri Secretary of State is attached as Exhibit 1.

4. Community Payphones, Inc. (ComPay) is a Missouri corporation, in good standing, and is authorized to provide private pay telephone service in the State of Missouri. ComPay's Certificate of Good Standing issued by the Missouri Secretary of State is attached hereto as Exhibit 2.

5. Com-Tech Resources, Inc. d/b/a Com-Tech Systems (Com-Tech) is a corporation organized under the laws of the state of Texas and is authorized to provide private pay telephone service in the State of Missouri. Com-Tech's Certificate of Good Standing issued by the Missouri Secretary of State is attached hereto as Exhibit 3.

6. Coyote Call, Inc. is a corporation organized under the laws of the State of Kansas, and is authorized to provide private pay telephone service in the State of Missouri. Coyote Call has been duly authorized by the Secretary of State of the State of Missouri to transact business as a foreign entity. A copy of Coyote Call's Certificate of Good Standing, issued by the Missouri Secretary of State, is attached hereto as Exhibit 4.

7. William J. Crews, d/b/a Bell-Tone Enterprises, is an individual who is authorized to provide private pay telephone service in the State of Missouri.

8. Davidson Telecom, LLC (DTLLC) is a Delaware limited liability company and is authorized to provide private pay telephone service in the State of Missouri. DTLLC's Certificate of Good Standing in the State of Missouri is attached hereto as Exhibit 5.

9. Evercom Systems, Inc. (Evercom) is a corporation organized under the laws of the State of Delaware, and is authorized to provide private pay telephone service in the State of

Missouri. Evercom has been duly authorized by the Secretary of the State of Missouri to transact business as a foreign entity. A copy of Evercom's Certificate of Good Standing, which was issued by the Missouri Secretary of State, is attached hereto as Exhibit 6.

10. Harold B. Flora d/b/a American Telephone Service is an individual who is authorized to provide private pay telephone service in the State of Missouri.

11. Illinois Payphone Systems, Inc. (IPS) is a corporation organized under the laws of the State of Illinois authorized to provide private pay telephone service in the State of Missouri. IPS has been duly authorized by the Secretary of the State of Missouri to transact business as a foreign entity. A copy of IPS's Certificate of Good Standing, which was issued by the Missouri Secretary of State, is attached hereto as Exhibit 7.

12. JOLTRAN Communications Corp. (JOLTRAN) is a Missouri corporation, in good standing, and is authorized to provide private pay telephone service in the State of Missouri. JOLTRAN's Certificate of Good Standing issued by the Missouri Secretary of State is attached hereto as Exhibit 8.

13. Bob Lindeman, d/b/a Lindeman Communications, is an individual authorized to provide private pay telephone service in the State of Missouri.

14. John Mabe is an individual authorized to provide private pay telephone service in the State of Missouri.

15. Midwest Communication Solutions, Inc. (MCSI) is a Missouri corporation authorized to provide private pay telephone service in the State of Missouri. MCSI's Certificate of Good Standing issued by the Missouri Secretary of State is attached hereto as Exhibit 9.

16. Missouri Telephone & Telegraph, Inc. (MTT) is a Missouri corporation authorized to

provide private pay telephone service in the State of Missouri. MTT's Certificate of Good Standing issued by the Missouri Secretary of State is attached hereto as Exhibit 10.

17. Jerry Myers is an individual authorized to provide private pay telephone service in the State of Missouri.

18. Pay Phone Concepts, Inc. (PPC) is a corporation organized under the laws of the State of Kansas authorized to provide private pay telephone service in the State of Missouri. PPC has been duly authorized by the Secretary of the State of Missouri to transact business as a foreign entity. A copy of PPC's Certificate of Good Standing, which was issued by the Missouri Secretary of State, is attached hereto as Exhibit 11.

19. Jerry Perry is an individual authorized to provide private pay telephone service in the State of Missouri.

20. PhoneTel Technologies, Inc. (PhoneTel) is a corporation organized under the laws of the state of Ohio authorized to provide private pay telephone service in the State of Missouri. PhoneTel has been duly authorized by the Secretary of the State of Missouri to transact business as a foreign entity. A copy of PhoneTel's Certificate of Good Standing, which was issued by the Missouri Secretary of State, is attached hereto as Exhibit 12.

21. Craig D. Rash is an individual authorized to provide private pay telephone service in the State of Missouri.

22. Sunset Enterprises, Inc. (Sunset) is a Missouri corporation authorized to provide private pay telephone service in the State of Missouri. Sunset's Certificate of Good Standing issued by the Missouri Secretary of State is attached hereto as Exhibit 13.

23. Telaleasing Enterprises, Inc. (TEI) is a corporation organized under the laws of the

state of Illinois authorized to provide private pay telephone service in the State of Missouri. A copy of TEI's Certificate of Good Standing issued by the Missouri Secretary of State is attached as Exhibit 14.

24. Teletrust, Inc. is a corporation organized under the laws of the state of Texas authorized to provide private pay telephone service in the State of Missouri. A copy of Teletrust's Certificate of Good Standing issued by the Missouri Secretary of State is attached as Exhibit 15.

25. Tel Pro, Inc. (TelPro) is a Missouri corporation authorized to provide private pay telephone service in the State of Missouri. TelPro's Certificate of Good Standing issued by the Missouri Secretary of State is attached hereto as Exhibit 16.

26. Toni M. Tolley, d/b/a Payphones of America North, is an individual authorized to provide private pay telephone service in the State of Missouri.

27. Tom Tucker d/b/a Herschel's Coin Communications Company is an individual authorized to provide private pay telephone service in the State of Missouri.

28. HKH Management Services, Inc. (HKH) is a Missouri corporation authorized to provide private pay telephone service in the State of Missouri. HKH's Certificate of Good Standing issued by the Missouri Secretary of State is attached hereto as Exhibit 17.

29. For all purposes relevant herein, Complainants are either present customers or prospective customers of network services including payphone access line service, and other associated services which are offered under rates, terms and conditions set forth in the SWBT's tariffs that are later described herein.

30. The provisions of 4 CSR 240-2.070 (5)(A) provide that a complaint is to contain the signature of each complainant and, if different than the address of the complainant, the address

where the subject utility service was rendered. Pursuant to 4 CSR 240-2.015, Complainants respectfully request a partial waiver for good cause of 4 CSR 240-2.070(5)(A) in connection with these requirements in that 1) counsel for complainants has executed a separate verification (attached) relating to the authority to file and pursue this complaint; and 2) one or more of the payphone access services, the rates for which are the subject matter of this complaint, are delivered to each payphone operated by the Complainants, and a recital of the address of each and every location where the complainants operate a payphone (which could approach several thousand separate locations, each of which is considered proprietary) would unnecessarily overburden the complaint.

31. Southwestern Bell Telephone Company, L.P., doing business as Southwestern Bell Telephone Company (SWBT) is a local exchange telecommunications company and is a public utility. SWBT provides regulated intrastate telecommunications services within its Missouri service area. Specifically, it provides local exchange and other network telecommunications services to payphone service providers in the state of Missouri. SWBT also provides payphone services to end users in competition with the Complainants. SWBT is a noncompetitive telecommunications company. It is subject to the Commission's jurisdiction. It can be served with this complaint at its registered address: One Bell Center, St. Louis, MO 63101.

32. Respondent has been directly contacted by complainants, or by agents acting on their behalf, about the circumstances giving rise to this complaint.

33. Section 392.200, RSMo 2000 provides in part:

1. Every telecommunications company shall furnish and provide with respect to its business such instrumentalities and facilities as shall be adequate and in all respects just and reasonable. **All charges made and demanded by any telecommunications company for any service rendered or to be rendered in connection therewith shall be just and reasonable and not more than allowed by law or by order or decision of the commission. Every unjust or unreasonable**

charge made or demanded for any such service or in connection therewith or in excess of that allowed by law or by order or decision of the commission is prohibited and declared to be unlawful. [emphasis added]

THE FCA AND THE PAYPHONE ORDERS

34. In February, 1996 the Federal Communications Act ("FCA") was amended with, *inter alia*, the adoption of section 276, 47 U.S.C. §276. Section 276 of the FCA states in relevant part:

(a) **NONDISCRIMINATION SAFEGUARDS.**--After the effective date of the rules prescribed pursuant to subsection (b), any Bell operating company that provides payphone service--

(1) shall not subsidize its payphone service directly or indirectly from its telephone exchange service operations or its exchange access operations; and

(2) shall not prefer or discriminate in favor of its payphone service.

(b) **REGULATIONS.**--

(1) **CONTENTS OF REGULATIONS.**--In order to promote competition among payphone service providers and promote the widespread deployment of payphone services to the benefit of the general public, within 9 months after the date of enactment of the Telecommunications Act of 1996, the Commission shall take all actions necessary (including any reconsideration) to prescribe regulations that--

* * *

(B) discontinue the intrastate and interstate carrier access charge payphone service elements and payments in effect on such date of enactment, and all intrastate and interstate payphone subsidies from basic exchange and exchange access revenues;

(C) prescribe a set of nonstructural safeguards for Bell operating company payphone service to implement the provisions of paragraphs (1) and (2) of subsection (a), which safeguards shall, at a minimum, include the nonstructural safeguards equal to those adopted in the Computer Inquiry-III (CC Docket No. 90-623) proceeding. . . .

47 U.S.C. §276.

35. Pursuant to Section 276(b) of the FCA, the Federal Communications Commission ("FCC") initiated a proceeding to determine what regulations and policies it would need to develop to implement Section 276, and what nonstructural safeguards were required to be imposed to promote competition in the payphone industry. Among other things, the Commission required the removal of LECs' payphones from the regulated rate base, deregulated LECs' rates for local coin calls, and established a system of per-call compensation, paid by interexchange carriers, for coinless calls placed from LEC and non-LEC payphones. *In the Matter of the Implementation of the Pay Telephone Reclassification Provisions of the Telecommunications Act of 1996*, CC Docket No. 96-128, Report and Order, FCC 96-388 (released September 20, 1996) ("*Payphone Order*"); Order on Reconsideration, FCC 96-439 (released November 8, 1996) ("*Order on Reconsideration*"); Order, FCC 97-678 (Com. Car. Bur. released April 4, 1997) ("*Bureau Waiver Order*"); Order, FCC 97-805 (released April 15, 1997) ("*Clarification Order*").

36. The FCC also concluded that, to prevent Bell Operating Companies from subsidizing or discriminating in favor of their own payphone services in violation of Section 276(a), it would adopt certain nonstructural safeguards developed through its Computer III proceedings, and apply those nonstructural safeguards to Bell Operating Companies:

we conclude that the Computer III and ONA nonstructural safeguards will provide an appropriate regulatory framework to ensure that BOCs do not discriminate or cross-subsidize in their provision of payphone service.

Payphone Order, at ¶199.

37. One of the nonstructural safeguards ordered by the FCC was the requirement that network services made available to payphone providers be provided at rates that comply with the New Services Test pricing formula set forth at 47 C.F.R. §61.49. *Payphone Order*, at ¶ 146. The

FCC held:

LECs must provide tariffed, nondiscriminatory basic payphone services that enable independent providers to offer payphone services using either instrument-implemented "smart payphones" or "dumb" payphones that utilize central office coin services, or some combination of the two in a manner similar to the LECs. . . . In addition, . . . any basic network services or unbundled features used by a LEC's operations to provide payphone services must be similarly available to independent payphone providers on a nondiscriminatory, tariffed basis.

. . . The tariffs for these LEC payphone services must be: (1) cost based; (2) consistent with the requirements of Section 276 with regard, for example, to the removal of subsidies from exchange and exchange access services; and (3) nondiscriminatory.

Order on Reconsideration, at ¶¶ 162-63. In addition, the FCC stated that the LECs' network services offered to payphone providers must comply with the FCC's "Computer III guidelines," including the new services test described in the FCC's rules at 47 CFR Section 61.49(g)(2). *Id.*, at ¶ 163 & fn. 929. See also *Bureau Waiver Order*, at ¶2; *Clarification Order*, at ¶10.

38. The FCC held that several issues relating to the implementation of the nonstructural safeguards under Section 276 would be the responsibility of state public service commissions. One issue left to states was whether network services provided to payphone providers by local exchange carriers ("LECs") were in compliance with the requirements of Section 276, and in particular with the new services test. The FCC held:

We require LECs to file tariffs for the basic payphone services and unbundled functionalities in the intrastate and interstate jurisdictions as discussed below. LECs must file intrastate tariffs for these payphone services and any unbundled features they provide to their own payphone services. The tariffs for these LEC payphone services must be: (1) cost based; (2) consistent with the requirements of Section 276 with regard, for example, to the removal of subsidies from exchange and exchange access services; and (3) nondiscriminatory. States must apply these requirements and the Computer III guidelines for tariffing such intrastate services. [fn.] . . . We will rely on the states to ensure that the basic payphone line is tariffed by the LECs in accordance with the requirements of Section 276.

Order on Reconsideration, ¶163 (fn. 929: "The new services test required in the Report and Order is described at 47 C.F.R. Section 61.49(g)(2)."); *See also Clarification Order* at ¶11.

Under the FCC's payphone orders (*see Order on Reconsideration*, at ¶¶130-131) SWBT was required to file tariffs for basic network services for payphone providers with the Missouri Public Service Commission no later than April 15, 1997, and the tariffs were to comply with the new services test standard. To be eligible to receive per call compensation from interexchange carriers for its own payphones, SWBT was required to certify that it had completed the requirements for implementing the FCC's payphone regulatory scheme to implement Section 276.

39. On January 31, 2002, the FCC entered a Memorandum Opinion and Order in *In the Matter of Wisconsin Public Service Commission Order Directing Filings*, CCB/CPD No. 00-01, FCC 02-25. (*Wisconsin Order*).

40. In that order, the FCC reaffirmed that Bell Operating Companies, must comply with the cost-based pricing requirement of the new services test, including SWBT's pricing of network services made available to payphone providers. *Wisconsin Order* ¶ 42. The FCC substantially affirmed its Common Carrier Bureau's earlier order setting forth guidelines for LEC compliance with the new services test. *Wisconsin Public Service Commission: Order Directing Filings*, Bureau/CPD No. 00-01DA No. 00-347, Order, 15 FCC Rcd 9978 (March 2, 2000).

41. The New Services Test requires that the rates for network services made available to payphone providers be set at the cost to provide the service, plus a reasonable amount to recover a portion of the firm's common expenses. 47 C.F.R. §61.49. *See also, Wisconsin Order*.

42. The New Services Test and the mandate that the rates be cost-based requires that the direct costs for network services made available to payphone providers be identified using forward

looking economic cost methodologies. Id., ¶43. The New Services Test further requires that SWBT recover no more than a reasonable amount for overhead (or indirect) costs. An appropriate measure of whether the overhead allocations are reasonable is the overhead allocation applicable to unbundled network elements. Id., ¶¶52, 58. In addition, the rates for the network services made available to payphone providers must be set so as to not provide a subsidy to other services, and must take into account the revenue associated with each access line that is derived from federal common line charges such as end user common line charges (EUCL). *Wisconsin Order*, ¶¶51, 59-61.

SWBT'S PAYPHONE RATES

43. The rates charged by SWBT for network services made available to payphone providers (Payphone Rates) are as follows:

Monthly Recurring Charges:

Payphone Exchange Access Line (COCOT service)	\$30.70
Answer Supervision	\$5.00
End User Common Line Charge	\$5.27

Non recurring Charges:

Selective Class of Call Screening	\$20.50
Answer Supervision	\$7.00

44. SWBT's Payphone Rates were approved by the Commission in *In the Matter of Southwestern Bell Telephone Company's Revision to the General Exchange Tariff*, PSC Mo. No. 35, *Regarding Deregulated Pay Telephone Service*. Case No. TT-97-345, and were effective on April 15, 1997.

45. Since the time SWBT's Payphone Rates were approved, there has been a substantial

change in circumstances.

46. Even before the Payphone Rates were approved by this Commission, SWBT and other regional Bell Operating Companies were unclear on what their obligations were to comply with the New Services Test, and were unaware of some of the basic rules in setting these rates. The RBOC Coalition, of which SWBT was a member, sought from the FCC a 45 day waiver of the requirement that the intrastate tariffs for basic payphone service, features and unbundled features and functions filed by the companies satisfy the New Services Test in order for the RBOCs to gather and review the cost studies for compliance with the New Services Test. *See* Letter from Michael Kellogg to Mary Beth Richards, Deputy Bureau Chief, Common Carrier Bureau, dated April 10, 1997 ("Kellogg April 10 Letter"); Letter from Michael Kellogg to Mary Beth Richards, Deputy Bureau Chief, Common Carrier Bureau, dated April 11, 1997 at page 1 (Kellogg April 11 Letter) (filed as ex parte letters in FCC Docket No. 96-128, copies of which are attached to this Complaint as Attachment 1).

47. In consideration of the FCC waiver, the RBOC Coalition agreed that

where new or revised tariffs are required and the new tariff rates are lower than the existing ones, we will undertake (consistent with state requirements) to reimburse or provide a credit back to April 15, 1997, to those purchasing the services under the existing tariffs.

Kellogg April 11 Letter at page 1.

48. The FCC granted the waiver on April 15, 1997, giving the Bell Operating Companies until May 19, 1997 to comply. The FCC specifically required, as a condition of granting the waiver, that Bell Operating Companies refund to payphone providers, for the period from April 15, 1997 until the date that rates complying with the new services test became effective, the difference between the payphone service rates in effect on April 15, 1997 and the rates implemented to comply

with the new services test. *Clarification Order*, ¶25.

49. Even though the Payphone Rates were allowed to go into effect by this Commission, SWBT's admitted doubts about compliance with federal mandates supply sufficient cause for the rates to be reviewed and tested by this Commission. Until the FCC issued the *Wisconsin Order*, state commissions generally applied disparate approaches to application of the new services test, and in many cases did not correctly interpret the FCC's orders regarding application of the new services test. See *Wisconsin Order*, ¶2, n. 10.

50. Over seven years have passed since the Payphone Rates were filed with the Commission by SWBT. At the time the Payphone Rates were filed, the Commission was asked by intervening parties to conduct an investigation and hearing so that the Payphone Rates could be examined properly under the requirements of the *Payphone Orders* and other applicable authority. The Commission denied hearings on the Payphone Rates and allowed them to go into effect. This Commission has not yet conducted a New Services Test review of the SWBT rates that complies with the *Payphone Orders* and subsequent orders of the FCC, including the *Wisconsin Order*²

51. Additionally, the forward-looking cost studies the FCC requires to satisfy analysis under the New Services Test produce cost estimates on an "unseparated" basis (i.e. not separated between the interstate and intrastate jurisdictions.) In order to avoid double recovery of costs,

² The Midwest Independent Coin Payphone Association (MICPA) sought a New Services Test Review of SWBT's payphone line rates when they were first proposed to the Commission in 1997. MICPA's application to intervene, and motion to suspend the tariffs, were denied by the Commission on April 11, 1997 without hearing. Many of the named complainants were parties to a previous complaint filed in this Commission on August 22, 2002 against the present respondent and Sprint Missouri, Inc., doing business as Sprint (Sprint), and GTE Midwest Incorporated, doing business as Verizon Midwest (Verizon). See, Case No. TC-2003-0066. The complaint sought Commission review of each respondents' payphone line rates under the New Services Test. The Commission dismissed the complaint and again conducted no review of the challenged rates. Although the instant complaint has been filed against SWBT only, complainants do not waive any right to file a complaint against Sprint, Verizon, or any of their successors, regarding the New Services Test, the *Payphone Orders* and their compliance therewith.

therefore, SWBT must demonstrate that in setting its payphone line rates it has taken into account other sources of revenue (e.g., SLC/EUCL, PICC, and CCL access charges) that are used to recover the costs of the facilities involved. SWBT's EUCL rates have fluctuated since April 15, 1997 from as high as \$7.39 to as low as \$5.27. However, at no time during these EUCL rate fluctuations did SWBT modify or adjust the monthly rate for the COCOT service. Because the EUCL charge revenue must be taken into account in setting the COCOT rate, the failure of SWBT to modify its monthly COCOT service rates would indicate that SWBT's COCOT rate is not cost-based, and does not comply with the FCC's New Services Test.

SWBT'S PAYPHONE SERVICE RATES FAIL TO COMPLY WITH FCC REQUIREMENTS

52. SWBT has not complied with the nonstructural safeguards required by, and as described in, the FCC's orders in Docket No. 96-128 and the *Wisconsin Order*.

53. The Commission has not engaged in any examination or investigation, under contested case procedures, to determine whether SWBT's payphone line rates comply with the *Payphone Orders* and subsequent orders of the FCC, including the *Wisconsin Order*.

54. Since April 15, 1997, SWBT has charged the Complainants rates greater than a price consistent with the New Services Test, and, as SWBT agreed as a member of the RBOC Coalition, the Complainants are entitled to a refund in the amount of the difference between rates approved by the Commission under the New Services Test, and the rates charged by SWBT to the Complainants since April 15, 1997.

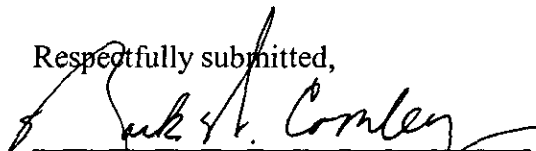
55. SWBT's Payphone Rates are unjust and unreasonable, and are above what is allowed by applicable law.

WHEREFORE, the Complainants request that the Commission conduct a hearing on the

allegations of the Complaint, and that it enter an order in their favor and against SWBT as follows:

1. That the Commission declare that since April 15, 1997 SWBT has charged rates for network services made available to payphone providers that are not cost-based, recover more than a reasonable amount of overhead costs, and are in violation of the New Services Test pricing requirements;
2. That the Commission order SWBT to set the prices for network services made available to payphone providers at rates that recover the forward-looking economic cost of providing the service, plus the reasonable amount to recover the overhead expenses as determined by the Commission, pursuant to the FCC's New Services Test;
3. That the Commission order SWBT to calculate and pay to the Complainants the difference between the rates charged to the Complainants since April 15, 1997 and the date of the implementation of the Commission's orders in this proceeding;
4. That the Commission grant the Complainants interest on all repayments of overcharges pursuant to the applicable Commission's rules; and,
5. That the Commission grant such further and additional relief as is equitable and just.

Respectfully submitted,



Mark W. Comley MBE# 28847
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Jefferson City, Missouri 65102-0537
573/634-2266
573/636-3306 FAX
comleym@ncrpc.com

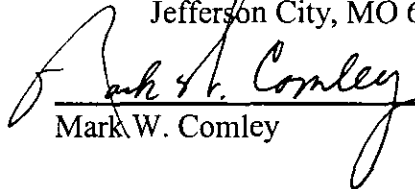
Attorneys for Complainants

CERTIFICATE OF SERVICE

I hereby certify that on this 27th day of August, 2004, a true and correct copy of the above and foregoing document was sent by U.S. Mail, postage prepaid, to:

Office of Public Counsel
P.O. Box 2230
Jefferson City, MO 65102-2230

General Counsel
P.O. Box 360
Jefferson City, MO 65102

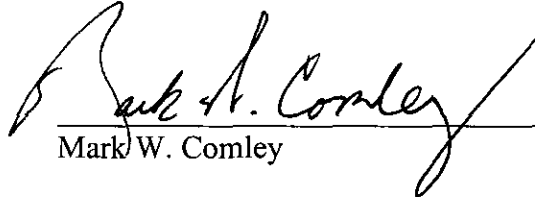


Mark W. Comley

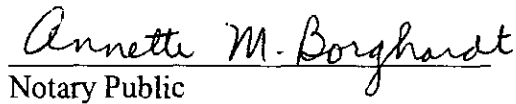
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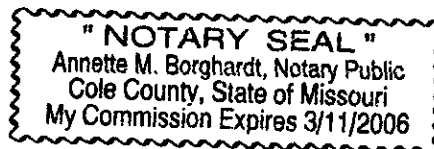
STATE OF MISSOURI)
) ss.
COUNTY OF COLE)

I, Mark W. Comley, being first duly sworn, do hereby certify, depose and state that I am the attorney for Complainants in this proceeding; that I have read the above and foregoing Complaint and the allegations therein contained are true and correct to the best of my knowledge, information and belief; and I further state that I am authorized to execute and file the foregoing application by each of the above said Complainants.


Mark W. Comley

Subscribed and sworn to before me, a Notary Public, this 26th day of August, 2004.


Notary Public



APPENDIX A

Tari Christ, d/b/a ANJ Communications
7 Jamie Lane
O'Fallon, IL 62269
618/624-2290
618/624-2295 fax

Bev Coleman
3167 Olde Post
St. Louis, MO 63129
314/846-6522

Commercial Communication Services, LLC
4771 Wickerwood
St. Louis, MO 63129
314/845-9850
314/845-3575 fax
joltran@netzero.net

Community Payphones, Inc.
8 Sunderland Court
St. Charles, MO 63303
636/441-5738

Com-Tech Resources, Inc. d/b/a Com-Tech
Systems
3709 Westway, Suite A
Tyler, TX 75703

Coyote Call, Inc.
14927 S. Caenen Lane
Olathe, KS 66062
913/897-2194
913/897-9624 fax

Mr. William J. Crews
d/b/a Bell-Tone Enterprises
672 Clifden Drive
St. Charles, MO 63304
636/939-4385

Davidson Telecom LLC
19003 Hodestone Mews Court, Suite 100
Davidson, NC 28036
704/425-1187
704/973-9631 fax

Evercom Systems, Inc.
8201 Tristar Drive
Irving, TX 75063

Harold B. Flora d/b/a American Telephone
Service
7000 West Florissant
St. Louis, MO 63136

Illinois Payphone Systems, Inc.
10061 South 76th Ave.
Bridgeview, IL 60455
708/598-7200
708/598-7260 fax

JOLTRAN Communications Corp.
5541 Oakville Center, #117
St. Louis, MO 63129
314/845-9850
314/845-3375 fax
joltran@netzero.net

Bob Lindeman,
d/b/a Lindeman Communications
1005 Michel Drive
Aurora, MO 65605
417/850-4022
417/678-6117 fax

John Mabe
P.O. Box 208
Gardner, KS 66030

Midwest Communication Solutions, Inc.
9901 Gravois Road, Suite C
St. Louis, MO 63123-4020
314/544-7656
314/544-1966 fax

Jerry Myers
730 Sunnyside Road
Warrenton, MO 63385-5116
636/456-8458

Jerry Perry
4 Sappington Acres Dr.
St. Louis, MO 63126
314/849-2194

Craig D. Rash
4129 Oleatha Ave.
St. Louis, MO 63116
314/771-7376

Telaleasing Enterprises, Inc.
200 Public Square, Suite 700
Cleveland, OH 44114

Tel Pro, Inc.
332 Leffingwell, Suite 105
St. Louis, MO 63122-6460
314/822-3778
314/822-9129 fax

Tom Tucker d/b/a Herschel's Coin ,
Communications Company
304 Rusche Lane
Creve Coeur, IL 61610
309/698-8081
309/699-0946 fax

Missouri Telephone & Telegraph, Inc.
25 Meadow Ridge Drive
St. Peters, MO 63376
636/441-9908
636/939-1023 fax

Pay Phone Concepts, Inc.
1310 W. Ash
Junction City, KS 66441
785/762-3004
784/762-0774 fax

PhoneTel Technologies, Inc.
1001 Lakeside Ave., 7th Fl.
Cleveland, OH 44114
216/875-4296
216/875-4338 fax

Sunset Enterprises, Inc.
12845 Crab Thicket Lane
St. Louis, MO 63131
314/909-1111
314/909-1111 fax

Teletrust, Inc.
419 South Walnut
Sherman, TX 75090
903/893-4897
903/892-8832 fax

Toni M. Tolley
d/b/a Payphones of America North
420 Barons Road
Springfield, IL 62704
217/787-7195
217/787-7182 fax

HKH Management Services, Inc.
25 Meadows Ridge Drive
St. Peters, MO 63376
636/993-0755

STATE OF MISSOURI



Matt Blunt
Secretary of State


**CORPORATION DIVISION
CERTIFICATE OF GOOD STANDING**

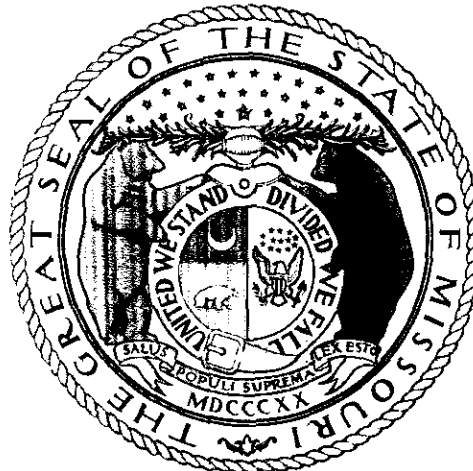
I, MATT BLUNT, Secretary of the State of Missouri, do hereby certify that the records in my office and in my care and custody reveal that

**COMMERCIAL COMMUNICATION SERVICES, L.L.C.
LC0021588**

was created under the laws of this State on the 13th day of August, 1998, and is in good standing, having fully complied with all requirements of this office.

IN TESTIMONY WHEREOF, I have set my hand and imprinted the GREAT SEAL of the State of Missouri, on this, the 20th day of August, 2004


Secretary of State



Certification Number: 6949455-1 Reference:
Verify this certificate online at <http://www.sos.mo.gov/businessentity/verification>

STATE OF MISSOURI



Matt Blunt
Secretary of State


**CORPORATION DIVISION
CERTIFICATE OF GOOD STANDING**

I, MATT BLUNT, Secretary of the State of Missouri, do hereby certify that the records in my office and in my care and custody reveal that

**COMMUNITY PAYPHONES, INC.
00466104**

was created under the laws of this State on the 17th day of February, 1999, and is in good standing, having fully complied with all requirements of this office.

IN TESTIMONY WHEREOF, I have set my hand and imprinted the GREAT SEAL of the State of Missouri, on this, the 20th day of August, 2004


Secretary of State



Certification Number: 6949456-1 Reference:
Verify this certificate online at <http://www.sos.mo.gov/businessentity/verification>

STATE OF MISSOURI



Matt Blunt
Secretary of State

**CORPORATION DIVISION
CERTIFICATE OF GOOD STANDING**

I, MATT BLUNT, Secretary of the State of Missouri, do hereby certify that the records in my office and in my care and custody reveal that


COM-TECH RESOURCES, INC.

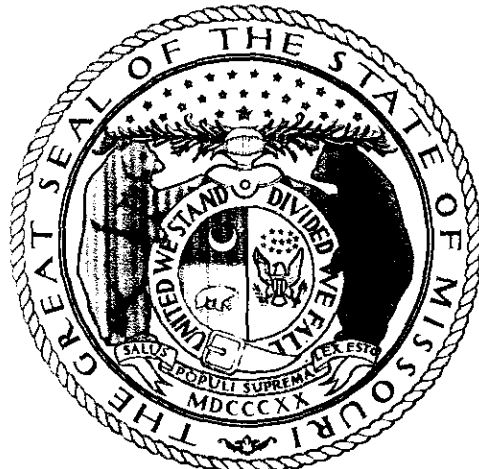
using in Missouri the name

**COM-TECH RESOURCES, INC.
F00439467**

a TEXAS entity was created under the laws of this State on the 3rd day of April, 1997, and is in good standing, having fully complied with all requirements of this office.

IN TESTIMONY WHEREOF, I have set my hand and imprinted the GREAT SEAL of the State of Missouri, on this, the 20th day of August, 2004


Secretary of State



Certification Number: 6949457-1 Reference:
Verify this certificate online at <http://www.sos.mo.gov/businessentity/verification>

STATE OF MISSOURI



Matt Blunt
Secretary of State

**CORPORATION DIVISION
CERTIFICATE OF GOOD STANDING**

I, MATT BLUNT, Secretary of the State of Missouri, do hereby certify that the records in my office and in my care and custody reveal that


COYOTE CALL, INC.

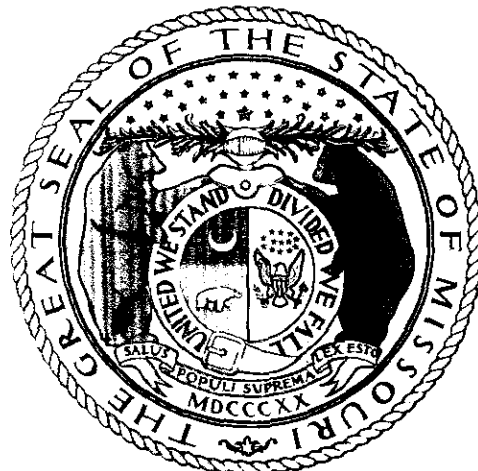
using in Missouri the name

**COYOTE CALL, INC.
F00506757**

a KANSAS entity was created under the laws of this State on the 18th day of March, 2002, and is in good standing, having fully complied with all requirements of this office.

IN TESTIMONY WHEREOF, I have set my hand and imprinted the GREAT SEAL of the State of Missouri, on this, the 20th day of August, 2004


Secretary of State



Certification Number: 6949458-1 Reference:
Verify this certificate online at <http://www.sos.mo.gov/businessentity/verification>

STATE OF MISSOURI



Matt Blunt
Secretary of State

CORPORATION DIVISION
CERTIFICATE OF GOOD STANDING

I, MATT BLUNT, Secretary of the State of Missouri, do hereby certify that the records in my office and in my care and custody reveal that


DAVIDSON TELECOM, LLC

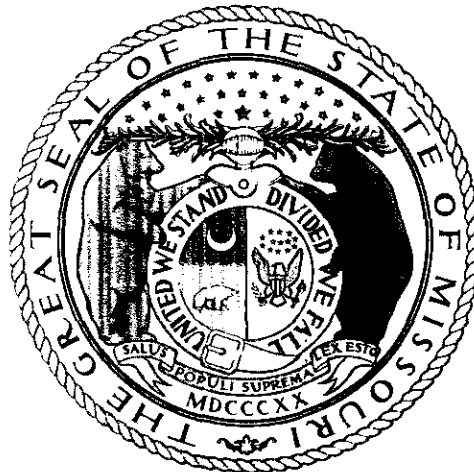
using in Missouri the name

DAVIDSON TELECOM, LLC
FL0077359

a DELAWARE entity was created under the laws of this State on the 30th day of January, 2003, and is in good standing, having fully complied with all requirements of this office.

IN TESTIMONY WHEREOF, I have set my hand and imprinted the GREAT SEAL of the State of Missouri, on this, the 20th day of August, 2004


Secretary of State



Certification Number: 6949459-1 Reference:
Verify this certificate online at <http://www.sos.mo.gov/businessentity/verification>

STATE OF MISSOURI



Matt Blunt
Secretary of State

**CORPORATION DIVISION
CERTIFICATE OF GOOD STANDING**

I, MATT BLUNT, Secretary of the State of Missouri, do hereby certify that the records in my office and in my care and custody reveal that


EVERCOM SYSTEMS, INC.

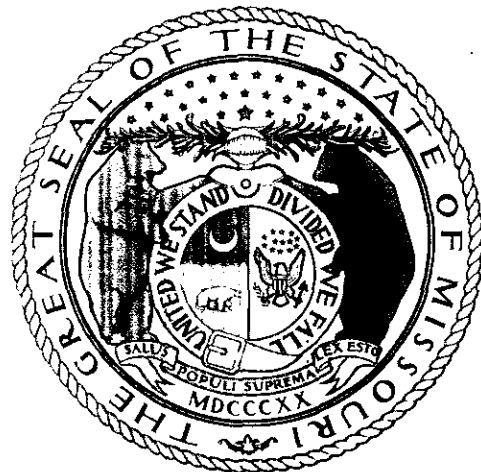
using in Missouri the name

**EVERCOM SYSTEMS, INC.
F00445549**

a DELAWARE entity was created under the laws of this State on the 4th day of September, 1997, and is in good standing, having fully complied with all requirements of this office.

IN TESTIMONY WHEREOF, I have set my hand and imprinted the GREAT SEAL of the State of Missouri, on this, the 20th day of August, 2004


Secretary of State



Certification Number: 6949460-1 Reference:
Verify this certificate online at <http://www.sos.mo.gov/businessentity/verification>

STATE OF MISSOURI



Matt Blunt
Secretary of State

CORPORATION DIVISION
CERTIFICATE OF GOOD STANDING

I, MATT BLUNT, Secretary of the State of Missouri, do hereby certify that the records in my office and in my care and custody reveal that


ILLINOIS PAYPHONE SYSTEMS, INC.

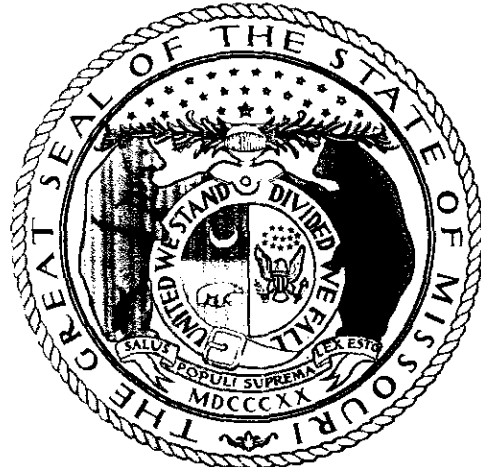
using in Missouri the name

ILLINOIS PAYPHONE SYSTEMS, INC.
F00478439

a ILLINOIS entity was created under the laws of this State on the 4th day of January, 2000, and is in good standing, having fully complied with all requirements of this office.

IN TESTIMONY WHEREOF, I have set my hand and imprinted the GREAT SEAL of the State of Missouri, on this, the 20th day of August, 2004


Secretary of State



Certification Number: 6949461-1 Reference:
Verify this certificate online at <http://www.sos.mo.gov/businessentity/verification>

STATE OF MISSOURI



Matt Blunt
Secretary of State


**CORPORATION DIVISION
CERTIFICATE OF GOOD STANDING**

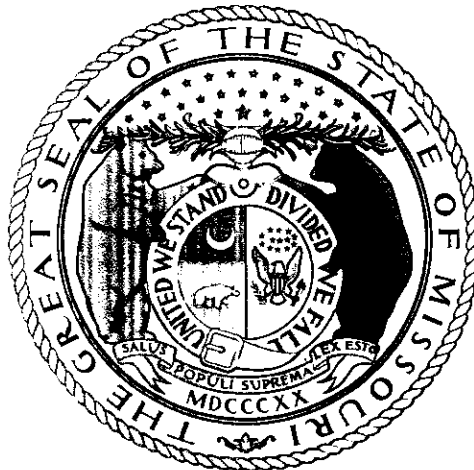
I, MATT BLUNT, Secretary of the State of Missouri, do hereby certify that the records in my office and in my care and custody reveal that

**JOLTRAN COMMUNICATIONS CORP.
00422636**

was created under the laws of this State on the 20th day of February, 1996, and is in good standing, having fully complied with all requirements of this office.

IN TESTIMONY WHEREOF, I have set my hand and imprinted the GREAT SEAL of the State of Missouri, on this, the 20th day of August, 2004


Secretary of State



Certification Number: 6949462-1 Reference:
Verify this certificate online at <http://www.sos.mo.gov/businessentity/verification>

STATE OF MISSOURI



Matt Blunt
Secretary of State


**CORPORATION DIVISION
CERTIFICATE OF GOOD STANDING**

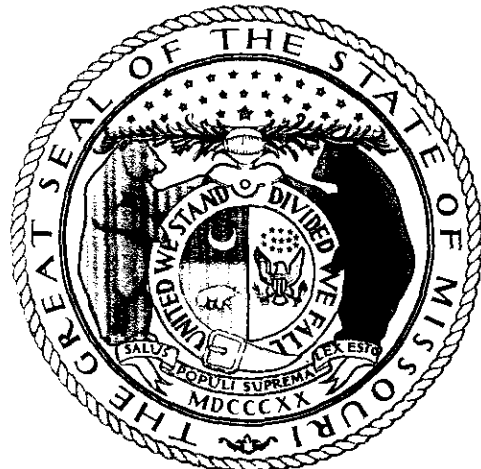
I, MATT BLUNT, Secretary of the State of Missouri, do hereby certify that the records in my office and in my care and custody reveal that

**MIDWEST COMMUNICATION SOLUTIONS, INC.
00447684**

was created under the laws of this State on the 29th day of October, 1997, and is in good standing, having fully complied with all requirements of this office.

IN TESTIMONY WHEREOF, I have set my hand and imprinted the GREAT SEAL of the State of Missouri, on this, the 20th day of August, 2004


Secretary of State



Certification Number: 6949463-1 Reference:
Verify this certificate online at <http://www.sos.mo.gov/businessentity/verification>

STATE OF MISSOURI



Matt Blunt
Secretary of State


**CORPORATION DIVISION
CERTIFICATE OF GOOD STANDING**

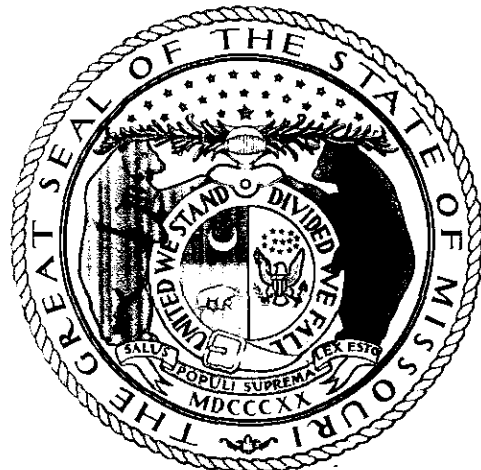
I, MATT BLUNT, Secretary of the State of Missouri, do hereby certify that the records in my office and in my care and custody reveal that

**MISSOURI TELEPHONE & TELEGRAPH, INC.
00404093**

was created under the laws of this State on the 6th day of December, 1994, and is in good standing, having fully complied with all requirements of this office.

IN TESTIMONY WHEREOF, I have set my hand and imprinted the GREAT SEAL of the State of Missouri, on this, the 20th day of August, 2004


Secretary of State



Certification Number: 6949464-1 Reference:
Verify this certificate online at <http://www.sos.mo.gov/businessentity/verification>

STATE OF MISSOURI



Matt Blunt
Secretary of State

**CORPORATION DIVISION
CERTIFICATE OF GOOD STANDING**

I, MATT BLUNT, Secretary of the State of Missouri, do hereby certify that the records in my office and in my care and custody reveal that


PAY PHONE CONCEPTS, INC.

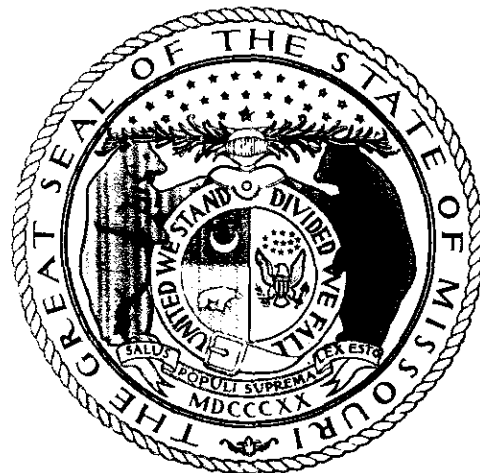
using in Missouri the name

**PAY PHONE CONCEPTS, INC.
F00407962**

a KANSAS entity was created under the laws of this State on the 28th day of February, 1995, and is in good standing, having fully complied with all requirements of this office.

IN TESTIMONY WHEREOF, I have set my hand and imprinted the GREAT SEAL of the State of Missouri, on this, the 20th day of August, 2004


Secretary of State



Certification Number: 6949465-1 Reference:
Verify this certificate online at <http://www.sos.mo.gov/businessentity/verification>

STATE OF MISSOURI



Matt Blunt
Secretary of State

**CORPORATION DIVISION
CERTIFICATE OF GOOD STANDING**

I, MATT BLUNT, Secretary of the State of Missouri, do hereby certify that the records in my office and in my care and custody reveal that

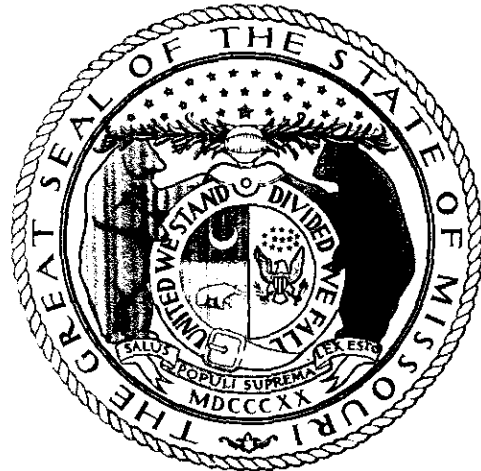
PHONETEL TECHNOLOGIES, INC.


using in Missouri the name

**PHONETEL TECHNOLOGIES, INC.
F00337810**

a OHIO entity was created under the laws of this State on the 26th day of February, 1990, and is in good standing, having fully complied with all requirements of this office.

IN TESTIMONY WHEREOF, I have set my hand and imprinted the GREAT SEAL of the State of Missouri, on this, the 20th day of August, 2004




Secretary of State

Certification Number: 6949466-1 Reference:
Verify this certificate online at <http://www.sos.mo.gov/businessentity/verification>

STATE OF MISSOURI



Matt Blunt
Secretary of State


CORPORATION DIVISION
CERTIFICATE OF GOOD STANDING

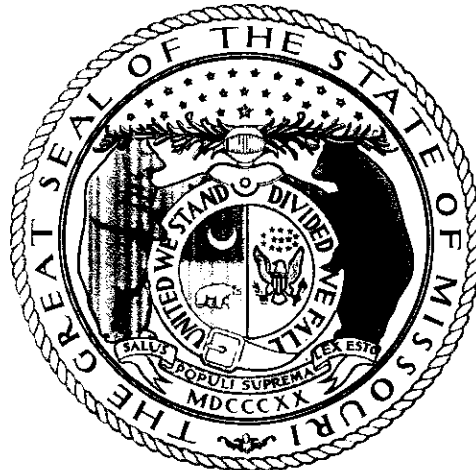
I, MATT BLUNT, Secretary of the State of Missouri, do hereby certify that the records in my office and in my care and custody reveal that

SUNSET ENTERPRISES, INC.
00403075

was created under the laws of this State on the 7th day of November, 1994, and is in good standing, having fully complied with all requirements of this office.

IN TESTIMONY WHEREOF, I have set my hand and imprinted the GREAT SEAL of the State of Missouri, on this, the 20th day of August, 2004


Secretary of State



Certification Number: 6949467-1 Reference:
Verify this certificate online at <http://www.sos.mo.gov/businessentity/verification>

STATE OF MISSOURI



Matt Blunt
Secretary of State

**CORPORATION DIVISION
CERTIFICATE OF GOOD STANDING**

I, MATT BLUNT, Secretary of the State of Missouri, do hereby certify that the records in my office and in my care and custody reveal that


TELALEASING ENTERPRISES, INC.

using in Missouri the name

**TELALEASING ENTERPRISES, INC.
F00320823**

a ILLINOIS entity was created under the laws of this State on the 27th day of October, 1988, and is in good standing, having fully complied with all requirements of this office.

IN TESTIMONY WHEREOF, I have set my hand and imprinted the GREAT SEAL of the State of Missouri, on this, the 20th day of August, 2004


Secretary of State



Certification Number: 6949468-1 Reference:
Verify this certificate online at <http://www.sos.mo.gov/businessentity/verification>

STATE OF MISSOURI



Matt Blunt
Secretary of State

**CORPORATION DIVISION
CERTIFICATE OF GOOD STANDING**

I, MATT BLUNT, Secretary of the State of Missouri, do hereby certify that the records in my office and in my care and custody reveal that


TELETRUST, INC.

using in Missouri the name

**TELETRUST, INC.
F00434910**

a TEXAS entity was created under the laws of this State on the 23rd day of December, 1996, and is in good standing, having fully complied with all requirements of this office.

IN TESTIMONY WHEREOF, I have set my hand and imprinted the GREAT SEAL of the State of Missouri, on this, the 20th day of August, 2004


Secretary of State



Certification Number: 6949469-1 Reference:
Verify this certificate online at <http://www.sos.mo.gov/businessentity/verification>

STATE OF MISSOURI



Matt Blunt
Secretary of State


**CORPORATION DIVISION
CERTIFICATE OF GOOD STANDING**

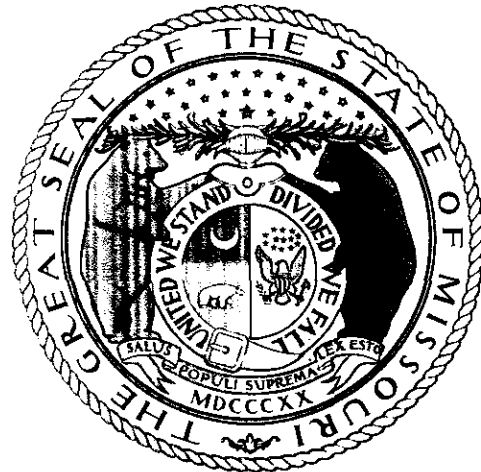
I, MATT BLUNT, Secretary of the State of Missouri, do hereby certify that the records in my office and in my care and custody reveal that

**TEL PRO, INC.
00366493**

was created under the laws of this State on the 18th day of May, 1992, and is in good standing, having fully complied with all requirements of this office.

IN TESTIMONY WHEREOF, I have set my hand and imprinted the GREAT SEAL of the State of Missouri, on this, the 20th day of August, 2004


Secretary of State



Certification Number: 6949470-1 Reference:
Verify this certificate online at <http://www.sos.mo.gov/businessentity/verification>

STATE OF MISSOURI



Matt Blunt
Secretary of State


CORPORATION DIVISION CERTIFICATE OF GOOD STANDING

I, MATT BLUNT, Secretary of the State of Missouri, do hereby certify that the records in my office and in my care and custody reveal that

HKH MANAGEMENT SERVICES, INC.
00580023

was created under the laws of this State on the 7th day of April, 2004, and is in good standing, having fully complied with all requirements of this office.

IN TESTIMONY WHEREOF, I have set my hand and imprinted the GREAT SEAL of the State of Missouri, on this, the 28th day of July, 2004


Secretary of State



Certification Number: 6893011-1 Reference:
Verify this certificate online at <http://www.sos.mo.gov/businessentity/verification>

A5691-524 S April 14
and

KELLOGG, HUBER, HANSEN, TODD & EVANS, P.L.L.C.

1301 K STREET, N.W.

SUITE 1000 WEST

WASHINGTON, D.C. 20005-3317

(202) 326-7900

MICHAEL K. KELLOGG

PETER W. HUBER

MARK C. HANSEN

K. CHRIS TODD

MARK L. EVANS

JEFFREY A. LAMKEN

AUSTIN C. SCHLICK

FACSIMILE

(202) 326-7999

April 10, 1997

Ex Parte Filing

Mary Beth Richards
Deputy Bureau Chief
Common Carrier Bureau
Federal Communications Commission
1919 M Street, N.W., Room 500
Washington, D.C. 20554

In re Implementation of the Pay Telephone
Reclassification and Compensation Provisions
of the Telecommunications Act of 1996,
CC Docket No. 96-128

Dear Mary Beth:

I am writing on behalf of the RBOC Payphone Coalition to request a limited waiver of the Commission's intrastate tariffing requirements for basic payphone lines and unbundled features and functions, as set forth in the Commission's Orders in the above-captioned docket. I am also authorized to state that Ameritech joins in this request.

As we discussed yesterday, and as I explained in my Letter of April 3, 1997, none of us understood the payphone orders to require existing, previously-tariffed intrastate payphone services, such as the COCOT line, to meet the Commission's "new services" test. It was our good faith belief that the "new services" test applied only to new services tariffed at the federal level. It was not until the Bureau issued its "Clarification of State Tariffing Requirements" as part of its Order of April 4, 1997, that we learned otherwise.

In most States, ensuring that previously tariffed payphone services meet the "new services" test, although an onerous process, should not be too problematic. We are gathering the relevant cost information and will be prepared to certify that those tariffs satisfy the costing standards of the "new services" test. In some States, however, there may be a discrepancy between the existing state tariff rate and the "new services" test; as a result, new tariff rates may have to be filed. For example, it appears that, in a few States, the existing state tariff rate for the COCOT line used by independent PSPs may be

Attachment 1

KELLOGG, HUBER, HANSEN, TODD & EVANS, P.L.L.C.

Mary Beth Richards
April 10, 1997
Page 2

too low to meet the "new services" test and will therefore have to be raised.

In order to allow deregulation to move forward and ensure that LEC PSPs are able to compete on a level playing field starting, as planned, on April 15, 1997, we propose that the limited waiver issued by the Commission on April 4 for interstate tariffs apply to intrastate payphone tariffs as well. Specifically, we request that the Commission grant us 45 days from the April 4th Order to file new intrastate tariffs, in those States and for those services where new tariffs are required. Each LEC will undertake to file with the Commission a written ex parte document, by April 15, 1997, attempting to identify those tariff rates that may have to be revised.

Unlike with federal tariffs, there is of course no guarantee that the States will act within 15 days on these new tariff filings, particularly where rates are being increased pursuant to federal guidelines. Provided, however, that we undertake and follow-through on our commitment to ensure that existing tariff rates comply with the "new services" test and, in those States and for those services where the tariff rates do not comply, to file new tariff rates that will comply, we believe that we should be eligible for per call compensation starting on April 15th. Once the new state tariffs go into effect, to the extent that the new tariff rates are lower than the existing ones, we will undertake to reimburse or provide a credit to those purchasing the services back to April 15, 1997. (I should note that the filed-rate doctrine precludes either the state or federal government from ordering such a retroactive rate adjustment. However, we can and do voluntarily undertake to provide one, consistent with state regulatory requirements, in this unique circumstance. Moreover, we will not seek additional reimbursement to the extent that tariff rates are raised as a result of applying the "new services" test.)

The LECs thus ask the Commission to waive the requirement that effective intrastate payphone tariffs meet the "new services test," subject to three conditions: (1) LECs must file a written ex parte with the Commission by April 15, 1997, in which they attempt to identify any potentially non-compliant state tariff rates; (2) where a LEC's state tariff rate does not comply with the "new services" test, the LEC must file a new state tariff rate that does comply within 45 days of the April 4, 1997 Order, and (3) in the event a LEC files a new tariff rate to comply with the "new services" test pursuant to this waiver, and the new tariff rate is lower than the previous tariff rate as a result of applying the "new services" test, the LEC will undertake

KELLOGG, HUBER, HANSEN, TODD & EVANS, P.L.L.C.

Mary Beth Richards
April 10, 1997
Page 3

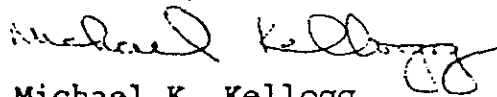
(consistent with state regulations) to provide a credit or other compensation to purchasers back to April 15, 1997.

The requested waiver is appropriate both because special circumstances warrant a deviation from the general rule and because the waiver will serve the public interest. Because the federal "new services" test has not previously been applied to existing state services -- and because the LECs did not understand the Commission to be requiring such an application of the test until the Commission issued its clarification order just a few days ago -- special circumstances exist to grant a limited waiver of brief duration to address this responsibility. In addition, granting the waiver in this limited circumstance will not undermine, and is consistent with, the Commission's overall policies in CC Docket No. 96-128 to reclassify LEC payphone assets and ensure fair PSP compensation for all calls originated from payphones. And competing PSPs will suffer no disadvantage. Indeed, the voluntary reimbursement mechanism discussed above -- which ensures that PSPs are compensated if rates go down, but does not require them to pay retroactive additional compensation if rates go up -- will ensure that no purchaser of payphone services is placed at a disadvantage due to the limited waiver.

Accordingly, we request a limited waiver, as outlined above, of the Commission's intrastate tariffing requirements for basic payphone lines and unbundled features and functions.

We appreciate your urgent consideration of this matter. Copies of this letter have been served by hand on the APCC, AT&T, MCI and Sprint.

Yours sincerely,


Michael K. Kellogg

cc: Dan Abeyta	Christopher Heimann	Brent Olson
Thomas Boasberg	Radhika Karmarkar	Michael Pryor
Craig Brown	Regina Keeney	James Schlichting
Michelle Carey	Linda Kinney	Blaise Scinto
Michael Carowitz	Carol Matthey	Anne Stevens
James Casserly	A. Richard Metzger	Richard Welch
James Coltharp	John B. Muleta	Christopher Wright
Rose M. Crellin	Judy Nitsche	
Dan Gonzalez		

KELLOGG, HUBER, HANSEN, TODD & EVANS, P.L.L.C.

1301 K STREET, N.W.

SUITE 1000 WEST

WASHINGTON, D.C. 20005-3317

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FACSIMILE

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PETER W. HUBER

MARK C. HANSEN

K. CHRIS TODD

MARK L. EVANS

JEFFREY A. LAMKEN

AUSTIN C. SCHLICK

April 11, 1997

Ex Parte Filing

Mary Beth Richards
Deputy Bureau Chief
Common Carrier Bureau
Federal Communications Comm'n
1919 M Street, N.W., Room 500
Washington, D.C. 20554

In re Implementation of the Pay Telephone
Reclassification and Compensation Provisions
of the Telecommunications Act of 1996,
CC Docket No. 96-128

Dear Mary Beth:

This letter will clarify the request I made yesterday on behalf of the RBOCs for a limited waiver of the Commission's intrastate tariffing requirements for basic payphone lines and unbundled features and functions.

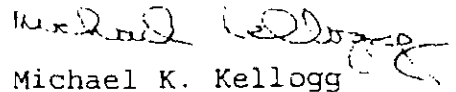
To the best of my knowledge, all the RBOCs have (or will by April 15, 1997, have) effective state tariffs for all the basic payphone lines and unbundled features and functions required by the Commission's order. We are not seeking a waiver of that requirement. We seek a waiver only of the requirement that those intrastate tariffs satisfy the Commission's "new services" test. The waiver will allow LECs 45 days (from the April 4 Order) to gather the relevant cost information and either be prepared to certify that the existing tariffs satisfy the costing standards of the "new services" test or to file new or revised tariffs that do satisfy those standards. Furthermore, as noted, where new or revised tariffs are required and the new tariff rates are lower than the existing ones, we will undertake (consistent with state requirements) to reimburse or provide a credit back to April 15, 1997, to those purchasing the services under the existing tariffs.

KELLOGG, HUBER, HANSEN, TODD & EVANS, P.L.L.C.

Mary Beth Richards
April 11, 1997
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I hope this clarification is helpful. Copies of this letter have been served by hand on the APCC, AT&T, MCI and Sprint.

Yours sincerely,


Michael K. Kellogg

cc: Dan Abeyta	Linda Kinney
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Craig Brown	A. Richard Metzger
Michelle Carey	John B. Muleta
Michael Carowitz	Judy Nitsche
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