

BEFORE THE PUBLIC SERVICE COMMISSION

STATE OF MISSOURI

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TRANSCRIPT OF PROCEEDINGS

Prehearing Conference

February 7, 2011

Jefferson City, Missouri

Volume 1

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Nexus Communications, Inc. )

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Complainant, )

)

vs. ) File No. TC-2011-0240

)

Southwestern Bell Telephone )

L.P., d/b/a AT&T Missouri, )

)

Respondent. )

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DANIEL JORDAN, Presiding  
SENIOR REGULATORY LAW JUDGE

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REPORTED BY:  
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23 Commission

24

25

1 JUDGE JORDAN: The Missouri Public  
2 Service Commission is calling File No. TC-2011-  
3 0240. The style of the case is Nexus  
4 Communications, Inc., versus Southwestern Bell  
5 Telephone, L.P., doing business as AT&T  
6 Missouri.

7 My name is Daniel Jordan. I'm the  
8 senior regulatory law judge assigned to this  
9 case. We're going to conduct a prehearing  
10 conference this morning on the motion of counsel  
11 for Staff, so I will begin by taking entries of  
12 appearance starting with Staff counsel.

13 MS. DALE: Colleen M. Dale, Senior  
14 Counsel, P.O. Box 360, Jefferson City, Missouri  
15 65102.

16 JUDGE JORDAN: That sounds right.  
17 Thank you, counselor.  
18 who else have you brought with you  
19 today?

20 MS. DALE: Oh. I'm sorry.

21 JUDGE JORDAN: That's okay.

22 MS. DALE: Also Megan McClowry on  
23 behalf of Staff.

24 JUDGE JORDAN: And do you have some  
25 representatives of the client as well?

1 MS. DALE: Oh. Sorry. We have Bill  
2 Voyt, who is the head of -- the manager of the  
3 rates and tariffs department in the  
4 telecommunications staff, and John Beneshen, who  
5 is the manager of the telecommunications  
6 department.

7 JUDGE JORDAN: Thank you, counselor.

8 And now for Nexus Communications,  
9 Incorporated.

10 MR. COMLEY: Thank you, Judge  
11 Jordan. The record to reflect the entry of  
12 Mark W. Comley, Newman, Comley, and Ruth, P.C.,  
13 of 601 Monroe Street, Jefferson City, Missouri,  
14 on behalf of Nexus Communications, Inc.

15 And joining us by telephone today is  
16 Mr. Christopher Malish of Malish and Cowan.  
17 Their business address is 1403 West Sixth  
18 Street, Austin, Texas, 78703. Mr. Malish will  
19 eventually file a petition to appear before the  
20 Commission pro hac vice, but we invited him to  
21 be a part of this conference this morning.

22 MR. MALISH: Good morning, everyone.

23 JUDGE JORDAN: Good morning. Thank  
24 you.

25 And next from Southwestern Bell

1 Telephone, LP, doing business as AT&T Missouri.

2 MR. GRYZMALA: Good morning, Judge, and  
3 all counsel. My name is Bob Gryzmala,  
4 G-r-y-z-m-a-l-a, for Southwestern Bell Telephone  
5 Company, d/b/a AT&T Missouri, 909 Chestnut Street,  
6 St. Louis, Missouri 63101, and I have with me Mr. Tim  
7 Judge of our regulatory unit.

8 JUDGE JORDAN: Thank you, counselor.

9 We at least have seasoned counsel here.  
10 It's going to make my part of this a lot easier.  
11 There are many things that I would ordinarily have to  
12 say to pro se parties or inexperienced counsel that I  
13 simply won't have to since everyone here is fairly  
14 sophisticated when it comes to the conduct of a  
15 contested case.

16 As you probably are aware, I'm going to  
17 conduct part of this prehearing conference on the  
18 record, but then I will -- then we will go off the  
19 record, and I invite the parties to continue  
20 discussions on such matters as they think will move  
21 the case along and help us reach a resolution outside  
22 of my hearing so that you may freely, freely discuss  
23 the issues without worrying about me hearing anything  
24 that you don't want me to hear yet. So that's about  
25 all I have to say by way of introductory remarks.

1 Our regulations set forth the matters  
2 that are often subject to a prehearing conference,  
3 but since this was begun on the motion of Staff, I  
4 will defer to them and we'll begin with the topics  
5 that you wish to discuss.

6 MS. DALE: The first thing that I would  
7 like to ask is what the status of the potential  
8 waiver of the ex parte rule is at this point.

9 JUDGE JORDAN: Okay. You're talking about  
10 the motion -- the request for a waiver that  
11 accompanied the Notice of Intent to file and the  
12 complaint that was filed with that; is that correct?

13 MS. DALE: Yes.

14 JUDGE JORDAN: Well, right now it is  
15 pending, and according to our regulations, AT&T has,  
16 and all parties have, ten days to file a response to  
17 it, so that's where we are with that.

18 MS. DALE: In that case, I don't know that  
19 there's anything else that we need to discuss, if  
20 we're waiting for the clock to run.

21 And Bob, I assume you're going to  
22 respond.

23 MR. GRYZMALA: Yeah.

24 This is Colley? I'm sorry.

25 MS. DALE: Yes. I'm sorry.

1 MR. GRYZMALA: Sorry. I thought it was.  
2 If it's okay with first names, Colley, yes, that  
3 would be right. AT&T would have the opportunity  
4 under the rules to respond within ten days after the  
5 Notice of Intent was filed. That is not to say,  
6 Judge, that we might not make some progress, as you  
7 may have contemplated, when we go off record, but we  
8 can have a discussion, but your position or your  
9 point is exactly right. That is the way we regard  
10 the case. The waiver is -- the waiver request is  
11 pending, and AT&T has ten days to respond.

12 JUDGE JORDAN: Okay. Well, you know, I  
13 don't want that to be an obstacle --

14 MR. GRYZMALA: No.

15 JUDGE JORDAN: -- the discussion of this  
16 complaint. Also I will note that there is a motion  
17 for rehearing pending in a similar case. In fact, it  
18 seems to be just about identical facts, just  
19 different time periods would be at issue in the  
20 previous case, which is TC-2011-0132, so these  
21 complaints may both be before the Commission  
22 depending on rulings on those motions, so I hope that  
23 the parties will use this time to discuss the issues  
24 that counsel raised in the motion; that is, these  
25 included things like dispensing with an evidentiary

1 hearing, submitting the case on briefs. I think that  
2 would imply, at least, stipulations of fact for the  
3 Commission.

4 MS. DALE: Yes.

5 JUDGE JORDAN: Okay. All right.

6 well, do the parties want or need me for  
7 anything more at this stage?

8 MR. COMLEY: I think at this point it  
9 would be appropriate to go off the record, but let me  
10 ask: Are you going to be here during the course of  
11 the day if we happen to need you?

12 JUDGE JORDAN: I will be here all day --

13 MR. COMLEY: All right.

14 JUDGE JORDAN: -- through five o'clock --

15 MR. COMLEY: Very well.

16 JUDGE JORDAN: -- given the forecast,  
17 which tells us that snow is not starting until later  
18 this evening, so I intend to be here until five and  
19 available.

20 Is there anything else that I can do for  
21 anyone while I'm here present in the room and on the  
22 record?

23 (No response.)

24 JUDGE JORDAN: I'm not hearing anything.

25 MR. GRYZMALA: Nothing from AT&T, your



1 Honor.

2 MS. DALE: Do you have any exclusionary  
3 dates within the next several weeks that you know of,  
4 hearings that are set or other --

5 JUDGE JORDAN: For the next several weeks  
6 my calendar is pretty clear. There will be a local  
7 public hearing in another case, Whiteside, L.L.C. --

8 MS. DALE: Uh-huh.

9 JUDGE JORDAN: -- which the Commission has  
10 stated that it wants to have that hearing whether  
11 that case settles or not. We want a local public  
12 hearing.

13 MS. DALE: Okay.

14 JUDGE JORDAN: But I don't know what the  
15 Commission's practice is on setting two local public  
16 hearings on one day. We have local public hearings  
17 next week, the following week every day, set every  
18 day until March, so that would be my first blocked-  
19 out date.

20 MS. DALE: Okay.

21 JUDGE JORDAN: To answer your question  
22 shortly, my calendar is pretty clear.

23 MS. DALE: Thank you.

24 JUDGE JORDAN: What else can I do for the  
25 parties while I am here and while we are on the

1 record?

2 MR. GRYZMALA: Nothing for AT&T, your  
3 Honor.

4 JUDGE JORDAN: Okay. All right.  
5 well, thank you very much for attending, and  
6 with that I will leave the phone line open.  
7 I'll ask Staff counsel to hang up the phone when  
8 everyone is done, but until then I encourage you  
9 to seek resolution of issues amongst yourself  
10 because it is my experience that the parties can  
11 come up with a better resolution that I can in  
12 those cases.

13 And with that we'll go off the  
14 record. Thank you.

15 (The hearing concluded.)  
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## 1 CERTIFICATE

2 I, Nancy L. Silva, RPR, a Certified  
3 Court Reporter, CCR No. 890, the officer before  
4 whom the foregoing hearing was taken, do hereby  
5 certify that the witness whose testimony appears  
6 in the foregoing hearing was duly sworn; that  
7 the testimony of said witness was taken by me to  
8 the best of my ability and thereafter reduced to  
9 typewriting under my direction; that I am  
10 neither counsel for, related to, nor employed by  
11 any of the parties to the action in which this  
12 hearing was taken, and further, that I am not a  
13 relative or employee of any attorney or counsel  
14 employed by the parties thereto, nor financially  
15 or otherwise interested in the outcome of the  
16 action.

17  
18 \_\_\_\_\_  
19 Nancy L. Silva, RPR, CCR  
20  
21  
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23  
24  
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4:3,6 <b>depending</b> 7:22 <b>different</b> 7:19 <b>direction</b> 11:9 <b>discuss</b> 5:22 6:5,19 7:23 <b>discussion</b> 7:8,15 <b>discussions</b> 5:20 <b>dispensing</b> 7:25 <b>done</b> 10:8 <b>duly</b> 11:6 <b>during</b> 8:10	<b>facts</b> 7:18 <b>fairly</b> 5:13 <b>February</b> 1:6 <b>file</b> 1:14 3:2 4:19 6:11,16 <b>filed</b> 6:12 7:5 <b>financially</b> 11:14 <b>first</b> 6:6 7:2 9:18 <b>five</b> 8:14,18 <b>forecast</b> 8:16 <b>foregoing</b> 11:4,6 <b>forth</b> 6:1 <b>freely</b> 5:22	<hr/> <b>I</b> <b>identical</b> 7:18 <b>I'll</b> 10:7 <b>I'm</b> 3:7,20 5:16 6:24,25 8:21,24 <b>imply</b> 8:2 <b>Inc</b> 1:10 2:8 3:4 4:14 <b>included</b> 7:25 <b>Incorporated</b> 4:9 <b>inexperienced</b> 5:12 <b>intend</b> 8:18 <b>Intent</b> 6:11 7:5 <b>interested</b> 11:15 <b>introductory</b> 5:25 <b>invite</b> 5:19 <b>invited</b> 4:20 <b>issue</b> 7:19 <b>issues</b> 5:23 7:23 10:9 <b>it's</b> 5:10 7:2	8:5,12,14,16 ,24 9:5,9,14,21, 24 10:4 <hr/> <b>L</b> <b>L.L.C</b> 9:7 <b>L.P</b> 1:17 3:5 <b>later</b> 8:17 <b>law</b> 1:22 3:8 <b>least</b> 5:9 8:2 <b>leave</b> 10:6 <b>line</b> 10:6 <b>LLC</b> 1:24 <b>local</b> 9:6,11,15,16 <b>lot</b> 5:10 <b>Louis</b> 2:12 5:6 <b>LP</b> 5:1
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