

1 STATE OF MISSOURI
2 PUBLIC SERVICE COMMISSION
3 TRANSCRIPT OF PROCEEDINGS
4

5 Public Hearing
6 December 3, 2008
7 Jefferson City, Missouri
8 Volume 1
9

10 In the Matter of a Proposed)
11 Rulemaking to Establish) Case No. TX-2008-0392
12 4 CSR 240-33.170, Relay Missouri)
13 Surcharge Billing and Collections)
14 Standards)
15

16 COLLEEN M. DALE, Presiding,
17 CHIEF REGULATORY LAW JUDGE
18

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1 P R O C E E D I N G S

2 JUDGE DALE: Good afternoon. We're here
3 today in the matter of a proposed rulemaking to establish
4 4 CSR 240-33.170, Relay Missouri surcharge billing and
5 collections standards, Case No. TX-2008-0392.

6 It's December 3rd, 2008. I'm Colleen M.
7 Dale presiding in this matter.

8 Let us begin with entries of appearance,
9 beginning with Staff.

10 MS. HEINTZ: Thank you, Your Honor.

11 Jennifer Heintz and Eric Dearmont for the
12 Staff, P. O. Box 360, Jefferson City, Missouri 65102.

13 JUDGE DALE: Are there any other counsel
14 present who wish to enter appearances?

15 Thank you.

16 Hearing none, then Staff may proceed with
17 its first witness.

18 MS. HEINTZ: Staff calls John Van Eschen.

19 We have filed comments in this matter.
20 Mr. Van Eschen is here primarily to answer questions
21 regarding those written comments.

22 I don't know if you have anything additional
23 you want to say, Mr. Van Eschen.

24 MR. VAN ESCHEN: Just that we support the
25 rule. We are proposing one slight revision to

1 Subsection 5 --

2 JUDGE DALE: Before we do that, let's swear
3 you in.

4 (Witness sworn/affirmed.)

5 JUDGE DALE: Thank you.

6 MR. VAN ESCHEN: We're proposing one slight
7 revision to Subsection 5, and that is to simply indicate
8 that the Relay Missouri statement form would be available
9 on the Commission's website.

10 The proposed rule is a little bit more
11 specific. We'd like the rule to just be a little bit more
12 general. And, actually, we plan to list the form in
13 multiple locations on the Commission's website.

14 JUDGE DALE: And do your written comments
15 have specific language proposed to accomplish that?

16 MR. VAN ESCHEN: Yes.

17 JUDGE DALE: Okay. Have you had an
18 opportunity to review the VON comments that were filed in
19 this matter?

20 MR. VAN ESCHEN: I'm read them, yes.

21 JUDGE DALE: Does the Staff have any
22 specific response or proposal in relation to the VON
23 comment that monthly bills aren't necessarily rendered by
24 VoIP providers?

25 MR. VAN ESCHEN: I'd have to say I don't

1 have an opinion on that. When I read the VON Coalition's
2 letter, I guess my initial reaction is that the new bill,
3 House Bill 1779, requires VoIP providers to bill and
4 collect and remit Relay Missouri surcharge revenue, and to
5 that extent I think the rules should apply to VoIP
6 providers.

7 In addition, I do not believe that the FCC
8 has fully preempted State commissions on requiring VoIP
9 providers to contribute to State funds.

10 MS. HEINTZ: And, Your Honor, if I may just
11 add: The FCC itself has filed an amicus brief in a case
12 in -- I believe it was the D.C. circuit, in which it
13 stated that by its earlier Vonage Order, that did not
14 intend to exclude VoIP providers from having to pay
15 universal service fund charges.

16 This is a slightly different issue, but I
17 think that that kind of State collection of fees was not
18 meant to be preempted by the FCC.

19 JUDGE DALE: My question is actually more
20 practical.

21 If, for example, they talk about a VoIP
22 service that has a one-time price for life and then no
23 additional bills, if the Staff has any plans to offer any
24 specific ways to render bills to support the deaf relay
25 fund that -- that would accommodate those rather than --

1 MR. VAN ESCHEN: We don't have any specific
2 proposals to address that specific issue. I think that
3 we'd have to think about that in terms of how it would fit
4 into the rule and how it would comply with the Relay
5 Missouri statute.

6 I don't know. I think that the law that
7 requires VoIP providers to contribute to the Relay
8 Missouri Fund does require in the registration process
9 that the VoIP provider acknowledges or accepts
10 responsibility that they will do just that; and when they
11 register with the Commission, they affirm that they will
12 do that.

13 JUDGE DALE: And do you believe that the
14 rule as proposed contains within it sufficient flexibility
15 to address these possibly unusual remitting --

16 MR. VAN ESCHEN: Well, I think the VON
17 Coalition letter does point out some instances where
18 certain VoIP providers are offering services where they
19 don't bill their customers on a monthly basis, and
20 consequently it may make it difficult for that type of
21 provider to comply with these rules.

22 I guess I would recommend that we take up
23 those on a case-by-case basis when the VoIP provider
24 registers with the Commission

25 JUDGE DALE: Do you happen to know whether

1 any of these VoIP providers are -- one of them is the
2 Russian-based Evaphone. I presume that they're not here
3 in Missouri, but I don't know if any of these VoIP
4 providers are registered here in Missouri.

5 Did you --

6 MR. VAN ESCHEN: I haven't checked with
7 that.

8 JUDGE DALE: Okay.

9 MR. VAN ESCHEN: I think Covad was listed as
10 part of that coalition, and I believe they do have a
11 certificate to provide basic local telecommunication
12 service in Missouri. I don't know if they're registered
13 as a VoIP provider.

14 JUDGE DALE: But they're not one of the ones
15 that is cited in this letter that doesn't have monthly
16 bills?

17 MR. VAN ESCHEN: That is correct.

18 JUDGE DALE: I think I have exhausted all of
19 my questions about what to do with nontraditional VoIP
20 providers' bills.

21 Is there anything that you wish to add?

22 MS. HEINTZ: No, thank you.

23 JUDGE DALE: Is there anyone else who wishes
24 to comment on the proposed rules?

25 Seeing no one, then we will conclude this

1 matter, go off the record and adjourn.

2 WHEREUPON, the on-the-record portion of the
3 public hearing is concluded.

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3	STAFF'S WITNESSES:	
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5	JOHN VAN ESCHEN	4
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3 CERTIFICATE OF REPORTER

4 I, Patricia A. Stewart, RMR, RPR, CCR, a
5 Certified Court Reporter in the State of Missouri, do
6 hereby certify that the testimony that appears in the
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12 any attorney or counsel employed by the parties thereto,
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14 the action.

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