BEFORE THE PUBLIC SERVICE COMMISSION OF THE STATE OF MISSOURI

In the Matter of the Applications for Private Payphone Service Authority filed by:)	
CruiseCom Enterprises, LLC)	File No. PA-2013-0469
Vector Phones, LLC)	File No. PA-2013-0470
Atlantis Link, LLC))	File No. PA-2013-0471
OutDial Networks, LLC))	File No. PA-2013-0472
EnduraVox, LLC)	File No. PA-2013-0473
Robidoux Ringtone, LLC)	File No. PA-2013-0474
PayCom Voice Enterprises, L.L.C.)	File No. PA-2013-0475
InterVox Link, L.L.C.)	File No. PA-2013-0476
Olympic Ventures, L.L.C.)	File No. PA-2013-0477
Countdown Communication, LLC)	File No. PA-2013-0478
Roaming Contact, LLC)	File No. PA-2013-0479
Economy Communications, LLC)	File No. PA-2013-0480
All Day Saver Phones, LLC)	File No. PA-2013-0481

AT&T MISSOURI'S <u>APPLICATION TO INTERVENE</u>

AT&T Missouri,¹ respectfully seeks to intervene² in opposition to the above requests for authority to provide payphone service (collectively "Applicants"). Here, Applicants appear to be misusing the Commission's certification process to artificially manufacture numerous sham entities to serve as additional "complainants" in Case No. TC-2005-0067 (to which the principals of the Applicants

¹ Southwestern Bell Telephone Company, d/b/a AT&T Missouri, will be referred to as "AT&T Missouri."

² AT&T Missouri makes this filing pursuant to 4 CSR 240-2.075 and the Missouri Public Service Commission's ("Commission's") May 1, 2013, Notice of Applications for Authority to Provide Payphone Service.

are already parties through other entities they control) in attempt to evade the statutory and Commission requirement that complaints pertaining to rates must be signed by at least 25 purchasers or prospective purchasers of the service.³

In support of its Application, AT&T Missouri states:

- 1. AT&T Missouri is a Delaware Corporation duly authorized to conduct business in Missouri with its principal Missouri office at 909 Chestnut Street, St. Louis, Missouri 63101. AT&T Missouri is a "local exchange telecommunications company" and a "public utility," and is duly authorized to provide "telecommunications service" within the State of Missouri as each of those phrases are defined in Section 386.020 RSMo (2000).
- 2. All correspondence, pleadings, orders, decisions and communications regarding this proceeding should be sent to:

Leo J. Bub Robert J. Gryzmala Attorneys for Southwestern Bell Telephone Company, d/b/a AT&T Missouri 909 Chestnut Street, Room 3558 St. Louis, Missouri 63101

- 3. In this proceeding, Applicants ask the Commission to grant certificates of service authority to "install, operate, control, manage and maintain private pay telephone service in the State of Missouri."
- 4. AT&T Missouri seeks to intervene here because it has a direct interest in the Commission's decision on Applicants' certification request. In August 2004, a group of private pay telephone service providers -- including three companies that appear to be under common control with

⁴<u>See</u> Applicants' Applications for Certificate of Service Authority to Provide Private Pay Telephone Service in the State of Missouri, filed April 26, 2013.

³ Section 386.390.1 RSMo; MoPSC Rule 4 CSR 240-2.070(5).

Applicants -- filed a formal complaint with the Commission challenging AT&T Missouri's phone line rates.

On April 1, 2013, in Case No. TC-2005-0067, AT&T Missouri moved to dismiss the complaint, *inter alia*, for the lack of the statutorily and Commission-required 25 signatory complainants because many of the complainants do not currently exist (i.e., they have lost Commission certification and/or the authority to conduct business in the state). In their April 30, 2013, response, the Case No. TC-2005-0067 Complainants sought leave to add 17 additional entities to its complaint:

Should the Commission conclude that the complaint lacks the needed twenty-five at this time, Complainants would respectfully request leave of the Commission to join other parties complainant by amendment to the complaint. The undersigned is authorized to represent to the Commission that the entities identified on Appendix 2 to this response are prepared to join as complainants in the complaint should the Commission conclude the present complement of complainants is insufficient.⁵

The Commission should note that Applicants in this certification proceeding comprise 13 of the 17 additional "entities" seeking to enter Case No. TC-2005-0067. They filed their certification applications a little less than a month after AT&T filed its motion to dismiss -- and four days before filing their April 30 Response seeking to add the additional entities. Applicants have also failed to disclose to the Commission that their organizers are already parties in Case No. TC-2005-0067 through other entities they control, and their organizers' interests in Case No. TC-2005-0067. These facts make clear that Applicants are simply attempting to gin up additional "complainants" in Case No. TC-2005-0067 in attempt to evade statutory and Commission requirements:

(a) Jerome Schmidt, whom the Missouri Secretary of State lists as the registered agent for Case No. 95-0067 Complainant Sunset Enterprises, Inc., now seeks certification for:

• CruiseCom Enterprises, LLC

File No. PA-2013-0469

• Vector Phones, LLC

File No. PA-2013-0470

⁵ <u>See Complainants</u>' Response to AT&T Motion to Dismiss, Case No. TC-2005-0067, filed April 30, 2013, at p. 26 and Appendix 2 to Complainants' Response.

• Atlantis Link, LLC

File No. PA-2013-0471⁶

(b) Jim Nesselhauf, whom the Missouri Secretary of State lists as the registered agent for Case No. TC-2005-0067 Complainants ANJ Communications and Commercial Communication Services, L.L.C, (Mr. Nesselhauf is also the organizer of Commercial Communications Services, L.L.C.) now seeks certification for:

• OutDial Networks, LLC File No. PA-2013-0472

• EnduraVox, LLC File No. PA-2013-0473

• Robidoux Ringtone, LLC File No. PA-2013-0474

• PayCom Voice Enterprises, L.L.C. File No. PA-2013-0475⁷

The Secretary of State also lists Mr. Nesselhauf as the registered agent and organizer of QuickVox, LLC, which received Commission payphone certification in 2006⁸ and is another of the 17 entities seeking to join Case No. TC-2005-0067. The Commission should note that according to filings QuickVox made in response to a Staff certificate revocation motion, it appears that QuickVox has yet to offer payphone service in Missouri.⁹

(c) Terry Platt, whom the Missouri Secretary of State lists as the registered agent for Case No. TC-2005-0067 Complainant Tel Pro, Inc. and organizer of Case No. TC-2005-0067 Complainant Commercial Communication Services, L.L.C, now seeks certification for:

• InterVox Link, L.L.C. File No. PA-2013-0476

• Olympic Ventures, L.L.C. File No. PA-2013-0477

⁶ Copies of pages from the Missouri Secretary of State's website showing Mr. Schmidt's relationship to these entities are attached to this Application as Exhibit 1.

⁷ Copies of pages from the Missouri Secretary of State's website showing Mr. Nesselhauf's relationship to these entities are attached to this Application as Exhibit 2.

⁸ QuickVox L.L.C. received its certificate of service authority on September 29, 2006 in Case No. PA-2005-0095.

⁹ <u>See</u> QuickVox L.L.C.'s Objection to and Suggestions in Opposing Staff's Motion for Cancellation and Request for Hearing, filed April 26, 2011, in Case No. PD-2011-0314.

• Countdown Communication, LLC File No. PA-2013-0478

• Roaming Contact, LLC File No. PA-2013-0479

• Economy Communications, LLC File No. PA-2013-0480

• All Day Saver Phones, LLC File No. PA-2013-0481¹⁰

5. While AT&T Missouri does not normally seek to participate in other telecommunications providers' certification proceedings, the Commission's decisions on Applicant's certification requests may adversely and unfairly affect AT&T Missouri in Case No. TC-2005-0067. The Commission should question Applicants' true motives for seeking Commission certification; whether the Commission's processes are being abused to further Applicants' litigation strategy in another proceeding before the Commission; and whether the public interest is being served by allowing Applicants to create a multitude of additional certificated entities solely for the purpose of participating in another case.

6. AT&T Missouri's interests in this proceeding differ from those of the general public. No other party to this proceeding will adequately protect AT&T Missouri's interest. Granting of this intervention will be in the public interest because AT&T Missouri will bring to this proceeding its expertise and experience as a telecommunications provider.

¹⁰ Copies of pages from the Missouri Secretary of State's website showing Mr. Platt's relationship to these entities are attached to this Application as Exhibit 3.

WHEREFORE, AT&T Missouri respectfully requests the Commission to grant this Application to Intervene.

Respectfully submitted,

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CERTIFICATE OF SERVICE

Copies of this document were served on the following parties by e-mail or first class, postage prepaid U.S. Mail on May 15, 2013.

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