

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

An Investigation of the Fiscal and Operational)	
Reliability of Cass County Telephone Company)	
And New Florence Telephone Company, and)	Case No. TO-2005-0237
Related Matters of Illegal Activity)	

**MOTION OF CASS COUNTY TELEPHONE COMPANY,
NEW FLORENCE TELEPHONE COMPANY, AND LOCAL EXCHANGE
COMPANY, L.L.C. FOR ORDER ALLOWING THEM TO PARTICIPATE IN
DEPOSITIONS**

COMES NOW, Cass County Telephone Company ("CassTel"), New Florence Telephone Company ("New Florence" or collectively with CassTel, the "Companies"), and Local Exchange Company, L.L.C. ("LEC"), and for their Motion for Order Allowing them to Participate in Depositions states to the Missouri Public Service Commission ("Commission") as follows:

1. The above-referenced matter is an investigation into the fiscal and operational reliability of CassTel and New Florence, and related matters. The Commission further instructed its Staff to "file a complaint(s) on any matter contained within the scope of this Order [Establishing Investigation Case]." In fact, to date, a complaint case (the "Complaint Case") has been filed by Staff against CassTel and LEC (Case No. TC-2005-0375) although LEC has been dismissed from the case.

2. As part of Staff's investigation in the instant case, it is requesting the Commission to issue subpoenas for various employees of LEC pursuant to Section 386.470 RSMo 2000. All of these LEC employees have had substantial

involvement in the operations and/or management of the Companies. Staff has been coordinating with attorneys for the individual employees to establish convenient dates and times for the taking of these depositions. Significantly, Staff has not contacted counsel for the Companies named in the investigation or for LEC. In fact, when counsel for the Companies inquired of Staff regarding the proposed depositions of these employees, counsel was informed that, in Staff's opinion, neither the Companies, nor their legal counsel, were necessary (or invited) parties to the depositions.

3. Contrary to Staff's opinion, the Companies, LEC, and their counsel are critical parties to these depositions. This case was established to investigate the Companies, and any discovery conducted in this case must necessarily include the Companies being investigated. Staff has alleged in the Complaint Case that LEC may ultimately be responsible for any penalties imposed against CassTel. These depositions are of LEC employees who perform services for the Companies, and it is possible that the information Staff elicits from these employee depositions may be used for additional or new complaints against the Companies or LEC. In addition, it is likely that Staff will elicit "proprietary" and/or "highly confidential" information from these employees during the course of the depositions, and the Companies, LEC, and their counsel are uniquely situated to identify such information and have it protected accordingly. Finally, to the extent testimony is elicited from employees that requires clarification or further elucidation, the Companies, LEC, and their counsel should have the opportunity

contemporaneously with the giving of testimony to pursue such clarification or elucidation.

4. It is incomprehensible that the Companies, LEC, and their counsel would be excluded from these depositions. The Companies and LEC are clearly the targets of this investigation. Any attempt to exclude the Companies and LEC from these depositions would constitute a violation of their due process rights as guaranteed by the Fourteenth Amendment to the Constitution of the United States and Art. I, Section 10, of the Missouri Constitution.

5. The undersigned has reviewed the proposed dates and times for the employee depositions and it appears that they, or another representative of their firms, can be available on those dates, so allowing the Companies and LEC to participate will not unduly delay or hinder this process.

WHEREFORE, in light of the foregoing, the Companies and LEC respectfully request the Commission to issue an order allowing representatives of the Companies and LEC to actively participate in the depositions.

Respectfully submitted,

/s/

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CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the above and foregoing document was sent electronically, by U.S. Mail, postage prepaid, or hand-delivered on this 6th day of July, 2005, to the following parties:

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