

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

In the Matter of the Revised Tariff Filing of	)	File No. TR-2012-0299
MoKan Dial, Inc.	)	Tariff No. JI-2012-0442

**MoKan Dial Inc. Motion to Modify May 1, 2012 Order
Due to New FCC 3rd Order on Reconsideration**

and

MOTION FOR EXPEDITED TREATMENT

Comes now MoKan Dial Inc. (“Company”), for its Motion to Modify the Commission’s May 1, 2012 Order Denying Suspension and Approving Tariff by specifying a June 1, 2012 effective date for Company’s tariffs, and for its Motion for Expedited Treatment hereof, and hereby states the following:

1. The FCC’s November 18, 2011 *USF/ICC Transformation Order*, WC Docket No. 10-90 et al., 26 FCC rcd 17663), created a minimum local rate Company had to adopt in 2012 in order to avoid losing federal USF support.

2. The *Transformation Order* was unclear as to what specific date in 2012 tariffs meeting the minimum local rate had to be made effective by in order to prevent loss of USF. As the Transformation Order specified that the fiscal year in which USF support would be reduced for failure to meet the minimum began July 1, 2012, initially there was a widespread belief that July 1, 2012 was that date.

3. Company was among those that read the *Transformation Order* to require an effective date earlier than July 1, 2012. Company and its affiliate were the first two

Missouri LECs to file tariffs proposing to meet the minimum local rate. Company filed its tariffs on March 14, 2012, and proposed a May 1, 2012 effective date.

4. At Commission Staff's request, on March 21, 2012 Company extended the effective date until July 1, 2012, the date widely believed to be sufficient to avoid loss of USF.

5. This Commission's Order of May 1, 2012 approving the tariffs, at page 2 recited the Commission's belief that July 1, 2012 through June 30, 2013 was the period Company's rates had to be at the minimum level to avoid a dollar for dollar loss of USF. At page 5 of the Order, the Commission stated that it would approve the tariff to take effect on July 1, 2012, the effective date "chosen" by the Company.

6. Yesterday, May 14, 2012, 6 months after the *Transformation Order*, the FCC issued its *Third Order on Reconsideration*. A copy is attached for reference.

7. The *Third Order*, at paragraphs 15-20, and at changes made to FCC rules 47 CFR 54.313 and 54.318 set forth at pages 27-29, clarified the effective date issue. The FCC announced that January 1, 2012 was the effective date originally contemplated by the FCC. However, in light of the reconsideration and clarification requests filed the FCC also announced that the date would be changed to **June 1, 2012**. It now stands clarified that the minimum local rate is to be effective June 1, 2012 in order to avoid loss of USF.

8. It is Company's belief that this Commission intended to approve Company's local rate tariff in time to avoid loss of USF. Company respectfully suggests that the FCC *Third Order* constitutes an intervening event subsequently changing this fundamental assumption of this Commission's May 1 Order that July 1, 2012 was the

critical date. In order to maintain the original intent of the Commission's May 1 Order, Company respectfully requests that the May 1 Order be modified by an Order specifying that June 1, 2012 will be the effective date of the approved tariffs.

9. In support of this Motion for Expedited Treatment, pursuant to 4 CSR 240-2.080(14), Company states the following:

A. Company requests that the Commission Act by entering the requested Order on or before May 31, 2012;

B. As the proposed local rate increase is offset by proposed MCA rate decreases, regardless of the date the tariffs are effective, no harm will be suffered by Company's customers if the Commission acts by the date requested. If the Commission fails to act by the date requested, Company is subject to partial loss of July 1, 2012 to June 30, 2013 fiscal year USF support for six months.¹

C. This Motion has been filed the very same day that Company had its first opportunity to review the FCC's *Third Order*.

WHEREFORE, the Company respectfully requests that, on an expedited basis, the Commission enter an Order Modifying its May 1, 2012 Order, on the basis of the intervening *Third Order*, and Order that Company's local rate increase tariff sheets be made effective June 1, 2012.

¹ For local rate increases effective after June 1, 2012, the *Third Order* specifies the local rates can be updated by report filed January 2, 2013.

Respectfully submitted,

/s/Craig S. Johnson
Craig S. Johnson
Mo Bar # 28179
Johnson & Sporleder, LLP
304 E. High St., Suite 200
P.O. Box 1670
Jefferson City, MO 65102
(573) 659-8734
(573) 761-3587 FAX
cj@cjaslaw.com

Certificate of Service

I hereby certify that a true and correct copy of the above and foregoing document was electronically mailed this 15th day of May, 2012 to PSC Staff, the Office of the Public Counsel, Larry Dority, WR England III, and to Brian McCartney.

/s/Craig S. Johnson
Craig S. Johnson