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James M. Fischer  
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May 2, 2002

Mr. Dale Hardy Roberts  
Secretary/Chief Regulatory Law Judge  
Missouri Public Service Commission  
P.O. Box 360  
Jefferson City, MO 65102

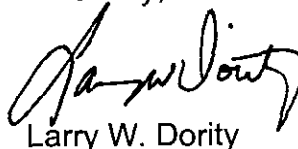
**RE: Case No. TC-2002-467**

Dear Mr. Roberts:

Please find enclosed for filing with the Commission in the above referenced matter, an original and eight (8) copies of the Motion to Dismiss, Answer and Affirmative Defenses of Respondent Verizon Midwest.

Copies of this pleading have been served upon each party of record.

Sincerely,



Larry W. DORITY

Enclosures

cc: Parties of Record

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

|                          |   |                      |
|--------------------------|---|----------------------|
| Christopher J. Davidson, | ) |                      |
| Complainant,             | ) |                      |
|                          | ) |                      |
| v.                       | ) | Case No. TC-2002-467 |
|                          | ) |                      |
| Verizon Communications,  | ) |                      |
| Respondent.              | ) |                      |

**MOTION TO DISMISS, ANSWER AND AFFIRMATIVE DEFENSES  
OF RESPONDENT VERIZON MIDWEST**

COMES NOW Respondent, GTE Midwest Incorporated d/b/a Verizon Midwest ("Verizon"), pursuant to Commission Rule 4 CSR 240-2.070, and respectfully submits its Motion to Dismiss, Answer and Affirmative Defenses to the Complaint filed in this matter on March 29, 2002.

**INTRODUCTION**

1. While it would appear that the Complainant could have filed his alleged grievance with Verizon pursuant to the Commission's procedures for filing Informal Complaints, this matter was filed as a Formal Complaint and, accordingly, must comport with the requirements of the above referenced Commission Rule. As fully set forth below, the subject Formal Complaint does not meet these requirements and, therefore, this matter should be dismissed.

2. Notwithstanding the legal infirmities of the Complaint, Verizon has initiated contact with the Complainant, Mr. Davidson, and has fully investigated, to the best of its ability, his claims. As a result, Verizon has determined that the

general allegations set forth in the Complaint are totally without merit, and Verizon has shared the results of its review and investigation with the Staff of the Commission.

### **MOTION TO DISMISS**

For its Motion to Dismiss, pursuant to Commission Rule 4 CSR 240-2.070(6), Verizon states:

1. The instant Complaint fails to comply with the requirements set forth in Commission Rule 4 CSR 240-2.070, in that it does not contain the information required in Subsection (5) of said Rule. Among the deficiencies, most notable is the total omission of any "statement as to whether the complainant has directly contacted the person, corporation or public utility about which complaint is being made." As set forth above, had the Respondent been given the opportunity to communicate with the Complainant regarding his alleged concerns, this matter may have been avoided.

2. Complainant has failed to state a claim upon which relief can be granted. As fully set forth in Subsections (1) and (3) of the Commission's Rule, the complainant must be aggrieved by a violation of any statute, rule, order or decision within the Commission's jurisdiction. No such allegation is contained in the complaint; rather, baseless, generalized allegations of mismanagement and the complainant's purported inability to complete calls are representative of the lack of detail provided to Respondent.

## ANSWER

For its Answer, pursuant to Commission Rule 4 CSR 240-2.070(8), Verizon states as follows:

1. Respondent denies the allegations contained in Paragraph 1 of the Complaint. Respondent does admit that GTE Midwest Incorporated d/b/a Verizon Midwest is a public utility under the jurisdiction of the Public Service Commission of the State of Missouri.

2. Respondent denies the allegations contained in Paragraph 2 of the Complaint.

3. Complainant presents no information to the Commission in Paragraph 3 of the Complaint to indicate that he has taken any steps to present this complaint to the Respondent. Accordingly, Respondent would admit that Complainant has taken no such steps.

## AFFIRMATIVE DEFENSES

For its Affirmative Defenses, Verizon states as follows:

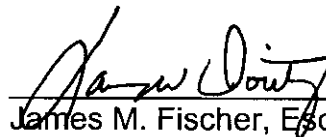
1. As stated above, upon receipt of the Notice of Complaint, Verizon initiated contact (April 9, 2002) with the Complainant to try and obtain more specific information regarding his concerns and allegations concerning "circuit busy conditions." However, Complainant was unable to provide specific dates or times when he experienced such conditions. Complainant did provide general information concerning the types of calls and locations typically involved in his allegations (some of which appeared to be wireless and long distance traffic clearly outside of Verizon's control). Based on the information provided, Verizon

conducted studies of incoming and outgoing traffic to the areas identified. Complainant's service is provided out of Verizon's O'Fallon Hillman remote central office, which has a new Nortel RSCS switch that was installed on December 21, 2001. The study results of the various offices over an extended period revealed no circuit busy conditions, more than sufficient capacity and no overflow traffic recorded. Such results are not surprising, as Verizon constantly monitors traffic in the course of normal business, and has consistently met the standards for service quality set by the Commission. The results of the referenced studies have been shared with the Commission's Staff.

2. In follow up contacts with Complainant on April 23, 2002, he indicated that he has not experienced busy circuit conditions since the initial contact on April 9.

WHEREFORE, having fully answered and for the reasons set forth above, GTE Midwest Incorporated d/b/a Verizon Midwest requests the Commission to enter an Order dismissing the Complaint filed herein.

Respectfully submitted,



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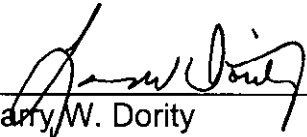
**CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of the above and foregoing document was mailed or hand-delivered, this 2<sup>nd</sup> day of May, 2002, to:

Christopher J. Davidson  
6 Glenmill Court  
O'Fallon, MO 63366

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P.O. Box 7800  
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