

BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI

Computechology, Inc.,

Petitioner,

v.

Case No. TC-2002-1100

Spectra Communications Group,
Inc., CenturyTel, Inc., and
GTE Midwest, Inc., d/b/a Verizon
Midwest,

Respondents.

NOTICE OF COMPLAINT

Legal Department
Spectra Communications Group, L.L.C.
8800 Blue Ridge Boulevard
Kansas City, Missouri 64138-4061
CERTIFIED MAIL

Legal Department
CenturyTel, Inc.
100 CenturyTel Drive
Monroe, Louisiana 71203
CERTIFIED MAIL

Legal Department
GTE Midwest Incorporated,
d/b/a Verizon Midwest
1000 Verizon Drive, Building A
Wentzville, Missouri 63385-1941
CERTIFIED MAIL

W.R. England, III
Sondra B. Morgan
Brydon, Swearengen & England, P.C.
312 East Capitol Avenue
Post Office Box 456
Jefferson City, Missouri 65102
CERTIFIED MAIL

Thomas R. Parker
Vice President and Associate
General Counsel
GTE Midwest Incorporated,
d/b/a Verizon Midwest
601 Monroe Street, Suite 304
Jefferson City, Missouri 65101
CERTIFIED MAIL

On May 31, 2002, Computechology, Inc. (Petitioner), filed a complaint with the Missouri Public Service Commission against Spectra Communications Group, L.L.C., CenturyTel, Inc., and GTE Midwest, Inc., d/b/a Verizon Midwest (Respondents), a copy of which is enclosed. Pursuant to 4 CSR 240-2.070, the Respondent shall have 30 days from the date of this notice to file an answer or to file notice that the complaint has been satisfied.

In the alternative, the Respondents may file a written request that the complaint be referred to a neutral third-party mediator for ~~voluntary mediation~~ of the complaint. Upon receipt of a request for mediation, the 30-day time period shall be tolled while the Commission ascertains whether or not the Petitioner is also willing to submit to voluntary mediation. If the Petitioner agrees to mediation, the time period within which an answer shall is due shall be suspended pending the resolution of the mediation process. Additional information regarding the mediation process is enclosed.

If the Petitioner declines the opportunity to seek mediation, the Respondents will be notified in writing that the tolling has ceased and will also be notified of the date by which an answer or notice of satisfaction must be filed. That period will usually be the remainder of the original 30-day period.

All pleadings (the answer, the notice of satisfaction of complaint or request for mediation) shall be mailed to:

Secretary of the Public Service Commission
P.O. Box 360
Jefferson City, Missouri 65102-0360

A copy shall be served upon the Petitioner at the Petitioner's address as listed within the enclosed complaint. A copy of this notice has been mailed to the Petitioner.

BY THE COMMISSION



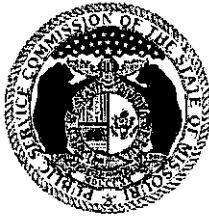
Dale Hardy Roberts
Secretary/Chief Regulatory Law Judge

(SEAL)

Dated at Jefferson City, Missouri,
on this 4th day of June, 2002.

Copy to: Paul E. Martin
Carl J. Lumley
Leland B. Curtis
Curtis, Oetting, Heinz, Garrett
& O'Keefe, P.C.
130 South Bemiston, Suite 200
St. Louis, Missouri 63105

Thompson, Deputy Chief Regulatory Law Judge



Commissioners

KELVIN L. SIMMONS
Chair

SHEILA LUMPE

CONNIE MURRAY

STEVE GAW

BRYAN FORBIS

Missouri Public Service Commission

POST OFFICE BOX 360
JEFFERSON CITY, MISSOURI 65102
573-751-3234
573-751-1847 (Fax Number)
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ROBERT J. QUINN, JR.
Executive Director

WESS A. HENDERSON
Director, Utility Operations

ROBERT SCHALLENBERG
Director, Utility Services

DONNA M. PRENGER
Director, Administration

DALE HARDY ROBERTS
Secretary/Chief Regulatory Law Judge

DANA K. JOYCE
General Counsel

Information Sheet Regarding Mediation of Commission Formal Complaint Cases

Mediation is a process whereby the parties themselves work to resolve their dispute with the aid of a neutral third-party mediator. This process is sometimes referred to as "facilitated negotiation." The mediator's role is advisory and although the mediator may offer suggestions, the mediator has no authority to impose a solution nor will the mediator determine who "wins." Instead, the mediator simply works with both parties to facilitate communications and to attempt to enable the parties to reach an agreement which is mutually agreeable to both the complainant and the respondent.

The mediation process is explicitly a problem-solving one in which neither the parties nor the mediator are bound by the usual constraints such as the rules of evidence or the other formal procedures required in hearings before the Missouri Public Service Commission. Although many private mediators charge as much as \$250 per hour, the University of Missouri-Columbia School of Law has agreed to provide this service to parties who have formal complaints pending before the Public Service Commission at no charge. Not only is the service provided free of charge, but mediation is also less expensive than the formal complaint process because the assistance of an attorney is not necessary for mediation. In fact, the parties are encouraged not to bring an attorney to the mediation meeting.

The formal complaint process before the Commission invariably results in a determination by which there is a "winner" and a "loser" although the value of winning may well be offset by the cost of attorneys fees and the delays of protracted litigation. Mediation is not only a much quicker process but it also offers the unique opportunity for informal, direct communication between the two parties to the complaint and mediation is far more likely to result in a settlement which, because it was mutually agreed to, pleases both parties. This is traditionally referred to as "win-win" agreement.

The traditional mediator's role is to (1) help the participants understand the mediation process, (2) facilitate their ability to speak directly to each other, (3) maintain order, (4) clarify misunderstandings, (5) assist in identifying issues, (6) diffuse unrealistic expectations, (7) assist in translating one participant's perspective or proposal into a form that is more understandable and acceptable to the other participant, (8) assist the participants with the actual negotiation process, (9) occasionally a mediator may propose a possible solution, and (10) on rare occasions a mediator may encourage a participant to accept a particular solution. The mediator will not possess any specialized knowledge of the utility industry or of utility law.

In order for the Commission to refer a complaint case to mediation, the parties must both agree to mediate their conflict in good faith. The party filing the complaint must agree to appear and to make a good faith effort to mediate and the utility company against which the complaint has been filed must send a representative who has full authority to settle the complaint case. The essence of mediation stems from the fact that the participants are both genuinely interested in resolving the complaint.

Because mediation thrives in an atmosphere of free and open discussion, all settlement offers and other information which is revealed during mediation is shielded against subsequent disclosure in front of the Missouri Public Service Commission and is considered to be privileged information. The only information which must be disclosed to the Public Service Commission is (a) whether the case has been settled and (b) whether, irrespective of the outcome, the mediation effort was considered to be a worthwhile endeavor. The Commission will not ask what took place during the mediation.

If the dispute is settled at the mediation, the Commission will require a signed release from the complainant in order for the Commission to dismiss the formal complaint case.

If the dispute is not resolved through the mediation process, neither party will be prejudiced for having taken part in the mediation and, at that point, the formal complaint case will simply resume its normal course.

Dale Hardy Roberts
Secretary of the Commission

Date: June 4, 2002

BEFORE THE MISSOURI PUBLIC SERVICE COMMISSION

COMPUTECHNOLOGY, INC.)

v.)

Case No. TC-2002-1100

SPECTRA COMMUNICATIONS)
GROUP, L.L.C.,)

CENTURYTEL, INC.,)

and)

GTE MIDWEST, INC., d/b/a)
VERIZON MIDWEST.)

FILED³

MAY 31 2002

Missouri Public
Service Commission

COMPLAINT

Comes now Computechology, Inc. ("Computechology") and for its Complaint against Spectra Communications Group, L.L.C., ("Spectra"), CenturyTel, Inc.

("CenturyTel"), and GTE Midwest, Inc., d/b/a Verizon Midwest ("Verizon"), collectively referred to herein as the "Companies," pursuant to RSMo Sections 386.330, 386.320, 386.390, and 386.400, and 4 CSR 2402.070, states to the Commission:

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INTRODUCTION

1. Computechology is an Internet service provider located in Humansville, Missouri. Computechology relies on the Companies' telecommunications facilities and services to deliver Internet access services to Computechology's customers. Computechology competes directly with the Companies' affiliated local Internet service provider.

2. Computechology complains of unlawful and anticompetitive behavior by the Companies in the following particulars:

- (a) Misapplying applicable tariffs in billing for regulated services;
- (b) Failing to make available to Computech technology high-speed service lines as required by tariff;
- (c) Failing to provide reasonable service quality, including but not limited to reasonable connection speeds, as required by tariff;
- (d) Failing to provide direct frame relay service, as required by tariff, and providing such service indirectly at rates not allowed by tariff;
- (e) Failing to perform contractual obligations involving leased, non-regulated facilities for the delivery of Computech technology's Internet service; and
- (f) On May 28, 2002, effecting a disconnection of service to Computech technology for its refusal to pay disputed charges for regulated services, which such disconnection has resulted in service interruptions to Computech technology's customers.

3. Computech technology seeks an order from the Commission stating that:

- (a) The Companies shall immediately reconnect, and are further prohibited from disconnecting, service to Computech technology pending final resolution of this Complaint;
- (b) The Companies are to provide Computech technology with all services and facilities requested by Computech technology and offered by tariff at similar rates and in like manner as to all other customers, including the Companies's affiliated Internet service provider;
- (c) The Companies are not to interfere with Computech technology's provision of service by failing or refusing to address and correct outstanding service issues; and

(d) The Companies are to submit to mediation concerning the issues raised in this Complaint.

II.

PAR TIES AND JURISDICTION

A. *Parties*

4. Computechnology is a corporation organized and existing under the laws of the State of Missouri and is duly authorized to conduct business in the State of Missouri. It is an Internet service provider located in Humansville, Missouri. Computechnology relies on the facilities and services of the Companies to provide Internet service to its customers.

5. The Companies provides basic local exchange, local exchange, exchange access, interexchange, and packet-switched telecommunications services in and around Humansville, Missouri and throughout Computechnology's area of operations.

6. The Commission should direct all communications and pleadings in this docket to Computechnology's representatives as follows:

Paul E. Martin
Carl J. Lumley
Leland B. Curtis
Curtis, Oetting, Heinz, Garrett & O'Keefe, PC
130 S. Bemiston, Suite 200
Clayton, Missouri 63105
314-725-8788
314-725-8789 (fax)
pmartin@cohgs.co.m

Tom McKellips
Brian Brown
Computechnology, Inc.
P.O. Box 144
Humansville, Missouri 65674-0144
417-754-1818

417-754-2210 (fax)
brian@cpty.net

7. On information and belief, the Companies are corporations duly authorized to conduct business in the State of Missouri. Spectra and CenturyTel act as a partnership and operate as an authorized telecommunications companies providing interstate and intrastate interexchange services in the State of Missouri. Spectra/CenturyTel has recently received Commission approval to obtain the assets of Verizon.

8. Spectra's principal offices are located at 8800 Blue Ridge Boulevard, Kansas City, Missouri 64138-4061, and its phone numbers are (816) 779-8100 (voice) and (816) 779-8200 (fax). CenturyTel's principal offices are located at 100 CenturyTel Drive, Monroe, Louisiana 71203. Verizon's principal offices are located at Building A, 1000 Verizon Drive, Wentzville, Missouri 63385-1941.

B. Jurisdictional Facts

9. The Commission has jurisdiction over the parties and over the subject matter of Computech's complaint under a number of sections of the Missouri Revised Statutes and the Commission's rules, including Sections 386.330, 386.320, 386.390, and 386.400, and 4 CSR 240-2.070.

III.

BACKGROUND FACTS

10. The Companies provide telecommunications facilities and service pursuant to Spectra's filed, approved and effective tariffs. Said tariffs contain the rates, terms, and conditions under which the Companies offer general and local exchange services, including digital and data network services and specialized services (specifically for enhanced service providers) and advanced communications network facilities. These

tariffs control the rights and liabilities of the Companies's customers, including Computechology, that purchase such communications services pursuant to these tariffs, including the rates and billing applicable to those services.

11. Spectra's applicable general and local exchange tariff (PSC Mo. No. 1) is on file with the Commission, and Computechology incorporates that tariff herein by this reference and asks the Commission to take administrative notice thereof.

12. Computechology has received basic exchange service, digital and data network services, specialized services and advanced communications network facilities from the Companies since Computechology commenced operations in Missouri. Computechology has also leased from the Companies a router to facilitate data transmission as part of Computechology's Internet services.

13. In the course of providing the noted services, the Companies have (a) erroneously assigned, used and listed Computechology's fax number as its hunt group pilot number, resulting in an unknown number of connection failures; (b) erroneously billed for services rendered by (i) attributing local charges to inaccurate billing account numbers, (ii) billing Computechology for interstate coin access service when no such service exists, and (iii) attributing non-regulated router lease charges as regulated local charges; (c) refused to timely make their Cyber DSS service readily available to Computechology, (d) refused to correct inordinately slow connection times related to Computechology's T-1 dial-up access service, (e) refused to provide direct frame relay service to Computechology when that service is readily available, (f) instead provided indirect frame relay service resulting in billings based on mileage (86 miles) when the connection served is three city blocks away, (g) refused to maintain the non-regulated

router as required by the parties' lease, and (h) disconnected service for failure to pay erroneous and disputed charges.

14. On information and belief, the Companies offers Internet services through an *affiliate* to Computechology's customer base, and the noted acts and omissions have been undertaken in an effort to thwart competition from Computechology. The noted acts and omissions have caused Computechology to lose customers and have prevented it from offering its service to new customers, and the continuation of these acts and omissions by the Companies threaten Computechology's ability to remain in operation.

15. For the past several months, and most particularly in January through March of this year, Computechology has in good faith attempted to discuss and resolve these myriad disputes with the Companies. Despite this effort the Companies has refused to address or resolve the noted complaints in any kind of reasonable or satisfactory manner. Because of the Companies's refusal to amicably resolve these issues Computechology has withheld payment for the services and facilities rendered.

16. In response the Companies have threatened Computechology with immediate disconnection of all services, and as of May 28, 2002, have effected such disconnections, thus depriving Computechology of its ability to deliver Internet access services to its customer base.

IV.

GROUND'S FOR RELIEF

17. The Companies's acts and omissions constitute a self-help campaign against Computechology in an attempt to disrupt the delivery of Computechology's Internet service and destroy Computechology's business, all for the benefit of the Companies's

affiliated Internet service provider. The Companies have done so in direct contravention of applicable tariffs and accordingly is in breach of its obligations to Computechology and is in violation of the laws and regulations of the State of Missouri.¹

18. Moreover, the Companies are aware that Computechology will be unable to compete effectively with the Companies's affiliated Internet service provider if Computechology must continually provide its services while being subject to disconnections, threatened disconnections and the unreasonable acts and omissions perpetrated by the Companies. It is Computechology's belief that the Companies are providing communications services and billings to their affiliate as required by tariff while they refuse to provide comparable services and billings to Computechology. This puts the Companies and their affiliate in a position to curtail the revenue streams of Computechology while continuing to promote the affiliate's Internet service. The Companies's discrimination against Computechology thus confers a significant advantage upon the Companies's affiliate.

19. By thus favoring its affiliated Internet service provider The Companies are acting contrary to the purposes and provisions of Chapter 392, RSMo. "The provisions of this chapter shall be construed to: ... (6) Allow full and fair competition to function as a substitute for regulation when consistent with the protection of ratepayers and otherwise consistent with the public interest [.]" Section 392.185 RSMo. The Companies are also

¹ See *In the Matter of Chariton Valley Telephone Corp.*, Report and Order, Case Nos. TC-98-251 and TC-98-340, 1999 WL 713699 (Mo. P.S.C. 1999) ("It is well-established that rates filed by a public utility and approved by the Commission have the force and effect of law as though directly prescribed by the Missouri legislature") (citations omitted).]. With respect to interstate services, the FCC has concluded that statutory and regulatory constraints prohibit IXCs from refusing requests for services from an access carrier with "presumptively reasonable" tariffed rates. *CenturyTel and Sprint Petitions for Declaratory Ruling on CLEC Access Charge Issues*, Declaratory Ruling, FCC 01-313, ¶ 18 (Oct. 22, 2001). See also *id.*, ¶ 16, n. 29 (reaffirming that under federal law, the tariff filings of nondominant carriers are "presumptively lawful").

conferring an unreasonable preference that is prohibited by Section 392.200.3 RSMo, which provides:

No telecommunications company shall make or give any undue or unreasonable preference or advantage to any person, corporation or locality, or subject any particular person, corporation or locality to any undue or unreasonable prejudice or disadvantage in any respect whatsoever except that telecommunications messages may be classified into such classes as are just and reasonable, and different rates may be charged for the different classes of messages.

By the aforesaid acts and omissions and the concomitant conferral of an unreasonable preference on an affiliated Internet service provider, the Companies are violating applicable tariffs, Missouri law and the Commission's policies and decisions.

WHEREFORE, PREMISES CONSIDERED, Computechology respectfully requests that the Commission issue its orders:

(a) Directing that Computechology's Complaint be served upon the Companies and requiring that the Companies respond to this Complaint in accordance with the Commission's rules;

(b) Directing that the Companies shall immediately restore service to Computechology, and shall not disconnect such service, until such time as the Commission considers and decides the issues presented herein;

(c) Directing that the Companies submit to mediation;

(d) Establishing, in the alternative, a pre-hearing conference and ordering the parties to attend and develop a proposed procedural schedule for consideration and approval by the Commission; and

(e) Awarding any other and further relief to Computechology as the Commission deems *meet* and proper in the premises.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Paul E. Martin", is written over a horizontal line.

Paul E. Martin, #34428
Carl J. Lumley, #32869
Leland B. Curtis, #20550
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(314) 725-8789 (Fax)

pmartin@cohgs.com clumley@cohgs.com lcurtis@cohgs.com

Attorneys for Computechology, Inc.

CERTIFICATE OF SERVICE

A true and correct copy of the foregoing was sent by first class US Mail, postage prepaid, this 31st day of MAY, 2002, to:

Office of Public Counsel
PO Box 7800
Jefferson City, Missouri 65102

General Counsel
Missouri Public Service Commission
PO Box 360
Jefferson City, Missouri 65102

Spectra Communications Group, L.L.C.
8800 Blue Ridge Boulevard
Kansas City, Missouri 64138-4061

CenturyTel, Inc.
100 CenturyTel Drive
Monroe, Louisiana 71203

GTE Midwest, Inc., d/b/a Verizon Midwest
Building A
1000 Verizon Drive
Wentzville, Missouri 63385-1941.

