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

The Staff of the Missouri Public)
Service Commission,)
)
 Complainant,)
)
v.)
)
Ellington Telephone Company,)
 Respondent.)

CASE NO. TC-98-63

NOTICE OF COMPLAINT

Dee M. McCormack
Ellington Telephone Company
200 College Avenue, Box 400
Ellington, Missouri 63638

W.R. England, III
Brydon, Swearngen & England
312 East Capitol Avenue
Jefferson City, Missouri 65101

CERTIFIED MAIL

Be advised that on August 12, 1997, the Staff of the Missouri Public Service Commission filed a complaint with the Missouri Public Service Commission against Ellington Telephone Company, a copy of which is enclosed. Pursuant to 4 CSR 240-2.070, the Respondent has 30 days after notification to either file an answer or satisfy the complaint. The Respondent shall file an answer or an explanation of the satisfaction of the complaint on or before September 12, 1997, with the Executive Secretary of the Missouri Public Service Commission, P.O. Box 360, Jefferson City, Missouri 65102, and send a copy to the Complainant. A copy of this Notice was sent to the Complainant.

BY THE COMMISSION



**Cecil I. Wright
Executive Secretary**

(S E A L)

Dated at Jefferson City, Missouri,
on this 13th day of August, 1997.

Copy to: Carol Keith
Assistant General Counsel
Public Service Commission
P.O. Box 360
Jefferson City, Missouri 65102

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

FILED

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**MISSOURI
PUBLIC SERVICE COMMISSION**

The Staff of the Missouri Public Service)
Commission)
)
Complainant,)
)
vs.)
)
Ellington Telephone Company,)
)
Respondent.)

Case No. TC-98-63

COMPLAINT

COMES NOW the Staff of the Missouri Public Service Commission ("Staff") and for its complaint against Ellington Telephone Company ("Ellington" or "Company") states:

1. Ellington Telephone Company is a public utility engaged in the provision of basic local telecommunications services pursuant to §392.440 RSMo (1994) and is subject to regulation by the Commission as a telecommunications company pursuant to §386.250 RSMo (1994). Ellington's offices are located at 200 College Avenue, Ellington, Missouri 63638.

2. Section §386.390.1 RSMo (1994), provides in pertinent part that:

[c]omplaint may be made by the commission of its own motion... or any ...person...by complaint in writing, setting forth any act or thing done or omitted to be done by any...public utility, including any rule, regulation, or charge heretofore established or fixed by or for any...public utility, in violation, or claimed to be in violation, of any provision of law, or of any rule or order or decision of the commission...

The General Counsel's office of the Missouri Public Service Commission is requesting that the Commission order Ellington to respond to this Complaint pursuant to 4 CSR 240-2.070(3).

3. Ellington entered into a Stipulation and Agreement with the Staff and the Office of the Public Counsel on November 30, 1994 in Case No. TO-95-152. The Stipulation and Agreement specified dates by which Ellington would modernize its telecommunications network pursuant to 4 CSR 240-32.100 (the Modernization Rule). Ellington agreed, among other things, to provide individual line service by December 31, 1996 to all of its customers. On December 22, 1994, the Commission approved the Stipulation and Agreement.

4. On November 15, 1996, Ellington filed a motion to extend the deadline for provision of individual line service to all its customers to March 31, 1997 due to vagaries of the weather, deployment of digital loop carriers concurrent with eliminating party-line service, and delays in availability and delivery of necessary equipment. The Staff responded to this motion stating that it did not object to Ellington receiving an additional 90 days to provide individual line service. The Commission did not rule on this motion.

5. On March 14, 1997, Ellington filed a request for an additional 60 days to implement individual line service, which would allow the Company to comply with the Commission's Order by May 31, 1997. The Staff responded to this Motion stating that it did not object to a further extension. On March 28, 1997, the Commission approved Ellington's request for an extension to implement individual line service and Ellington was ordered to provide such service to its customers by May 31, 1997.

COUNT I

FAILURE TO COMPLY WITH COMMISSION MODERNIZATION PLAN ORDER

For Count I of its complaint, the Staff states as follows:

6. The allegations of paragraphs 1-5 are incorporated herein by reference.

7. Ellington has implemented single party line service and is now in compliance with the Modernization Rule. The Staff received a letter dated July 21, 1997 stating that Ellington had completed its conversion from multi-party to individual line service by installing five digital loop carriers on a temporary basis. However, from June 1, 1997 to July 18, 1997 (48 days), Ellington was not in compliance with the Modernization Rule.

WHEREFORE, the Staff requests the Commission find that Ellington violated the Commission's order dated March 28, 1997, 4 CSR 240-32.100, and the terms of the Stipulation and Agreement in Case No. TO-95-152 and authorize its General Counsel to seek, pursuant to §§386.570 and 386.600 RSMo (1994), a penalty of \$100.00 for each day (48) Ellington was not in compliance.

COUNT II

TARIFF AND DISCRIMINATORY PRICING VIOLATIONS

For Count II of its complaint, the Staff states as follows:

8. The allegations of paragraphs 1-5 are incorporated herein by reference.
9. Section 392.480.1 RSMo (1994) states, "[a]ll telecommunications services offered or provided by telecommunications companies shall be offered under tariff."
10. On April 30, 1997, Ellington filed a tariff (File No. 9700734) which, among other things, eliminated multi-party service. This tariff became effective on June 1, 1997. In violation of §392.480.1, Ellington has not had a tariff rate in effect since May 31, 1997 for multi-party service customers even though there continued to exist customers receiving such service until at least July 18, 1997.
11. Additionally, as of May 23, 1997, which was the last weekly report provided to the Commission, Ellington had 83 customers that had not been converted to individual line service.

These customers were not charged for telephone service during the time they were receiving multi-party service even though those customers who had been converted to individual line service continued to pay for basic local service. In providing basic local service to customers at different rates, Ellington violated §392.200.1 RSMo (1994) which provides that,

No telecommunications company shall directly or indirectly or by any special rate, rebate, drawback, or other device or method charge, demand, collect or receive from any person or corporation a greater or less compensation for any service rendered with respect to telecommunications or in connection therewith, except as authorized in this chapter, than it charges, demands, collects or receives from any other person or corporation for doing a like and contemporaneous service with respect to telecommunications under the same or substantially the same circumstances and conditions.

WHEREFORE, the Staff requests the Commission find that Ellington violated its tariffs, §392.480.1 RSMo (1994) and §392.200.1 RSMo (1994) and authorize its General Counsel to seek a penalty of \$100.00 for each customer (83) and each day (48).

Respectfully submitted,



Carol Keith
Assistant General Counsel
Missouri Bar No. 45065
Attorney for the Staff of the
Missouri Public Service Commission
P. O. Box 360
Jefferson City, MO 65102
(573) 751-8706
573-751-9285 (Fax)

CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing have been mailed or hand-delivered to all counsel of record as shown on the attached service list this 12th day of August, 1997.

