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August 17, 1999

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

FILED

AUG 20 1999

TC-2000-176

Missouri Public
Service Commission

Re: **Nixa Area E-911 Board v. Missouri Comm South, Inc.**

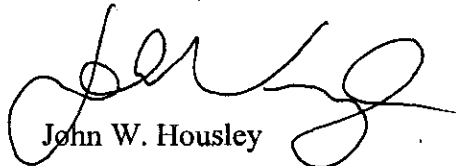
Dear Mr. Roberts:

Enclosed please find a Complaint to be filed before the Public Service Commission captioned *Nixa Area E-911 Board v. Missouri Comm South, Inc.* I have enclosed the original and 14 copies in accordance with Public Service Commission Procedure explained to me by your records department.

I have also forwarded a copy to the Respondent, Missouri Comm South, Inc., and a copy to the office of Public Counsel per your office's directions. If you have any questions in regard to this matter, please feel free to give me a call. Otherwise, please keep me posted on the status of this action.

Very truly yours,

LOWTHER, JOHNSON, JOYNER
LOWTHER, CULLY & HOUSLEY, L.L.C.

 for:
John W. Housley

JWH:lsm

Enclosures

cc: Missouri Comm South, Inc.
Office of Public Counsel
Nixa Area E-911 Board

FILED

AUG 20 1999

BEFORE THE PUBLIC SERVICE COMMISSION OF THE
STATE OF MISSOURI

Missouri Public
Service Commission

NIXA AREA E-911 BOARD,

Complainant,

vs.

MISSOURI COMM SOUTH, INC.,

Respondent.

Case No. TC-2000-176

COMPLAINT

1. Complainant is the governing body of an emergency telephone service created pursuant to Chapter 190 of the Missouri Revised Statutes with its principal place of business being located in Nixa, Christian County, Missouri.

2. Respondent Missouri Comm South, Inc. of Arlington, Texas, is a public entity and under the jurisdiction of the Public Service Commission of the State of Missouri.

3. Complainant has come into the possession of the phone bill of one Salvador R. Soto, a resident of Nixa, Christian County, Missouri. A copy of said bill is attached hereto as Exhibit "A". Salvador Soto's telephone bill, issued to Mr. Soto by the Respondent, properly charges Mr. Soto for the fifteen percent (15%) surcharge levied by the Complainant, totaling \$6.08 on this bill.

4. To date, the Respondent has not submitted to the Complainant any list of amounts uncollected as provided for in Section 190.305 of the Missouri Revised Statutes.

5. To date, the Respondent has remitted no collected tax amounts to the Complainant as required by Section 190.310 of the Missouri Revised Statutes.

6. The Respondent has filed no quarterly returns with the Complainant as required by Section 190.310 of the Missouri Revised Statutes.

7. The Complainant has made direct telephone and written contact with the Respondent, requesting an accounting of all amounts collected by the Respondent and all users serviced by the Respondent, but the Respondent has failed to provide such information. A copy of the correspondence mailed to the Respondent is attached hereto as Exhibit "B".

WHEREFORE, Complainant now requests the Commission order the Respondent to provide an accounting of all amounts collected on behalf of the Complainant, to provide an accounting of all service users in the Complainant's area serviced by the Respondent, to remit all taxes collected on behalf of the Complainant to the Complainant, to comply with all statutory requirements and procedures governing the Respondent's collection of taxes on behalf of the Complainant, and for any other relief deemed just and equitable by the Commission.

LOWTHER, JOHNSON, JOYNER
LOWTHER, GULLY & HOUSLEY, L.L.C.

BY: 

John W. Housley
Missouri Bar Number 28708
901 St. Louis Street, 20th Floor
Springfield, MO 65806
Telephone: 417-866-7777
Fax: 417-866-1752
Attorney for Complainant

Comm South Companies

P.O. Box 821269

Dallas, Texas 75382-1269

PERSONAL CHECKS ARE NOT ACCEPTED.

MONEY ORDERS ONLY PLEASE.



SALVADOR R SOTO
702 SCOTT WAYNE DR
NIXA MO 65714-9374

ACCOUNT NUMBER	AMOUNT DUE
965612	54.49
BILLING PHONE	DUE DATE
417-725-5234	03/01/99
BILLING DATE	AFTER DUE DATE PAY
02/15/99	54.49



Billing Telephone: 417-725-5234
Carrier: SWB Primary Agent: 00004947000

TO ASSURE PROPER CREDIT - DETACH AND RETURN THE TOP PORTION OF THIS STATEMENT WITH YOUR PAYMENT

SERVICE ADDRESS

SALVADOR R SOTO
702 SCOTT WAYNE DR
NIXA MO 65714-9374
Billing Telephone: 417-725-5234
Carrier: SWB Primary Agent:
00004947000
Carrier: SWB
Billing Period: March 1, 1999 to March 31, 1999

If the Company does not receive payment in full by the due date printed on the statement, a Late Payment Notice will be mailed. And, if the Company does not receive payment in full by the last day of the 7-day grace period, the customer's service will be disconnected. If you have an existing unpaid balance, your account is subject to termination at this time. Please call our billing department with questions concerning your statement at 1-800-936-5223.

If you have already made your payment, you can confirm that we have received it by calling 1-888-770-8225 and entering your account number located at the top right of this statement. Paying your bill preserves your rights and you will not be disconnected.

DESCRIPTION	BILLING PERIOD	TAX APPLIED	AMOUNT
FCC Approved Line Fee	3/1/1999 to 3/31/1999		3.50
Basic Telephone Service	3/1/1999 to 3/31/1999		40.50
Total Tax: FEDERAL EXCISE TAX 3.0%			1.22
Total Tax: STATE SALES TAX 4.225%			1.71
Total Tax: COUNTY SALES TAX 1.25%			0.51
Total Tax: CITY SALES TAX 1.5%			0.61
Total Tax: MO TRS & ATEP FUND SURCHARGE 0			0.13
Total Tax: NIXA 911 SURCHARGE 15.0%			6.08
Total Tax: FEDERAL UNIVERSAL SCHOOLS & LI			0.23
EXHIBIT			
"A"			
CURRENT CHARGES			54.49

BILLING PHONE	PREVIOUS BALANCE	ACCOUNT NUMBER	BILLING DATE	AFTER DUE DATE PAY THIS AMOUNT	DUE DATE	AMOUNT NOW DUE
417-725-5234	0.00	965612	02/15/99	54.49	03/01/99	54.49

2367608 YOUR ACCOUNT IS NOW PAST DUE AND YOUR SERVICE IS SUBJECT TO IMMEDIATE TERMINATION - PLEASE REMIT THE FULL AMOUNT AT ONCE.
IF YOUR MONEY ORDER IS ALREADY IN THE MAIL, PLEASE DISREGARD THIS NOTICE. THANK YOU FOR YOUR BUSINESS.

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B. MAXINE GREEN

July 23, 1999

Mr. Tom Wilkins
Comm South Companies
P.O. Box 821269
Dallas, TX 75382-1269

Re: Nixa, Missouri E-911 Tax Collections

Dear Mr. Wilkins:

Thank you for your recent voice mail response to my phone call in regard to your company's collections of the E-911 taxes for Nixa, Missouri. As I stated in my voice mail to you, the Nixa E-911 tax has been in effect since 1994, and we have evidence that your company has been collecting that tax on behalf of the Nixa E-911 from some of your customers since that time. Unfortunately, the Nixa E-911 has not received any funds from you that represent taxes collected by you.

Section 190.305 of the Missouri Revised Statutes authorizes the Nixa E-911 governing body to levy a tax in an amount not to exceed 15 percent of the tariff local service rate or 75 cents per access line per month. As you know, the Nixa E-911 has established a surcharge of 15 percent of the tariffs at local service rate. Section 190.310 of the Missouri Revised Statutes states that the tax amounts you are required to collect are due quarterly and shall be remitted to the governing body no later than 60 days after the close of a calendar quarter. On or before the 60th day of each calendar quarter, you are required to file a return for the preceding quarter with the governing body in such form as the governing body and your company shall agree upon. With that return, you should include the list of any service users refusing to pay the tax imposed, and this return should be filed with the remittance of the amount of tax collected. These records should be maintained for a period of one year from the time the tax is collected. That same statute allows the governing body to require an audit of your books and records concerning the collection and remittance of the tax authorized by the Missouri statutes.

Pursuant to its rights under §190.310 of the Missouri Revised Statutes, the Nixa E-911 governing body hereby requests that you provide a list of any and all service users from whom you have collected or have attempted to collect the tax imposed by the Nixa E-911 governing body. In

EXHIBIT

"B"

Mr. Tom Wilkins

July 23, 1999

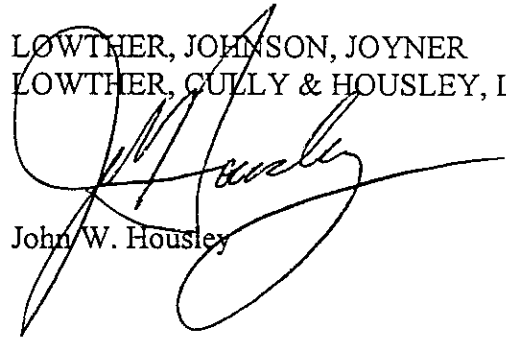
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addition, the Nixa E-911 governing body requests an accounting of all Nixa E-911 taxes collected by your company from any and all service users required to pay such taxes. If you fail to forward these user lists to our office within ten days of your receipt of this letter, we will be required to file a complaint with the Missouri Public Service Commission on behalf of Nixa E-911.

If you have any questions in regard to this matter, please feel free to give me a call.

Sincere regards,

LOWTHER, JOHNSON, JOYNER
LOWTHER, CULLY & HOUSLEY, L.L.C.


John W. Housley

JWH:lsm