

**STATE OF MISSOURI
PUBLIC SERVICE COMMISSION
JEFFERSON CITY
June 20, 2000**

CASE NO: TC-2000-617

Office of the Public Counsel
P.O. Box 7800
Jefferson City, MO 65102

Charles J. Fain
Attorney At Law
PO Box 434
Forsyth, MO 65653

General Counsel
Missouri Public Service Commission
P.O. Box 360
Jefferson City, MO 65102

Enclosed find certified copy of an ORDER in the above-numbered case(s).

Sincerely,



Dale Hardy Roberts
Secretary/Chief Regulatory Law Judge

**STATE OF MISSOURI
PUBLIC SERVICE COMMISSION**

At a Session of the Public Service
Commission held at its office
in Jefferson City on the 20th
day of June, 2000.

Committee to Eliminate 561 Prefix,	)	
	)	<u>Case No. TC-2000-617</u>
Complainant	)	

ORDER DISMISSING COMPLAINT AND CLOSING CASE

On April 3, 2000, several hundred petitioners, calling themselves the Committee to Eliminate 561 Prefix (Committee), filed a complaint with the Missouri Public Service Commission (Commission). According to the complaint, the petitioners are telephone subscribers who have a 561 prefix and who live east, northeast and southeast of Branson, Missouri (Branson). The Committee requested that the Commission eliminate the 561 prefix and that the subscribers in the 561 prefix be included in the same prefix as Branson, thus making it possible to eliminate long distance calls to and from Branson.

Complaint cases filed with the Commission are governed by Commission Rule 4 CSR 240-2.070. The complaint filed by the Committee failed to follow that rule in three areas.

Commission Rule 4 CSR 240-2.070(3) states that the complaint shall set forth an act or thing done or omitted to be done by any person, corporation or public utility. The complaint filed by the Committee did not set forth an act or thing done or omitted to be done

4

by any person, corporation or public utility as required by Commission Rule 4 CSR 240-2.070(3).

Commission Rule 4 CSR 240-2.070(5)(B) states that the complaint shall contain the name and address of the person, corporation or public utility against whom the complaint is being filed. The complaint filed by the Committee did not contain the name and address of the person, corporation or public utility against whom the complaint is being filed as required by Commission Rule 4 CSR 240-2.070(5)(B).

Commission Rule 4 CSR 240-2.070(5)(E) states that the complaint shall contain information setting forth the jurisdiction of the Commission over the subject matter of the complaint. The complaint filed by the Committee did not contain information setting forth the jurisdiction of the Commission over the subject matter of the complaint as required by Commission Rule 4 CSR 240-2.070(5)(E).

On May 2, 2000, the Commission issued an order requiring the Committee to remedy the three deficiencies or face a possible dismissal of its complaint under Commission Rule 4 CSR 240-2.070(6) (order requesting response). This rule, *inter alia*, allows the Commission, without argument and without hearing, to dismiss a complaint for failure to state facts upon which relief can be granted. Specifically, the Committee was given thirty (30) days to file a supplemental pleading which (A) set forth an act or thing done or omitted to be done by any person, corporation or public utility of which it is complaining, as required by Commission Rule 4 CSR 240-2.070(3); (B) contained the name and address of the person,

corporation or public utility against whom the complaint is being filed, as required by Commission Rule 4 CSR 240-2.070(5)(B); and (C) which contained information setting forth the jurisdiction of the Commission over the subject matter of the complaint, as required by Commission Rule 4 CSR 240-2.070(5)(E).

On May 30, 2000, the Committee filed its first amended complaint (amended complaint). The amended complaint named GTE Midwest Incorporated (GTE) as the respondent and listed an address for GTE. However, the amended complaint stated nothing concerning what wrongs GTE is alleged to have committed against the Committee. The amended complaint also completely fails to cite any statute, rule or other authority under which the Commission could eliminate the 561 telephone exchange as requested by the Committee. Finally, the amended complaint did not comply with the Commission's rules, Commission Rule 4 CSR 240-2.080(20) requires that every pleading filed by a party shall include a certificate of service. The Committee's amended complaint did not comply with Commission Rule 4 CSR 240-2.080(20) in that it did not include a certificate of service.

Commission Rule 4 CSR 240-2.070(6) states that the Commission may, after notice, dismiss a complaint for failure to state a claim on which relief may be granted or failure to comply with any provision of these rules or an order of the commission. Notice to the Committee under this rule was given on May 2, 2000, in the order requesting response.

The Committee has failed to state a claim on which relief may be granted by not including any statute, order or other authority which

would give the power to the Commission to eliminate a telephone exchange; the Committee has failed to comply with the rules of the Commission by not including a certificate of service with its amended complaint; and the Committee has failed to comply with the Commission's order requesting response in that the Committee's amended complaint did not include a complete and adequate response to deficiencies pointed out by the Commission.

Thus, the Commission will dismiss the Committee's complaint and close the case.

IT IS THEREFORE ORDERED:

1. That the complaint filed by Committee to Eliminate 561 Prefix on April 3, 2000, is dismissed for failure to state a claim on which relief may be granted, for failure to comply with the rules of the Missouri Public Service Commission, and for failure to comply with the order of the Commission issued on May 2, 2000.
2. That this order shall become effective on June 30, 2000.
3. That this case may be closed on July 3, 2000.

BY THE COMMISSION



Dale Hardy Roberts
Secretary/Chief Regulatory Law Judge

(S E A L)

Lumpe, Ch., Drainer, Murray, Schemenauer,
and Simmons, CC., concur

Hopkins, Senior Regulatory Law Judge

ALL/Sec'y: Hopkins/Boyer

6-16 TC-2000-617
Date Circulated CASE NO.

JS
Lumpe, Chair

MS
Drainer, Vice Chair

SM
Murray, Commissioner

SL
Schemenauer, Commissioner

LS
Simmons, Commissioner

6-20
Agenda Date

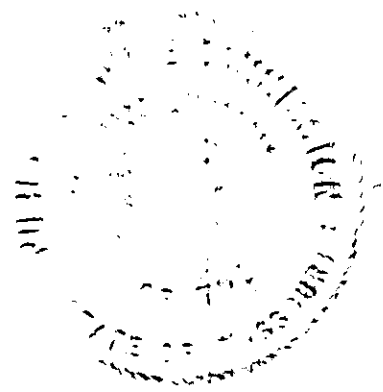
Action taken: 5-OAS

Must Vote Not Later Than _____

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

I have compared the preceding copy with the original on file in this office and
I do hereby certify the same to be a true copy therefrom and the whole thereof.

WITNESS my hand and seal of the Public Service Commission, at Jefferson City,
Missouri, this 20th day of June, 2000.



Dale Hardy Roberts

Dale Hardy Roberts
Secretary/Chief Regulatory Law Judge