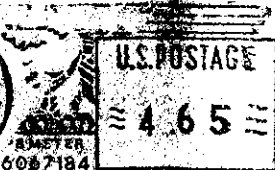
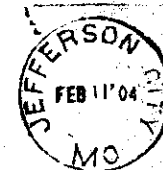


MISSOURI PUBLIC SERVICE COMMISSION
BOX 360
JEFFERSON CITY MO 65102



7099 3220 0009 3699 7838



**ATTEMPTED
DELIVERY
NOT KNOWN**

FILED⁴

FEB 23 2004

**Missouri Public
Service Commission**

Total-Tel USA Comm., Inc.
C/O David Vorbeck
1102 Grand Blvd, Ste 1400
Kansas City, MO 64106

C. O. Vorbeck

SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

Total-Tel USA Comm., Inc.
C/O David Vorbeck
1102 Grand Blvd, Ste 1400
Kansas City, MO 64106

2. Article Number

(Transfer from service label)

PS Form 3811, August 2001

COMPLETE THIS SECTION ON DELIVERY

A. Signature

X

☐ Agent☐ Addressee

B. Received by (Printed Name)

C. Date of Delivery

D. Is delivery address different from item 1? ☐ YesIf YES, enter delivery address below: ☐ No

3. Service Type

☒ Certified Mail☐ Express Mail☐ Registered☐ Return Receipt for Merchandise☐ Insured Mail☐ C.O.D.

4. Restricted Delivery? (Extra Fee)


☐ Yes

7099 3220 0009 5699 7838

Domestic Return Receipt

102595-02-M-1540

We will redeliver OR you or your agent can pick up your mail at the post office. (Bring this form and proper ID. If your agent will pick up, sign below in item 2, and enter agent's name here):

1.  a. Check all that apply in section 3;
b. Sign in section 2 below;
c. Leave this notice where the carrier can see it.

GPO CARRIERS-USPS
315 W PERSHING RD - ZIPS 64105/06/08
CERTIFIED,INSURED,PARCEL PICK-UP
MOWU - MON - FRI 8AM - 6PM SAT 8AM-3PM
QUESTIONS? 816-374-9182

2. Sign Here to Authorize Redelivery or
to Authorize an Agent to Sign for You:

Delivery Section

3. ☐ Redeliver (Enter day of week):

Signature

X

(Allow at least two delivery days for
redelivery, or call your post office to
arrange delivery.)

Printed
Name

- ☐ Leave item at my address

Delivery
Address

1102 GRAND #1400

(Specify where to leave. Example:
"porch", "side door". This option is not
available if box is checked on the
front requiring your signature at time
of delivery.)

USPS



- ☐ Refused ☐ Forward ☐ Return

United States Postal Service

Sorry We Missed You! We'll Deliver for You

Today's Date

Sender's Name *Public Serv.
Comm.*

Item is at: Post Office (See back)	Available for Pick-up After Date:	We will redeliver or you or your agent can pick up. See reverse.
	Time:	

<input type="checkbox"/> Letter <input checked="" type="checkbox"/> Large envelope, magazine, catalog, etc. <input type="checkbox"/> Parcel <input type="checkbox"/> Restricted Delivery <input type="checkbox"/> Perishable Item <input type="checkbox"/> Other:	For Delivery: (Enter total number of items delivered by service type) For Notice Left: (Check applicable item) <input type="checkbox"/> Express Mail (We will attempt to deliver on the next delivery day unless you instruct the post office to hold it.) <input checked="" type="checkbox"/> Certified <input type="checkbox"/> Recorded Delivery <input type="checkbox"/> Firm Bill	<input type="checkbox"/> Registered <input type="checkbox"/> Insured <input type="checkbox"/> Return Receipt for Merchandise <input type="checkbox"/> Delivery Confirmation <input type="checkbox"/> Signature Confirmation
--	---	---

☐ If checked, you or your agent must be present at time of delivery to sign for item

Article Number(s)

7699-3220 0009-3699 7838

Notice Left Section

Customer Name and Address

Article Requiring Payment Amount Due

☐ Postage Due ☐ COD ☐ Customs \$

☐ **Final Notice:** Article will be returned to sender on

Delivered By and Date

PS Form 3849, November 1999

Delivery Notice/Reminder/Receipt

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

The Staff of the Missouri Public Service
Commission,

Complainant,

v.

Total-Tel USA Communications, Inc.,

Respondent.

Case No. TC-2004-0363

NOTICE OF COMPLAINT

Total-Tel USA Communications, Inc.
1720 Windward Concourse, Suite 250
Alpharetta, Georgia 30005
CERTIFIED MAIL

Total-Tel USA Communications, Inc.
c/o David A. Vorbeck, Registered Agent
1102 Grand Boulevard, Suite 1400
Kansas City, Missouri 64106
CERTIFIED MAIL

On February 6, 2004, the Staff of the Missouri Public Service Commission filed a complaint with the Commission against Total-Tel USA Communications, Inc. A copy of the complaint is enclosed. Under Commission Rule 4 CSR 240-2.070, Total-Tel USA Communications has 30 days from the date of this notice to file an answer or to file notification that the complaint has been satisfied. Total-Tel USA Communications, Inc. is reminded that, as a corporation, it cannot appear before the Commission unless it is represented by an attorney licensed to practice law in Missouri. Therefore, its answer must be signed by a Missouri attorney.

All pleadings must be mailed to:

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

A copy must be served upon the Staff of the Commission at the address listed within the enclosed complaint.

BY THE COMMISSION

A handwritten signature in black ink, reading "Dale Hardy Roberts". The signature is written in a cursive, slightly slanted style.

**Dale Hardy Roberts
Secretary/Chief Regulatory Law Judge**

(SEAL)

Dated at Jefferson City, Missouri,
on this 11th day of February, 2004.

Dippell, Senior Regulatory Law Judge

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

The Staff of the Missouri Public Service Commission,
Complainant,
v.
Total-Tel USA Communications, Inc.,
Respondent.

Case No. TC-2004-_____

COMPLAINT

COMES NOW the Staff of the Missouri Public Service Commission ("Staff") and initiates its complaint pursuant to Section 386.390 and 4 CSR 240-2.070, against Total-Tel USA Communications, Inc. (the "Company") for violation of the Commission's statutes and rules relating to annual report filings. In support of its complaint, Staff respectfully states as follows:

GENERAL ALLEGATIONS

1. Respondent Total-Tel USA Communications, Inc. is a "telecommunications company" and "public utility" as defined in Section 386.020 RSMo (2000) and is subject to the jurisdiction of the Missouri Public Service Commission pursuant to Section 386.250. The Commission granted the Company a certificate of service authority to provide intrastate interexchange telecommunications services in Case No. TA-94-370 on September 7, 1994. Total-Tel USA Communications, Inc. has provided the following contact information to the Commission:

Total-Tel USA Communications, Inc.
1720 Windward Concourse, Suite 250
Alpharetta, GA 30005

Total-Tel USA Communications, Inc.'s registered agent, according to the records of the Missouri Secretary of State's Office, is:

David A. Vorbeck
1102 Grand Blvd., Suite 1400
Kansas City, MO 64106

2. Section 386.390.1 authorizes the Commission to entertain a complaint "setting forth any act or thing done or omitted to be done by a public utility in violation of any law, or of any rule, order or decision" of the Commission.

3. Commission practice Rule 4 CSR 240-2.070(1) provides that the Commission's Staff, through the General Counsel, may file a complaint.

4. The Missouri courts have imposed a duty upon the Public Service Commission to first determine matters within its jurisdiction before proceeding to those courts. As a result, "[t]he courts have ruled that the Division cannot act only on the information of its staff to authorize the filing of a penalty action in circuit court; it can authorize a penalty action only after a contested hearing." *State ex rel. Sure-Way Transp., Inc. v. Division of Transp., Dept. of Economic Development, State of Mo.*, 836 S.W.2d 23, 27 (Mo.App. W.D. 1992) (relying on *State v. Carroll*, 620 S.W.2d 22 (Mo. App. 1981); see also *State ex rel. Cirese v. Ridge*, 138 S.W.2d 1012 (Mo.banc 1940). If the Commission determines after a contested hearing that the Company failed, omitted, or neglected to file its annual report and/or pay its annual assessment, the Commission may then authorize its General Counsel to bring a penalty action in the circuit court as provided in Section 386.600.

COUNT ONE

5. Section 392.210.1 states that telecommunications companies must "file an annual report with the Commission at a time and covering the yearly period fixed by the commission."

6. Commission Rule 4 CSR 240-3.540(1) requires all telecommunications companies to file their annual reports on or before April 15 of each year.

7. On February 3, 2003, the Executive Director of the Commission sent all regulated utilities, including Total-Tel USA Communications, Inc., a letter notifying them of the requirement to file an annual report covering the calendar year 2002, together with the appropriate form for the Company to complete and return to the Commission and instructions on how the Company may complete its filing electronically. The letter was sent to the address that was current in the Commission's Electronic Filing and Information System ("EFIS") at that time, and the letter was not returned.

8. The Company never returned a completed form, nor did it file its annual report electronically; and as of the date of this pleading, has not filed its 2002 Annual Report. See Affidavit of Janis Fischer, attached to this Complaint as Exhibit A.

9. Staff sent the Company a letter on or about August 22, 2003 to an address that the Company had provided and that was contained in the EFIS system, informing the Company it had failed to comply with the statutory requirement to file its annual report for 2002 and notifying it of the location where the Commission's form is available. Staff has received no response, and the letter was not returned.

10. Section 392.210.1 provides that "[i]f any telecommunications company shall fail to make and file its annual report as and when required or within such extended time as the commission may allow, such company shall forfeit to the state the sum of one hundred dollars for each and every day it shall continue to be in default with respect to such report...."

COUNT TWO

11. The Commission has the authority to cancel a certificate of service authority if not against the wishes of the certificate holder. *State ex rel. City of Sikeston v. Public Serv. Comm'n*, 82 S.W. 2d 105, 109 (Mo. 1935). Thus, the Commission has the authority to cancel a telecommunications company certificate pursuant to Section 392.410.5, which provides that "[a]ny certificate of service authority may be altered or modified by the commission after notice and hearing, upon its own motion or upon application of the person or company affected." However, the Commission need not hold a hearing, if, after proper notice and opportunity to intervene, no party requests such a hearing. *State ex rel. Rex Deffenderfer Enterprises, Inc. v. Public Serv. Comm'n*, 776 S.W.2d 494 (Mo.App.W.D. 1989).

12. If the Company fails to respond to this Complaint in a timely manner as required by 4 CSR 240-2.070(8), Staff requests that the Commission find that the Company's default constitutes its consent for the Commission to cancel its certificate and tariff, and therefore cancel the certificates of service authority of Total-Tel USA Communications, Inc. to provide intrastate interexchange telecommunications services and the accompanying tariff, P.S.C. Mo. Tariff No. 1.

PRAYER FOR RELIEF

WHEREFORE, Staff now requests that the Commission open a complaint case pursuant to Section 386.390; and, after hearing, find that Total-Tel USA Communications, Inc. failed, omitted, or neglected to file its 2002 Annual Report with the Commission as required by Missouri statute and Commission orders; authorize its General Counsel to bring a penalty action against the Company in the circuit court as provided in Section 386.600, based on the statutory penalties set forth in Section 392.210.1 (for failing to file annual reports).

Moreover, if the Company fails to respond to this Complaint in a timely manner as required by 4 CSR 240-2.070(8), in addition to a finding in default under 4 CSR 240-2.070(9), Staff requests that the Commission find that the Company's default constitutes its consent for the Commission to cancel its certificate and tariff, and therefore cancel the certificate of service authority of Total-Tel USA Communications, Inc. to provide intrastate interexchange telecommunications services and the accompanying tariff, P.S.C. Mo. Tariff No. 1.

Respectfully submitted,

DANA K. JOYCE
General Counsel

/s/ Bruce H. Bates

Bruce H. Bates
Associate General Counsel
Missouri Bar No. 35442

Attorney for the Staff of the
Missouri Public Service Commission
P.O. Box 360
Jefferson City, MO 65102
(573) 751-7434 (Telephone)
(573) 751-9285 (Fax)
bruce.bates@psc.mo.gov (E-Mail)

Certificate of Service

I hereby certify that copies of the foregoing have been mailed, hand-delivered, transmitted by facsimile or electronically mailed to all counsel of record this 6th day of February 2004.

/s/ Bruce H. Bates

Total-Tel USA Communications, Inc.
1720 Windward Concourse, Suite 250
Alpharetta, GA 30005

David A. Vorbeck (Registered Agent)
1102 Grand Blvd., Suite 1400
Kansas City, MO 64106

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

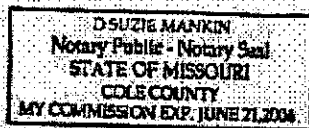
AFFIDAVIT

STATE OF MISSOURI)
)
COUNTY OF COLE)

I, Janis E. Fischer, Utility Regulatory Auditor IV, of the Commission's Auditing Department, first being duly sworn on my oath state that the Public Service Commission's records do not reflect the receipt of the 2002 Annual Report from Total-Tel USA Communications, Inc.

Janis E. Fischer
Janis E. Fischer

Subscribed and sworn to before me this 6th day of February, 2004.



D-Suzie Mankin
NOTARY PUBLIC

Exhibit A

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 11th day of Feb. 2004 .

Dale Hardy Roberts

Dale Hardy Roberts
Secretary/Chief Regulatory Law Judge

MISSOURI PUBLIC SERVICE COMMISSION

February 11, 2004

Case No. TC-2004-0363

Dana K Joyce
P.O. Box 360
200 Madison Street, Suite 800
Jefferson City, MO 65102

John B Coffman
P.O. Box 7800
200 Madison Street, Suite 640
Jefferson City, MO 65102

Total-Tel USA Comm., Inc.
Official Representative
1720 Windward Concourse, Ste 250
Alpharetta, GA 30005

Total-Tel USA Communications, Inc.
c/o David Vorbeck
1102 Grand Blvd,
Ste 1400
Kansas City, MO 64106

Enclosed find a certified copy of a NOTICE in the above-numbered case(s).

Sincerely,

A handwritten signature in black ink that reads "Dale Hardy Roberts". The signature is written in a cursive, slightly slanted style.

Dale Hardy Roberts
Secretary/Chief Regulatory Law Judge