

At a session of the Public Service Commission held at its office in Jefferson City on the 28th day of June, 2005.

Respondents.

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Case No. TC-2005-0357

On April 8, 2005, the Staff of the Commission filed a complaint against Cass County Telephone Company Limited Partnership (CassTel) and Local Exchange Company, LLC. The Commission issued a notice of complaint on April 12. Subsequently, the Commission directed the respondents to file their answer by May 13. CassTel filed its answer on May 13. Local Exchange Company, however, instead of filing an answer, filed a motion to dismiss on May 13. Staff filed a reply to that motion on May 23, and Local Exchange Company filed a response to that reply on May 31.

Local Exchange Company's motion to dismiss argues that it should be dismissed from this complaint for two reasons. First, it argues that the Commission has no jurisdiction over Local Exchange Company. Second, it contends that Staff's complaint does not seek any relief against Local Exchange Company, nor does it allege that the company is responsible for any of the violations of law alleged in the complaint. In reply, Staff argues that, as a general partner in the CassTel Limited Partnership, Local Exchange Company is liable for any penalty assessed against CassTel in a subsequent court case that the Staff may be authorized to bring as a result of this complaint. Staff asserts that Local Exchange Company is therefore an appropriate party in this complaint.

Staff's argument is not persuasive. It may be that if a penalty is ultimately imposed against CassTel by the circuit court, Staff will be able to look to Local Exchange Company to satisfy that obligation. Similarly, it may be able to impose such an obligation on the other general partner, or partners, in CassTel that are not named as parties in this complaint. However, the mere fact that Local Exchange Company may have some obligation resulting from its partnership in CassTel does not make it a necessary or proper party in this complaint. If Local Exchange Company, as a general partner, is responsible for the debts and obligations of CassTel, it will have that responsibility whether or not it is named as a party in this complaint.

Staff's complaint asks for authorization to seek specific penalties against CassTel, but does not ask the Commission to grant any relief specific to Local Exchange Company. Any responsibility Local Exchange Company may have for the debts and obligations of CassTel will exist regardless of whether it is named as a party, and Staff does not state any other basis for its complaint against Local Exchange Company. As a result, the

Commission finds that there is no reason for Local Exchange Company to be a party to this complaint.

IT IS THEREFORE ORDERED:

1. That Local Exchange Company, LLC's Motion to Dismiss is granted.
2. That Local Exchange Company, LLC is dismissed from this complaint.
3. That this order shall become effective on July 8, 2005.

BY THE COMMISSION

A handwritten signature in black ink, appearing to read 'Colleen M. Dale', written over a horizontal line.

Colleen M. Dale
Secretary

(S E A L)

Davis, Chm., Murray, Clayton and Appling, CC., concur
Gaw, C., dissents

Woodruff, Senior Regulatory Law Judge