

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

Staff of the Public Service Commission of the )  
State of Missouri, )  
 )  
Complainant, )  
 )  
v. )  
 )  
Cass County Telephone Company Limited )  
Partnership and Local Exchange Company LLC, )  
 )  
Respondents. )

Case No. TC-2005-0357

**STAFF'S RESPONSE TO CASS COUNTY TELEPHONE COMPANY'S  
REQUEST FOR MEDIATION AND MOTION FOR EXPEDITED  
TREATMENT**

**COMES NOW** the Staff of the Missouri Public Service Commission (Staff) by and through Counsel and respectfully submits as follows:

1. On April 8, 2005, Staff filed a four count complaint against Cass County Telephone Company Limited Partnership (CassTel) and Local Exchange Company, LLC (LEC) before the Missouri Public Service Commission (Commission).

2. On April 12, 2005, the Commission issued its Notice of Complaint. The Notice informed CassTel and LEC that they have 30 days to file an answer or to file notice that the complaint has been satisfied pursuant to Commission Rule 4 CSR 240-2.070.

3. The Notice also provided CassTel and LEC with the option of requesting mediation. The Notice provided as follows:

...In the alternative, the Respondents may file a written request that the complaint be referred to a neutral third-party mediator for voluntary mediation of the complaint. Upon receipt of a request for mediation, the 30-day time period shall be tolled while the Commission ascertains whether the Complainant is also willing to submit to voluntary mediation. If the Complainant agrees to mediation,

the time period within which an answer is due shall be suspended pending the resolution of the mediation process. Additional information regarding the mediation process is enclosed.

4. On April 25, 2005 CassTel filed its Entry of Appearance and Request for Mediation (Request). In this Request, CassTel requested mediation.

**REASONS WHY STAFF IS NOT WILLING TO ENGAGE IN VOLUNTARY  
MEDIATION**

5. Staff does not agree to voluntary mediation because the subject matter of the Complaint requires CassTel to confront the consequences of the criminal activities that it committed via the actions of Kenneth Matzdorff. Such matters are not appropriate matters for voluntary mediation because the resolution of this case requires a prompt determination of whether CassTel violated the law and should pay monetary penalties. This is strongly supported by the substance of the allegations. The basis for the allegations is the guilty pleas of Kenneth Matzdorff setting forth the graphic details of his crimes to defraud the Universal Service Fund and other entities utilizing the offices and facilities of CassTel.

6. A review of the allegations buttresses this conclusion. Count I of the Complaint seeks penalties against CassTel for Kenneth M. Matzdorff admitting he violated “other law” pursuant to section 386.570 RSMo. by his guilty pleas to federal charges of conspiracy to commit mail fraud and wire fraud in Federal District Court by using CassTel facilities and offices to carry out his crimes. Count II of the Complaint seeks penalties against CassTel for Kenneth M. Matzdorff having willfully made false or willfully falsifying entries on the books, books of account, records or memoranda of CassTel. Count III of the Complaint seeks penalties against CassTel for violation of Commission Rule 4 CSR 240-30.040 for CassTel’s failure to keep its accounts in accordance with the Uniform System of Accounts prescribed by the Federal

Communications Commission. Count IV of the Complaint seeks penalties against CassTel for Kenneth M. Matzdorff having made false statements to the Commission.

7. Just as mediation is not appropriate for use in criminal cases since the issue of guilt must be determined as a matter of law, it is not appropriate herein since the issue of the culpability of CassTel and LEC must be determined herein as a matter of law. Staff suggests that delay does not serve the interests of anyone who truly wants to have this matter determined on the merits.

8. Furthermore, CassTel did not state any reason why mediation is appropriate. This is because there is no logical reason other than delay. Pursuant to Commission Rule 4 CSR 240-2.080(16), Staff requests that the Commission issue, on an expedited basis, an Order denying mediation in this case. Staff asks that the Commission immediately order CassTel to answer the complaint within 30 days of the Notice plus the number of days tolled by its filing.

9. Staff seeks an Order of the Commission by April 29, 2005 denying mediation in this case since Staff does not consent to voluntary mediation. A prompt ruling will avoid the inappropriate delay caused by the use of voluntary mediation in this case. Voluntary mediation is not an appropriate tool in this case for the reasons set out herein. This pleading was filed as soon as could be done in that it is being filed within 1 day of CassTel's request for voluntary mediation.

**WHEREFORE**, the Staff requests that the Commission:

(a) Issue an Order granting Staff's Motion for Expedited Treatment, and

- (b) Issue an Order directing CassTel to promptly file an answer to this Complaint no later than 30 days after the date of the Commission's Notice plus the number of days tolled by the company's filing.

Respectfully submitted,

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/s/ Robert Franson

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## **Certificate of Service**

I hereby certify that copies of the foregoing have been mailed, hand-delivered, transmitted by facsimile or emailed to all counsel of record this 26<sup>th</sup> day of April 2005.

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