

BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI

Staff of the Public Service Commission)
of the State of Missouri,)

Complainant,)

v.)

Case No. TC-2007-0413

Time Warner Cable Information)
Services (Missouri), LLC,)

Respondent.)

ORDER ADOPTING PROPOSED PROCEDURAL SCHEDULE AND
SETTING SECOND PREHEARING CONFERENCE

Issue Date: July 12, 2007

Effective Date: July 12, 2007

The Staff of the Missouri Public Service Commission (“Staff”) filed a complaint against Time Warner Cable Information Services (Missouri), LLC, d/b/a Time Warner Cable (“TWC”) on April 23, 2007. According to the complaint, even though Staff had previously sent TWC two letters concerning the issue and received assurances that the reports would be filed, TWC failed to file a series of quarterly Quality of Service Reports in violation of Commission Rule 4 CSR 240-3.550(5), which requires each company providing basic local telecommunications service to file such reports with the Commission “no later than forty-five (45) days following the end of each quarter.” Staff further sought authorization to bring a penalty action against TWC in circuit court to recover “the maximum statutory forfeiture allowed by section 386.570 RSMo. for each separate, distinct, and continuing violation.”

On April 25, 2007, the Commission notified TWC of the complaint and allowed it thirty days in which to answer as provided by 4 CSR 240-2.070(7). TWC filed its answer on May 25, 2007, in which it admitted that it had not filed the reports for certain quarters as required by Commission order but denied that the Internet Protocol-based services it provides its customers constitute basic local exchange telecommunications service. Nevertheless, by way of affirmative defense, TWC certified that it would “file quality of service reports for the fourth quarter of 2006, the first quarter of 2007, and every quarter thereafter in accordance with Commission rules.” TWC also pledged to “file the fourth quarter 2006 and first quarter 2007 reports not later than June 15, 2007,” and asked that the Commission dismiss Staff’s complaint upon receipt of those reports.¹

By order dated May 30, 2007, the Commission set the case for a prehearing conference, which was held on June 18, 2007. In the same order, the parties were directed to jointly prepare and file a proposed procedural schedule by no later than July 9, 2007. On July 9, 2007, the parties filed a joint Motion to Adopt the Proposed Procedural Schedule they had prepared in accordance with the Commission’s order of May 30. In addition, the joint motion states that although the complaint currently remains unresolved, the parties “are in agreement that a satisfactory resolution can likely be reached in this matter before the case proceeds to hearing” and that a second prehearing conference “would be helpful in order to foster settlement.” The joint motion further indicates that even if no settlement is reached, the parties can use the conference to develop a list of issues and witnesses. Finally, the parties have agreed that they will not offer any prefiled testimony in this case should it proceed to an evidentiary hearing.

¹ As of July 12, 2007, no one has filed a pleading indicating whether or not TWC honored its pledge and met that deadline.

After carefully reviewing the joint motion, the Commission finds that it is meritorious and should be granted.

IT IS ORDERED THAT:

1. The parties shall appear at a second prehearing conference to be held on Monday, August 27, 2007, beginning at 10:00 a.m. The prehearing conference will be held in Room 305 at the Commission's offices in the Governor Office Building, 200 Madison Street, Jefferson City, Missouri, a building that meets the accessibility standards required by the Americans with Disabilities Act. Any person needing additional accommodations to participate in this prehearing conference should call the Public Service Commission's Hotline at 1-800-392-4211 or dial Relay Missouri at 711 prior to the conference.

2. Any party wishing to appear by telephone shall notify the Regulatory Law Judge by calling 573-751-7485 no later than August 20, 2007.

3. The following procedural schedule is hereby adopted:

List of Issues/Witnesses Due September 21, 2007

Evidentiary Hearing Conducted October 23, 2007

4. This order shall become effective on July 12, 2007.

(S E A L)

BY THE COMMISSION



Colleen M. Dale
Secretary

Benjamin H. Lane, Regulatory
Law Judge, by delegation of authority
under Section 386.240, RSMo 2000.

Dated at Jefferson City, Missouri,
on this 12th day of July, 2007.