

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

Staff of the Public Service Commission of the State of Missouri,)	
)	
Complainant,)	
)	
v.)	
)	
Cass County Telephone Company Limited Partnership,)	Case No. TC-2005-0357
)	
Respondent,)	
)	
and)	
)	
Local Exchange Company LLC,)	
)	
Respondent.)	

STAFF’S REPLY TO LOCAL EXCHANGE COMPANY’S MOTION TO DISMISS

COMES NOW the Staff of the Missouri Public Service Commission and for its reply states:

1. On April 8, 2005, the Staff filed a Complaint against Cass County Telephone Company Limited Partnership (CassTel) and Local Exchange Company LLC (LEC).

2. On May 13, 2005, LEC filed a motion requesting the Commission to dismiss LEC from this case. LEC claims that the Commission does not have jurisdiction over LEC and that the Staff does not seek any relief against LEC nor allege that LEC is responsible for any of the alleged violations.

3. First, the Staff reiterates and incorporates all aspects of the Complaint. Second, the Staff disagrees with LEC’s claim because, as explained below, LEC is liable for any penalty incurred by CassTel.

4. CassTel is a public utility and telecommunications company subject to the Commission's jurisdiction. CassTel is a limited partnership. LEC is the general partner of CassTel. Absent the showing of an exception, LEC as the general partner of a limited partnership has the liabilities of a partner in a partnership without limited partners to persons other than the partnership and the other partners.¹ Absent, the showing of an exception, all partners in a partnership without limited partners are liable jointly and severally for all debts and obligations of the partnership.² The Staff is not aware of any applicable exceptions to these statutes.

5. Missouri Courts have ruled that the Commission can authorize a penalty action in court only after a contested hearing at the Commission.³

6. In conclusion, because LEC, the general partner of CassTel, is liable for any penalty assessed against CassTel in a subsequent court case, LEC is properly named as a respondent in this Commission case.

WHEREFORE, the Staff respectfully requests the Commission to deny LEC's motion to dismiss and to direct LEC to answer the Complaint.

¹ Section 359.251.2 RSMo 2000

² Section 358.150.1 RSMo Supp. 2004

³ *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).

Respectfully submitted,

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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 23rd day of May 2005.

/s/ William K. Haas

William K. Haas