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JEREMIAH W. (JAY) NIXON
ATTORNEY GENERAL

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January 30, 2006

FILED⁴

JAN 30 2006

The Honorable Cully Dale
Secretary/Chief Regulatory Law Judge
Public Service Commission
Governor's Office Building
Madison & E. Capitol
Jefferson City, MO 65101

Missouri Public
Service Commission

RE: *Public Service Commission Staff, Complainant v. Cass County Telephone Company,
Limited Partnership, Case No. TC-2005-0357*

Dear Judge Dale:

Enclosed for filing in the above-referenced case are the original and 8 copies of the State of Missouri's Sur-Reply to Casstel's Opposition to the State's Application to Intervene. Thank you for your attention to this matter.

Sincerely,

JEREMIAH W. (JAY) NIXON
Attorney General

Ronald Molteni
Assistant Attorney General

Enclosures

cc: All Parties on the Service List

BEFORE THE PUBLIC SERVICE COMMISSION
STATE OF MISSOURI

FILED⁴

JAN 30 2006

Staff of the Public Service Commission)

Complainant,)

v.)

Cass County Telephone Company,)
Limited Partnership,)

Respondent,)

**Missouri Public
Service Commission**

Case No. TC-2005-0357

STATE OF MISSOURI'S
SUR-REPLY TO CASSTEL'S OPPOSITION TO
THE STATE'S
APPLICATION TO INTERVENE

The State does not want to jeopardize the proposed fine. Rather, the State hopes to encourage the parties to improve the settlement document in ways that reduce its vulnerability to misunderstanding and effective enforcement and to explicitly state its terms, some of which currently appear to need a lot of explanation. This is a settlement with a company that has a history of deceiving this Commission and other agencies. In fact, at its heart, that is what this very case is about. Those misrepresentations occurred notwithstanding the diligent work of the Commission Staff and the absolutely unimpeachable character of the Company's quality counsel. The State makes no bones

about it, the State has public policy arguments to make. But its standing rests on the bases identified in its application.

In response to Casstel's opposition the State of Missouri attaches Exhibit 1 (4 pages) to this sur-reply. It is a printout from the SAM II. It demonstrates that in FY2005, Casstel billed the State \$15,861.30. Those billings were for service not only to the Department of Conservation, but also to the Department of Revenue and the Department of Agriculture. The Attorney General most certainly represents both those agencies. The undersigned in particular has represented the Department of Revenue. The State of Missouri also responds to the PSC Staff's suggestions opposing the State's intervention.

The PSC Staff says the State of Missouri should not be allowed to intervene because it would jeopardize the negotiated fine of \$1M. (See ¶'s 1 and 7-10 of the Staff's Response in opposition to the State of Missouri's application to intervene.) That is not a standing argument.

Secondly, the discussion in ¶2 of the Staff's Response about what has transpired since the January 11, 2005 on-the-record hearing is irrelevant to standing.

Third, the argument that the fine will not be collected in rates is not a standing argument, neither are the other items raised in ¶3 of the Staff's response. Those are explanations of terms of the proposed stipulation. That is also true about rest of the Staff's discussion in ¶3 and ¶ 17 of its response .

Losing the proposed settlement, Staff's concern in ¶ 4 of its response, is also not a standing argument or a reason to deny intervention.

Next, ¶ 5 implies standing should be denied because "the Attorney General did not appear to meet with the parties' representatives on January 23, 2006, to discuss his concerns and explore options to resolve them."¹ Declining the invitation to talk settlement with the PSC Staff, OPC and Casstel does not speak to standing, and it is not an basis to deny intervention. But, the fact that the PSC Staff invited the State of Missouri to a settlement conference suggests that the Staff really believes that the State has standing.² And, that would be consistent with the history of the State's intervening and appearing before this Commission, even beyond the time set for intervention by the Commission's scheduling orders, occasionally at the very request of the Staff in cases such as *In the Matter of the Application of Southern Union Company d/b/a*

¹ Notwithstanding the way ¶ 5 is worded, the State presumes there was no intention by the Staff to suggest that the undersigned was expected to appear but simply did not show up for the January 23, 2006 meeting. What actually transpired was that on Friday afternoon, January 20, 2006, Mr. Haas left voice-mail for the undersigned stating that there would be a meeting on January 23rd at 2:00 p.m. When the undersigned spoke with Mr. Haas, he asked who would be at the meeting and what the purpose of the meeting would be. Mr. Haas responded that it would be with all the parties, including Casstel to talk "settlement". For reasons expressed to Mr. Haas and irrelevant to standing, the undersigned declined the invitation.

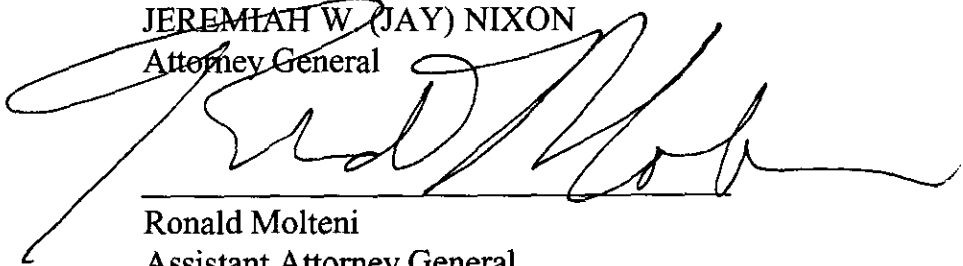
²It would be illogical to invite someone without standing to a settlement conference.

Missouri Gas Energy for Authority to Acquire Directly or Indirectly Up to and including One Hundred Percent (100%) of the Equity Interests of Panhandle Eastern Pipeline Company, Including its Subsidiaries, and Take All Other Actions Reasonably Necessary to Effectuate Said Transaction, Case no. GM-2003-0238 and *Staff of the Public Service Commission v. Union Electric Company, d/b/a AmerenUE*, Case No. EC-2002-1. On other occasions, the Commission has ordered the State to be a party past the intervention deadline and without even the filing of an application to intervene; eg. *In the Matter of the Small Company Rate Increase Request of Mill Creek Sewers, Inc.*; Case No. SR-2005-0116 Tariff No. YS-2005-0330. It has done so for the very basic reason that the State does have standing that is broad and unique and varied from the other parties in this case and others. All of which belies the Staff's arguments in ¶'s 15, 16, 18 and the rest of the Staff's response.

WHEREFORE, the State of Missouri respectfully reiterates its request that the Commission grant its application to intervene.

Respectfully submitted,

JEREMIAH W. (JAY) NIXON
Attorney General

A large, stylized handwritten signature in black ink, likely belonging to Ronald Molteni, is written over the printed name and title of Jeremiah W. (Jay) Nixon.

Ronald Molteni
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Missouri Bar No. 40946

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Attorneys for State of Missouri


CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing was mailed, postage prepaid, or hand-delivered, this 30th day of January, 2006, to the parties listed below and those on the attached list:

Michael Dandino
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P.O. Box 7800
Jefferson City, Missouri 65102

Robert Franson
Bill Haas
Nathan Williams
Missouri Public Service Commission
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Paul Boudreau
Brydon, Swearingen & England, P.C.
312 E. Capitol Avenue
P.O. Box 456
Jefferson City, Missouri 65102


Assistant Attorney General

Vendor (1 of 3)

Vendor: 4317272210 0
Vendor Type: VG Misc Vendor Indicator: N Last Action Date: 01 / 30 / 06

General Information

Payment Information

Payment Hold Indicator	Processes as Normal	Scheduled Payment Day	
EFT Status	Vendor not Considered	Application Type	
Calendar YTD Amount	69.99	Prior Calendar Year Amount	5,582.59
Fiscal Year YTD Amount	184.61	Prior Fiscal Year Amount	15,861.30

EXHIBIT

/

Vendor (1 of 3)

Vendor: 4317272210 0

Vendor Type: VG Misc Vendor Indicator: N

Last Action Date: 01 / 30 / 06

General Information

Payment Information

Vendor Address

Alternate Address

Name: CASS COUNTY TELEPHONE

Address: 260 W 1ST STREET

PO BOX 398

City: PECULIAR State: MO

Zip: 64078

16006143

MATCH

Customer Account:

Contact:

A/R Contact:

Vendor Phone: 816-779-5510

Comment:

☐ Single Check Requested

FISC YE	EXPENDED AMT	VEND CUST NAME	DOC DESC INV NUI	OBJECT	AGENCY	VEND CUST QVEN
2005	\$22.78	CASS COUNTY TELEPHONE	8626488/06	2403	400	4317272210 0
2005	\$22.79	CASS COUNTY TELEPHONE	8626488/07	2403	400	4317272210 0
2005	\$22.79	CASS COUNTY TELEPHONE	8626488/10	2403	400	4317272210 0
2005	\$22.79	CASS COUNTY TELEPHONE	8626488/11	2403	400	4317272210 0
2005	\$22.79	CASS COUNTY TELEPHONE	8626488/12	2403	400	4317272210 0
2005	\$22.91	CASS COUNTY TELEPHONE	8626488/01	2403	400	4317272210 0
2005	\$22.91	CASS COUNTY TELEPHONE	8626488/02	2403	400	4317272210 0
2005	\$22.91	CASS COUNTY TELEPHONE	8626488/03	2403	400	4317272210 0
2005	\$22.93	CASS COUNTY TELEPHONE	8626488/04	2403	400	4317272210 0
2005	\$22.96	CASS COUNTY TELEPHONE	8626488/05	2403	400	4317272210 0
2005	\$27.28	CASS COUNTY TELEPHONE	DEC/16/2004	2403	350	4317272210 0
2005	\$27.28	CASS COUNTY TELEPHONE	9/16/2004	2403	350	4317272210 0
2005	\$27.57	CASS COUNTY TELEPHONE	499263303	2403	350	4317272210 0
2005	\$27.58	CASS COUNTY TELEPHONE	JAN/16/2005	2403	350	4317272210 0
2005	\$27.77	CASS COUNTY TELEPHONE	499-2633 J04	2403	350	4317272210 0
2005	\$28.26	CASS COUNTY TELEPHONE	NOV/16/2004	2403	350	4317272210 0
2005	\$29.08	CASS COUNTY TELEPHONE	10/16/04	2403	350	4317272210 0
2005	\$29.12	CASS COUNTY TELEPHONE	499263304	2403	350	4317272210 0
2005	\$31.99	CASS COUNTY TELEPHONE	499-2633 A04	2403	350	4317272210 0
2005	\$33.85	CASS COUNTY TELEPHONE	499263302	2403	350	4317272210 0
2005	\$216.65	CASS COUNTY TELEPHONE	8626488/09	2403	400	4317272210 0
2005	\$326.52	CASS COUNTY TELEPHONE	8626488/08	2403	400	4317272210 0
2005	\$1,082.18	CASS COUNTY TELEPHONE	4705	2406	860	4317272210 0
2005	\$1,082.19	CASS COUNTY TELEPHONE	4804	2406	860	4317272210 0
2005	\$1,296.29	CASS COUNTY TELEPHONE	5116	2406	860	4317272210 0
2005	\$1,296.29	CASS COUNTY TELEPHONE	5235	2406	860	4317272210 0
2005	\$1,296.29	CASS COUNTY TELEPHONE	5363	2406	860	4317272210 0
2005	\$1,296.29	CASS COUNTY TELEPHONE	5488	2406	860	4317272210 0
2005	\$1,296.29	CASS COUNTY TELEPHONE	5611	2406	860	4317272210 0
2005	\$1,296.29	CASS COUNTY TELEPHONE	5740	2406	860	4317272210 0
2005	\$1,296.29	CASS COUNTY TELEPHONE	5868	2406	860	4317272210 0
2005	\$1,755.70	CASS COUNTY TELEPHONE	0005005	2406	860	4317272210 0
2005	\$1,805.69	CASS COUNTY TELEPHONE	4899	2406	860	4317272210 0

499-2633 12/16/04
499-2633 - 09/16/2004
499-2366 MAR 2005
499-2633
499-2633 7/16/04
499-2633 11/16 - 12/15
499-2633 10/16/04
499-2633 04/2005
499-2633 8/16/04
499-2633 02/04
816-779-5510 7/1/04
816-779-5510 8/1/04
816-779-5510 11/1/04
816-779-5510 12/1/04
816-779-5510 1/1/05
816-779-5510 2/1/05
816-779-5510 3/1/05
816-779-5510 4/1/05
816-779-5510 5/1/05
LINE CHARGES
816-779-5510 9/1/04