

PUBLIC SERVICE COMMISSION
P O BOX 360
JEFFERSON CITY MO 65102

MO 419-1183 (12-91)

FILED

APR 19 2007

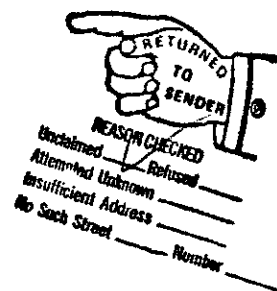
Missouri Public
Service Commission

CERTIFIED MAIL™



7005 0390 0003 2886 3220

3-24-7
4-2-07
4-8



Legal Department
Davidson Telecom, LLC
P.O. Box 2342
Davidson, NC 28936

- ☐ A ☐ INSUFFICIENT ADDRESS
☐ C ☐ ATTEMPTED NOT KNOWN
☐ S ☐ NO SUCH NUMBER/ STREET
☐ NOT DELIVERABLE AS ADDRESSED
- UNABLE TO FORWARD

☒ OTHER

RTS
RETURN TO SENDER

PLACE STICKER AT TOP OF ENVELOPE TO THE RIGHT
OF THE RETURN ADDRESS. FOLD AT DOTTED LINE

TC-2007-0342 3/21	
SENDER: COMPLETE THIS SECTION	COMPLETE THIS SECTION ON DELIVERY
<ul style="list-style-type: none">■ Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.■ Print your name and address on the reverse so that we can return the card to you.■ Attach this card to the back of the mailpiece, or on the front if space permits.	A. Signature X <input type="checkbox"/> Agent <input type="checkbox"/> Addressee
1. Article Addressed to: Legal Department Davidson Telecom, LLC P.O. Box 2342 Davidson, NC 28936	B. Received by (Printed Name) C. Date of Delivery
	D. Is delivery address different from item 1? <input type="checkbox"/> Yes If YES, enter delivery address below: <input type="checkbox"/> No
	3. Service Type <input checked="" type="checkbox"/> Certified Mail <input type="checkbox"/> Express Mail <input type="checkbox"/> Registered <input type="checkbox"/> Return Receipt for Merchandise <input type="checkbox"/> Insured Mail <input type="checkbox"/> C.O.D.
2. Article Number (Transfer from service label)	4. Restricted Delivery? (Extra Fee) <input type="checkbox"/> Yes
7005 0390 0003 2886 3220	
PS Form 3811, February 2004 Domestic Return Receipt 102595-02-M-1540	

BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI

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

Complainant,

v.

Davidson Telecom, LLC,

Respondent.

Case No. TC-2007-0342

ORDER AND NOTICE OF COMPLAINT

Issue Date: March 21, 2007

Effective Date: March 21, 2007

Legal Department
Davidson Telecom, LLC
P.O. Box 2342
Davidson, North Carolina 28936

CERTIFIED MAIL

and

Davidson Telecom, LLC
CSC-Lawyers Incorporating Service Company
221 Bolivar Street
Jefferson City, Missouri 65101

CERTIFIED MAIL

On March 20, 2007, the Staff of the Missouri Public Service Commission filed a complaint with the Missouri Public Service Commission against Davidson Telecom, LLC; a copy of which is enclosed. Pursuant to 4 CSR 240-2.070, Respondent Davidson Telecom shall have 30 days from the date of this notice to file an answer or to file notice that the complaint has been satisfied.

All pleadings (the answer or notice of satisfaction of complaint) shall be mailed to:

Secretary of the Public Service Commission
P.O. Box 360
Jefferson City, Missouri 65102-0360

A copy shall be served upon the Complainant at the Complainant's address as listed within the enclosed complaint. A copy of this notice has been mailed to the Complainant.

IT IS ORDERED THAT:

1. Davidson Telecom, LLC shall, no later than April 20, 2007, file a response to this complaint.
2. This order shall become effective on March 21, 2007.

BY THE COMMISSION



Colleen M. Dale
Secretary

(S E A L)

Kennard L. Jones, Senior Regulatory
Law Judge, by delegation of authority
pursuant to Section 386.240, RSMo 2000.

Dated at Jefferson City, Missouri,
on this 21st day of March, 2007.



Commissioners

JEFF DAVIS
Chairman

CONNIE MURRAY

STEVE GAW

ROBERT M. CLAYTON III

LINWARD "LIN" APPLING

Missouri Public Service Commission

POST OFFICE BOX 360
JEFFERSON CITY MISSOURI 65102
573-751-3234
573-751-1847 (Fax Number)
<http://www.psc.mo.gov>

WESS A. HENDERSON
Executive Director

DANA K. JOYCE
Director, Administration and
Regulatory Policy

ROBERT SCHALLENBERG
Director, Utility Services

WARREN WOOD
Director, Utility Operations

COLLEEN M. DALE
Secretary/Chief Regulatory Law Judge

KEVIN A. THOMPSON
General Counsel

Information Sheet Regarding Mediation of Commission Formal Complaint Cases

Mediation is a process whereby the parties themselves work to resolve their dispute with the aid of a neutral third-party mediator. This process is sometimes referred to as "facilitated negotiation." The mediator's role is advisory and although the mediator may offer suggestions, the mediator has no authority to impose a solution nor will the mediator determine who "wins." Instead, the mediator simply works with both parties to facilitate communications and to attempt to enable the parties to reach an agreement which is mutually agreeable to both the complainant and the respondent.

The mediation process is explicitly a problem-solving one in which neither the parties nor the mediator are bound by the usual constraints such as the rules of evidence or the other formal procedures required in hearings before the Missouri Public Service Commission. Although many private mediators charge as much as \$250 per hour, the University of Missouri-Columbia School of Law has agreed to provide this service to parties who have formal complaints pending before the Public Service Commission at no charge. Not only is the service provided free of charge, but mediation is also less expensive than the formal complaint process because the assistance of an attorney is not necessary for mediation. In fact, the parties are encouraged not to bring an attorney to the mediation meeting.

The formal complaint process before the Commission invariably results in a determination by which there is a "winner" and a "loser" although the value of winning may well be offset by the cost of attorneys fees and the delays of protracted litigation. Mediation is not only a much quicker process but it also offers the unique opportunity for informal, direct communication between the two parties to the complaint and mediation is far more likely to result in a settlement which, because it was mutually agreed to, pleases both parties. This is traditionally referred to as "win-win" agreement.

The traditional mediator's role is to (1) help the participants understand the mediation process, (2) facilitate their ability to speak directly to each other, (3) maintain order, (4) clarify misunderstandings, (5) assist in identifying issues, (6) diffuse unrealistic expectations, (7) assist in translating one participant's perspective or proposal into a form that is more understandable and acceptable to the other participant, (8) assist the participants with the actual negotiation process, (9) occasionally a mediator may propose a possible solution, and (10) on rare occasions a mediator may encourage a participant to accept a particular solution. The mediator will not possess any specialized knowledge of the utility industry or of utility law.

In order for the Commission to refer a complaint case to mediation, the parties must both agree to mediate their conflict in good faith. The party filing the complaint must agree to appear and to make a good faith effort to mediate and the utility company against which the complaint has been filed must send a representative who has full authority to settle the complaint case. The essence of mediation stems from the fact that the participants are both genuinely interested in resolving the complaint.

Because mediation thrives in an atmosphere of free and open discussion, all settlement offers and other information which is revealed during mediation is shielded against subsequent disclosure in front of the Missouri Public Service Commission and is considered to be privileged information. The only information which must be disclosed to the Public Service Commission is (a) whether the case has been settled and (b) whether, irrespective of the outcome, the mediation effort was considered to be a worthwhile endeavor. The Commission will not ask what took place during the mediation.

If the dispute is settled at the mediation, the Commission will require a signed release from the complainant in order for the Commission to dismiss the formal complaint case.

If the dispute is not resolved through the mediation process, neither party will be prejudiced for having taken part in the mediation and, at that point, the formal complaint case will simply resume its normal course.



Colleen M. Dale
Secretary of the Commission

**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-_____
)	
Davidson Telecom, LLC,)	
)	
Respondent.)	

**STAFF'S COMPLAINT AGAINST
DAVIDSON TELECOM, LLC**

COMES NOW the Staff of the Missouri Public Service Commission (Staff), pursuant to section 386.390.1 RSMo. 2000 and Commission Rule 4 CSR 240-2.070 and for its complaint against Davidson Telecom, LLC (Davidson), states:

1. Section 386.390.1 RSMo. provides that a “[c]omplaint may be made by the commission of its own motion, ... or by...any...person...by petition or complaint in writing, setting forth any act or thing done or omitted to be done by any corporation, person or public utility..., in violation, or claimed to be in violation, of any provision of law, or of any rule or order or decision of the commission [.]”

2. Commission Rule 4 CSR 240-2.070(1) provides that the “commission staff through the general counsel” may file a complaint.

3. Davidson Telecom, LLC, is a telecommunications company certificated in Missouri by the Missouri Public Service Commission in certificate case No. CA-2003-0308, and is a telecommunications company as defined by section 386.020 (51) RSMo. Supp. 2005.

4. Davidson’s business address is P.O. Box 2342, Davidson, North Carolina, 28036.

5. The registered agent for Davidson is CSC-Lawyers Incorporating Service Company, 221 Bolivar Street, Jefferson City, Missouri, 65101.

6. Davidson is offering and providing basic local exchange telecommunications service in Missouri, in the exchanges serviced by Southwestern Bell Telephone Company, Sprint, Spectra and Verizon.

7. Commission Rule 4 CSR 240-3.550(5), requires that each company which provides basic local telecommunications service is required to "file with the commission no later than forty-five days following the end of each quarter a report, referred to as the quarterly report [or Quarterly Quality of Service Report], of the quality of the telephone service provided to its customers."

8. Davidson has not filed Quarterly Quality of Service Reports in compliance with 4 CSR 240-3.550(5).

9. After numerous conversations attempting to resolve the dispute, Staff sent a letter, dated March 5, 2007, demanding that Davidson submit their Quarterly Quality of Service Reports in compliance with 4 CSR 240-3.550(5). To this date, Davidson has not responded.

10. Section 386.570(1) RSMo. provides:

Any corporation, person or public utility which violates or fails to comply with any provision of the constitution of this state or of this or any other law, or which fails, omits or neglects to obey, observe or comply with any order, decision, decree, rule, direction, demand or requirement, or any part or provision thereof, of the commission in a case in which a penalty has not herein been provided for such corporation, person or public utility, is subject to a penalty of not less than one hundred dollars nor more than two thousand dollars for each offense.

11. Section 386.570(2) RSMo. provides:

Every violation of the provisions of this or any other law or of any order, decision, decree, rule, direction, demand or requirement of the commission, or any part or portion thereof, by any corporation or person or public utility is a separate and distinct offense, and in case of a continuing violation each day's continuance thereof shall be and be deemed to be a separate and distinct offense.

12. Section 386.600 RSMo. provides:

An action to recover a penalty or a forfeiture under this chapter or to enforce the powers of the commission under this or any other law may be brought in any circuit court in this state in the name of the state of Missouri and shall be commenced and prosecuted to final judgment by the general counsel to the commission. No filing or docket fee shall be required of the general counsel. In any such action all penalties and forfeitures incurred up to the time of commencing the same may be sued for and recovered therein, and the commencement of an action to recover a penalty or forfeiture shall not be, or be held to be, a waiver of the right to recover any other penalty or forfeiture; if the defendant in such action shall prove that during any portion of the time for which it is sought to recover penalties or forfeitures for a violation of an order or decision of the commission the defendant was actually and in good faith prosecuting a suit to review such order or decision in the manner as provided in this chapter, the court shall remit the penalties or forfeitures incurred during the pendency of such proceeding. All moneys recovered as a penalty or forfeiture shall be paid to the public school fund of the state. Any such action may be compromised or discontinued on application of the commission upon such terms as the court shall approve and order.

13. The Missouri courts have imposed a duty upon the Public Service Commission to first determine matters within its jurisdiction before proceeding to those courts. As a result, "[t]he courts have ruled that the [Commission] cannot act only on the information of its staff to authorize the filing of a penalty action in circuit court; it can authorize a penalty action only after a contested hearing." *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).

WHEREFORE, the Staff requests that the Commission:

- a) find that Davidson Telecom, LLC has failed to file Quarterly Quality of Service Reports pursuant to Commission Rule 4 CSR 240-3.550(5) for every quarter applicable, and
- b) authorize the General Counsel of the Commission to bring an action in Circuit Court to recover from Davidson Telecom, LLC, the maximum statutory forfeiture allowed by section 386.570 RSMo. for each separate, distinct, and continuing violation.

Respectfully submitted,

/s/ Jennifer Heintz

Jennifer Heintz
Assistant General Counsel
Missouri Bar No. 57128

/s/ Blane Baker

Blane Baker
Legal Counsel
Missouri Bar No. 58454

Attorney for the Staff of the
Missouri Public Service Commission
P. O. Box 360
Jefferson City, MO 65102
(573) 751-5472 (Telephone)
(573) 751-9285 (Fax)
jennifer.heintz@psc.mo.gov
blane.baker@psc.mo.gov

STATE OF MISSOURI

OFFICE OF THE PUBLIC SERVICE COMMISSION

**I have compared the preceding copy with the original on file in this office and
I do hereby certify the same to be a true copy therefrom and the whole thereof.**

**WITNESS my hand and seal of the Public Service Commission, at Jefferson City,
Missouri, this 21st of March, 2007.**



**Colleen M. Dale
Secretary**

MISSOURI PUBLIC SERVICE COMMISSION

March 21, 2007

Case No. TC-2007-0342

General Counsel's Office
P.O. Box 360
200 Madison Street, Suite 800
Jefferson City, MO 65102

Lewis R. Mills, Jr.
P.O. Box 2230
200 Madison Street, Suite 650
Jefferson City, MO 65102

Davidson Telecom, LLC
Legal Department
P.O. Box 2342
Davidson, NC 28036

Davidson Telecom, LLC
CSC Lawyers Incorporating Service Co
221 Bolívar Street
Jefferson City, MO 65101

Enclosed find a certified copy of an ORDER in the above-numbered case(s).

Sincerely,

A handwritten signature in black ink, appearing to read 'Colleen M. Dale', written over a faint, circular official stamp.

***Colleen M. Dale
Secretary***