

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

Duke Manufacturing Co.,
Complainant,

v.

McLeodUSA Telecommunications Services, Inc.,
Respondent

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Case No. TC-2008-0191

**OFFICE OF THE PUBLIC COUNSEL'S SUGGESTIONS IN SUPPORT OF
JOINDER OF AT&T MISSOURI AND CONSENT TO EXTENTION OF TIME
TO RESPOND BY DUKE MANUFACTURING**

The Office of the Public Counsel supports the joinder of AT&T Missouri in this complaint case. As the issues are framed in the complaint and in McLeod's Motion for Joinder and Reply, it appears that joinder is reasonable and appropriate given that AT&T Missouri is not only an interested party in the outcome of the complaint, but because of its role and effect on the provision of the telecommunications service underlying the complaint, it is a necessary party for a just adjudication. The outcome of this litigation between Complainant and Respondent appears to have a significant effect on the rights, obligations and operations of AT&T Missouri and the resolution of the dispute between the existing parties may not be capable of resolution without AT&T Missouri's joinder. Joiner under these circumstances is not just permissible, but is necessary for a just adjudication in that joinder would avoid subsequent action between Respondent and AT&T Missouri that may arise out of this case, promote the efficiency of the regulatory process, and promote the public interest.

Mo Rule of Civil Procedure 52.04. Joinder of Persons Needed for Just Adjudication

(a) Persons to Be Joined if Feasible. A person shall be joined in the action if: (1) in the person's absence complete relief cannot be accorded among those already parties, or (2) the person claims an interest relating to the subject of the action and is so situated that the disposition of the action in the person's absence may: (i) as a practical matter impair or impede the person's ability to protect that interest or (ii) leave any of the persons already parties subject to a substantial risk of incurring double, multiple, or otherwise inconsistent obligations by reason of the claimed interest. If the person has not been joined, the court shall order that the person be made a party. If the person should join as a plaintiff but refuses to do so, the person may be made a defendant.]

See also, PSC rule 4 CSR 240-2.075 *Intervention* relating to the grounds that would permit intervention of a party:

(4) The commission may on application permit any person to intervene on a showing that—

- (A) The proposed intervenor has an interest which is different from that of the general public and which may be adversely affected by a final order arising from the case; or
- (B) Granting the proposed intervention would serve the public interest.

Public Counsel also states that it has no objection and consents to the extension of time requested by Duke Manufacturing Co.

Respectfully submitted,

OFFICE OF THE PUBLIC COUNSEL

BY: /s/ Michael F. Dandino

Michael F. Dandino (24590)

Deputy Public Counsel

P.O. Box 2230

Jefferson City, MO 65102

(573) 751-4857

(573) 751-5559

Fax (573) 751-5562

email: mike.dandino@ded.mo.gov

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing was mailed, emailed and/or hand delivered this 22nd day of February 2008 to the following attorneys of record:

General Counsel Office
Missouri Public Service
Commission
200 Madison Street, Suite 800
P.O. Box 360
Jefferson City, MO 65102
GenCounsel@psc.mo.gov

Gryzmala Robert
Southwestern Bell Telephone
Company
One AT&T Center, Room 3516
St. Louis, MO 63101
Robert.gryzmala@att.com

Haas William
Missouri Public Service
Commission
200 Madison Street, Suite 800
P.O. Box 360
Jefferson City, MO 65102
William.Haas@psc.mo.gov

Vuylsteke M Diana
Duke Manufacturing Company
211 N. Broadway, Suite 3600
St. Louis, MO 63102
dmvuylsteke@bryancave.com

Haas William
McLeodUSA
Telecommunications Services,
Inc.
1 Marthas Way
P.O. Box 3177
Hiawatha, IA 52233
whaas@mcleodusa.com

Young Mary Ann
McLeodUSA
Telecommunications Services,
Inc.
2031 Tower Drive
P.O. Box 104595
Jefferson City, MO 65110-4595
myoung@wdspsc.com

Steinmeier D William
McLeodUSA
Telecommunications Services,
Inc.
2031 Tower Drive
P.O. Box 104595
Jefferson City, MO 65110-4595
wds@wdspsc.com

/s/ Michael F. Dandino
