



**Tel-Central of Jefferson City, Missouri, Inc., Petitioner v. Federal Communications
Commission and United States of America, Respondents**

No. 90-1030

**UNITED STATES COURT OF APPEALS FOR THE DISTRICT OF COLUMBIA
CIRCUIT**

920 F.2d 1039; 1990 U.S. App. LEXIS 22394

December 19, 1990, Filed

NOTICE: [*1] UNPUBLISHED DISPOSITION - NOT TO BE CITED AS PRECEDENT. SEE LOCAL RULE 11(c).

PRIOR HISTORY: Petition for Review of an Order of the Federal Communications Commission.

JUDGES: Mikva, Edwards and D.H. Ginsburg, Circuit Judges.

OPINION BY: PER CURIAM

OPINION

JUDGMENT

This cause came to be heard on the petition for review of an order of the Federal Communications Commission, and was briefed and argued by counsel. The court has determined that the issues presented occasion no need for a published opinion. See *D.C. Cir. R. 14(c)*. For the reasons stated in the accompanying memorandum, it is

ORDERED and ADJUDGED, by the court, that the petition for review be denied.

The Clerk is directed to withhold issuance of the mandate until seven days after disposition of any timely petition for rehearing. See *D.C. Cir. R. 15*.

MEMORANDUM

The grounds asserted by the petitioner, Tel-Central of Jefferson City, Missouri ("Tel-Central"), for review of the order issued by the Federal Communications Commission ("FCC") are without merit. First, there is nothing to support Tel-Central's claims that the FCC ignored any of its evidence concerning the billing dispute at the core of this action. Rather, it appears that the FCC fully considered [*2] all of Tel-Central's evidence and simply found it unpersuasive. Tel-Central had been offered all information that might be needed to substantiate the usage giving rise to the disputed charges and claimed to have the same information independently. Despite this access, the petitioner failed to come forward with any clear evidence that it actually paid for the usage listed in the disputed bills.

Second, the FCC reasonably construed the relevant tariff to find that United Telephone Company of Missouri was an "other participating carrier" and was authorized to disconnect Tel-Central's lines for nonpayment of charges. Cf. *Diamond Int'l Corp. v. FCC*, 627 F.2d 489, 492 (*D.C. Cir. 1980*) (per curiam) (FCC's reasonable construction of tariff entitled to deference). Tel-Central was given adequate notice prior to the disconnection.

Finally, the agency acted well within its discretion in denying Tel-Central's requests for a full evidentiary hearing. Cf. *Gencom, Inc. v. FCC*, 832 F.2d 171, 181 (*D.C. Cir. 1987*) (FCC enjoys broad discretion in determining when an evidentiary hearing is required).