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July 26, 2002

Secretary of Public Service Commission  
Missouri Public Service Commission  
P. O. Box 360  
Jefferson City, MO 65102

**FILED**<sup>4</sup>  
JUL 26 2002

**Re: Case No. TC-2002-194**

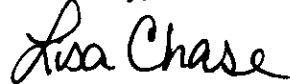
Missouri Public  
Service Commission

Gentlemen:

Enclosed please find an original and eight (8) copies of Petitioners' Notice of Dismissal.

Thank you for seeing this filed.

Sincerely,



Lisa Cole Chase

LCC:tr  
Enc.

cc: MITG Managers  
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**BEFORE THE PUBLIC SERVICE COMMISSION  
STATE OF MISSOURI**

**FILED<sup>4</sup>**  
JUL 26 2002  
Missouri Public  
Service Commission

Alma Telephone Company, Chariton )  
Valley Telecommunications Corp., )  
Choctaw Telephone Company, Mid- )  
Missouri Telephone Company, Modern )  
Telecommunications Company, MoKan )  
Dial, Inc., and Northeast Missouri Rural )  
Telephone Company, )

Petitioners, )

vs. )

Case No. TC-2002-194

Southwestern Bell Telephone Company, )  
Sprint Missouri Inc., )  
AT&T, )  
Birch Telecom of Missouri, Inc. , )  
e.spire Communications, Inc., )  
Global Crossing Local Services, Inc., )  
Ionex Communications, Inc., )  
Logix Communications Corp., )  
MCI WORLDCOM Communications )  
Inc. )  
McCleodUSA Telecommunication )  
Services Inc., )  
Mpower Communications Central Corp. )  
Navigator Telecommunications, LLC )  
NuVox Communications of Missouri, Inc. )  
Ominplex Communications Group, LLC, )  
Teligent, Inc. )

Respondents. )

**NOTICE OF DISMISSAL**

COME NOW Petitioners, Alma Telephone Company, Chariton Valley  
Telecommunications Corporation, Choctaw Telephone Company, Mid-Missouri Telephone  
Company, Modern Telecommunications Company, MoKan Dial, Inc., and Northeast Missouri

Rural Telephone Company ("Petitioners"), and hereby dismisses the claims pending in this proceeding without prejudice to the refiling thereof.

This dismissal is being filed for the following reasons:

1. SWBT began reporting CLEC traffic terminating to Petitioners. This traffic was being terminated in the absence of any approved agreements between Petitioners and any of the Respondents addressing this traffic. Petitioners brought this matter before the Commission to clarify the routing, reporting, and compensation rights and responsibilities of the Competitive Local Exchange Carriers ("CLECs"), intermediate interexchange carriers delivering the traffic to Petitioners, and the Petitioners themselves.

2. Petitioners brought this claim as soon as possible after receiving the traffic reports from SWBT. This was done in order to avoid repeat of a similar situation with respect to CMRS traffic. Petitioners have suffered the delivery of CMRS traffic without compensation since February 5, 1998, a period of 4 and ½ years.

3. At the time of initiating this proceeding, Petitioners assumed that, pursuant to the agreements between SWBT and Respondent CLECs, they had *agreed* to place this traffic on the FGC common access trunks between SWBT and Respondents. Through discussions held during and incident to mediation and prehearing conferences, it has come to Petitioners' attention that there is a *disagreement* between the CLEC companies and SWBT as to the propriety of SWBT's actions in placing the traffic on the FGC common access trunks. The CLECs take the position that this traffic is intended to be popped out to the IXC FGD dedicated trunk network, and SWBT is violating their agreement.

4. The information necessary to resolve or litigate this dispute has not been forthcoming despite the postponing the filing of a procedural schedule in order to develop this information. Not only has the information not been forthcoming, a collateral issue has arisen in which it has been questioned if the Petitioners are legitimately in possession of the reports that tell them the traffic is terminating. The CLECs accuse SWBT of violating the confidentiality terms of their agreement by sending the traffic reports to Petitioners which first informed Petitioners of the traffic itself.

5. Progress in this matter have also been hampered by the fact that some of the CLEC respondents have initiated bankruptcy proceedings. This has raised the issue of how a bankruptcy stay would affect any remedy requested in this proceeding. In light of the bankruptcy stay, Petitioners believe the issues herein may better be addressed in TO-99-593, where no financial remedy directly against a CLEC is sought, but instead where the Commission is seeking a generic establishment of responsibilities.

6. Due to the above, it has become apparent that this proceeding has been rendered incapable of resolving the issues with respect to traffic reporting, routing, and compensation responsibilities for the traffic in question in an efficient manner.

7. As the dispute underlying the issues is whether this traffic is properly being placed on the FGC common access trunk networks for routing, reporting, and compensation purposes, Petitioners are in hopes that TO-99-593 will address these issues. TO-99-593 is the docket pending to consider issues associated with the traffic SWBT and other former PTC IXC's are placing on the FGC common trunk network. Indeed the parties in TO-99-593, after the initiation of this complaint proceeding, have discussed and presented to Staff their positions with respect to the applicability of OBF Issue 2056 to the traffic in question.

**WHEREFORE**, Petitioners hereby dismiss their claims herein without prejudice to the refiling thereof, and without prejudice to pursuing the issues in TO-99-593.

**ANDERECK, EVANS, MILNE,  
PEACE & JOHNSON, L.L.C.**

By *Lisa Chase*  
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**ATTORNEYS FOR PETITIONERS**

**CERTIFICATE OF SERVICE**

The undersigned does hereby certify that a true and accurate copy of the foregoing was mailed, via U.S. Mail, postage prepaid, this 26<sup>th</sup> day of July, 2002, to all attorneys of record in this proceeding.

*Lisa Chase*  
Lisa Cole Chase MO Bar No. 51502