

BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI

In the Matter of the Complaint of Fidelity	)
Telephone Company, Fidelity	)
Communications Services I, Inc., Fidelity	)
Communications Services II, Inc., Grand	)
River Mutual Telephone Company, Lathrop	)
Telephone Company, and BPS Telephone	)
Company	)
	)
Complainants,	)
	)
v.	)
	)
Allegiance Telecom, Inc. and	)
XO Communications Services Inc.	)
	)
Respondents	)
	)

Case No. _____

COMPLAINT

COME NOW Fidelity Telephone Company, Fidelity Communications Services I, Inc., Fidelity Communications Services II, Inc., Grand River Mutual Telephone Company, BPS Telephone Company, and Lathrop Telephone Company ("Complainants" or "Small ILECs") and for their complaint against Allegiance Telecom, Inc. ("Allegiance") and its successor in interest XO Communications Services Inc. ("XO Services")(collectively "Respondents"), in accordance with §§386.390 and 386.400 RSMo. 2000¹ and 4 CSR 240-2.070, state to the Missouri Public Service Commission ("Commission") as follows:

¹All references to RSMo are to the 2000 edition unless otherwise noted.

1. Fidelity Telephone Company ("Fidelity") is a Missouri corporation with its principal office and place of business located at:

64 North Clark
Sullivan, MO 63080

In Case No. TC-2002-1077, Fidelity filed a Certificate of Good Standing from the Missouri Secretary of State which Fidelity requests be incorporated by reference in this case. Fidelity has no pending actions or final, unsatisfied adverse judgments or decisions which involve customer service or rates that have occurred within the last three years. The Affidavit of Mr. Dave Beier, Vice-President – Regulatory of Fidelity, verifying the accuracy of this information is attached hereto.

2. Fidelity Communications Services I, Inc. ("FCS I") is a Missouri corporation with its principal office and place of business located at:

64 North Clark
Sullivan, MO 63080

In Case No. TC-2002-1077, FCS I filed a Certificate of Good Standing from the Missouri Secretary of State which FCS I requests be incorporated by reference in this case. FCS I has no pending actions or final, unsatisfied adverse judgments or decisions which involve customer service or rates that have occurred within the last three years. The Affidavit of Mr. Dave Beier, Vice-President – Regulatory of FCS I, verifying the accuracy of this information is attached hereto.

3. Fidelity Communications Services II, Inc. ("FCS II") is a Missouri corporation with its principal office and place of business located at:

64 North Clark
Sullivan, MO 63080

In Case No. CK-2003-0285, FCS II filed a Certificate of Good Standing from the Missouri Secretary of State which FCS II requests be incorporated by reference in this case. FCS II has no pending actions or final, unsatisfied adverse judgments or decisions which involve customer service or rates that have occurred within the last three years. The Affidavit of Mr. Dave Beier, Vice-President – Regulatory of FCS II, verifying the accuracy of this information is attached hereto.

4. Grand River Mutual Telephone Corporation (“Grand River”) is a Missouri corporation with its principal office and place of business located at:

1001 Kentucky Street
Princeton, MO 64673

In Case No. TC-2002-1077, Grand River filed a Certificate of Good Standing from the Missouri Secretary of State which Grand River requests be incorporated by reference in this case. Grand River has no pending actions or final, unsatisfied adverse judgments or decisions which involve customer service or rates that have occurred within the last three years. The Affidavit of Mr. Rod Cotton, Director of Business Development & Regulatory, verifying the accuracy of this information is attached hereto.

5. Lathrop Telephone Company (“Lathrop”) is a Missouri corporation with its principal office and place of business located at:

1001 Kentucky Street
Princeton, MO 64673

In Case No. TC-2002-1077, Lathrop filed a Certificate of Good Standing from the Missouri Secretary of State which Lathrop requests be incorporated by reference in this case. Lathrop has no pending actions or final, unsatisfied adverse judgments or decisions which involve customer service or rates that have occurred within the last

three years. The Affidavit of Mr. Rod Cotton, Director of Business Development & Regulatory, verifying the accuracy of this information is attached hereto.

6. BPS Telephone Company ("BPS") is a Missouri corporation with its principal office and place of business located at:

P.O. Box 550
120 Stewart Street
Bernie, MO 63822-0550

In Case No. TC-2002-1077, BPS filed a Certificate of Good Standing from the Missouri Secretary of State which BPS requests be incorporated by reference in this case. BPS has no pending actions or final, unsatisfied adverse judgments or decisions which involve customer service or rates that have occurred within the last three years. The Affidavit of Ms. Lisa Winberry, Manager, verifying the accuracy of this information is attached hereto.

7. Communications and correspondence relating to this complaint should be directed to:

W.R. England, III
Brian T. McCartney
Brydon, Swearngen & England P.C.
312 East Capitol Avenue
P.O. Box 456
Jefferson City, MO 65102-0456
573/635-7166 (telephone)
573/634-7431 (fax)
Email: trip@brydonlaw.com
bmccartney@brydonlaw.com

8. Complainants are "telecommunications companies" primarily providing "basic local telecommunications services" and "exchange access services" as defined by §386.020 to customers located in their service areas pursuant to certificates of

public convenience and necessity issued by the Commission.

9. Respondents are alternative (or "competitive") telecommunications companies that are certificated to provide service in Missouri. On November 7, 2004, the Commission issued an order approving the merger of XO Missouri, Inc and Respondent Allegiance into Respondent XO Services in Case No. LO-2005-0027, with XO Services is the successor in interest to Allegiance. To the best of Complainants' knowledge, Respondents' addresses and contact persons are as follows:

Doug Kinkoph
Vice President Regulatory and External Affairs
XO Communications, Inc.
Two Eastern Oval
Suite 300
Columbus, Ohio 43219

Carl Lumley
Curtis, Oetting, Heinz, Garrett & O'Keefe
130 S. Bemiston, Suite 200
St. Louis, MO 63105

10. Respondents have originated and continue to originate interexchange telecommunications traffic which terminates to customers in Complainants' service areas via the facilities of Southwestern Bell Telephone Company d/b/a SBC Missouri ("SBC").

12. Respondents' interexchange traffic is terminated to Complainants over common trunk groups that are owned by SBC. SBC commingles Respondents' traffic with other wireline interexchange (toll) traffic destined for termination to Complainants' end-user customers. As a result, Complainants are not able to prevent Respondents' uncompensated traffic from terminating to their exchanges.

13. Complainants receive traffic records from SBC that detail the amount of

Respondents' traffic that is being delivered to Complainants' exchanges over SBC's facilities. SBC has provided reports of traffic which detail the amount of traffic originated by Respondents and terminating to each of the Complainants. In subsequent conversations with SBC personnel, SBC has confirmed that Respondents are sending traffic to Complainants' exchanges.

14. To date, Respondents have failed or refused to pay for interexchange traffic which has terminated to Complainants for the period ending January 1, 2005. Under Complainants' lawfully approved intrastate access tariff rates, the total amount outstanding to Complainants as of January 1, 2005, are as follows:

RESPONDENTS' OUTSTANDING INTEREXCHANGE ACCESS BILLING

Company	Amount Outstanding
Grand River Mutual Telephone Company	\$28,919.56
Lathrop Telephone Company	\$135.69
Fidelity Telephone Company	\$1,427.77
Fidelity Communications Services I, Inc.	\$749.61
Fidelity Communications Services II, Inc.	\$20.77
BPS Telephone Company	\$1,366.35
TOTAL:	\$32,619.75

Despite good faith efforts by Complainants to collect past due amounts, efforts to amicably resolve this matter have not been successful and the bills remain outstanding and unpaid as of the date of the filing of this Complaint.

15. Respondents continue to deliver traffic to Complainants' exchanges, so the uncompensated traffic is ongoing and therefore the amounts outstanding will

continue to increase.

WHEREFORE, Complainants respectfully request that the Commission issue its order finding and concluding as follows:

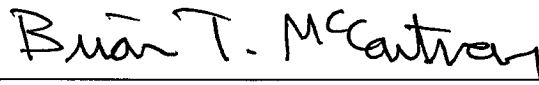
A. That Respondents have delivered interexchange traffic to Complainants' rural exchanges for the period ending January 1, 2005 without compensation, thus violating the terms and conditions of Complainants' lawfully approved access tariffs.

B. That Respondents must pay Complainants for all of Respondents' past due interexchange traffic terminated to Complainants, including interest and/or late fees and attorneys' fees where appropriate.

C. That if Respondents do not pay Complainants for all past-due interexchange traffic within a reasonable amount of time, then Complainants may block Respondents' interexchange traffic or, in the alternative, Complainants may seek assistance from SBC to block said traffic.

D. That the Commission grant such other relief as is reasonable under the circumstances.

Respectfully submitted,



W.R. England, III Mo. Bar 23975
Brian T. McCartney Mo. Bar 47788
Brydon, Swearngen & England P.C.
312 East Capitol Avenue
P.O. Box 456
Jefferson City, MO 65102-0456
573/635-7166
573/634-7431 (facsimile)
Email: trip@brydonlaw.com
 bmccartney@brydonlaw.com
Attorneys for Complainants

STATE OF Missouri)
)
COUNTY OF FRANKLIN)

AFFIDAVIT OF DAVID BEIER

I, David Beier, Vice President-Regulatory of Fidelity Communication Services I, Inc., ("FCS I") Fidelity Communications Services II, Inc. ("FCS II"), and Fidelity Telephone Company ("Fidelity"), hereby swear and affirm that I am authorized to speak on behalf of FCSI, FCS II, and Fidelity to attest to the veracity of the statements contained in this Complaint.

David Beier
David Beier

State of Missouri)
)
County of FRANKLIN) SS

I, Monica Wideman, a Notary Public do hereby certify that on this 5th day of January, 2005 personally appeared before me David Beier who declared that all of the information contained herein above is true, to the best of his knowledge and belief.

Monica Wideman
Notary Public

My Commission expires:

March 30, 2008
STATE OF Missouri)
)
COUNTY OF Franklin)

MONICA WIDEMAN
Notary Public - Notary Seal
STATE OF MISSOURI
Franklin County
My Commission Expires: Mar. 30, 2008

AFFIDAVIT OF ROD COTTON

I, Rod Cotton, Director of Business Development & Regulatory of Grand River Mutual Telephone Corporation ("Grand River") and Lathrop Telephone Company ("Lathrop") hereby swear and affirm that I am authorized to speak on behalf of Grand River and Lathrop and to attest to the veracity of the statements contained in this Complaint.

Rod Cotton
Rod Cotton

State of Missouri
County of Mercer SS

I, Mary Pearl Scurlock a Notary Public do hereby certify that on this 7 day of January, 2005 personally appeared before me Rod Cotton who declared that all of the information contained herein above is true, to the best of his knowledge and belief.

Mary Pearl Scurlock
Notary Public

My Commission expires:

4-24-07

MARY PEARL SCURLOCK
Notary Public - Notary Seal
STATE OF MISSOURI
Mercer County
My Commission Expires: April 24, 2007

STATE OF Missouri)
COUNTY OF Stoddard)

AFFIDAVIT OF LISA WINBERRY

I, Lisa Winberry, Manager BPS Telephone Company hereby swear and affirm that I am authorized to speak on behalf of BPS and to attest to the veracity of the statements contained in this Complaint.

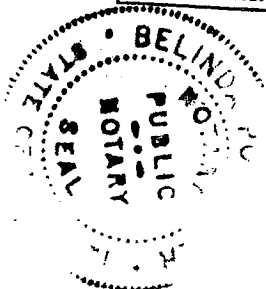
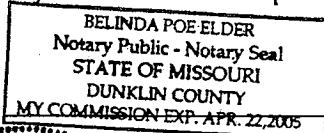
Lisa Winberry
Lisa Winberry

State of Missouri)
County of Stoddard) SS

I, Belinda Poe Elder a Notary Public do hereby certify that on this 10th day of January, 2005 personally appeared before me Lisa Winberry who declared that all of the information contained herein above is true, to the best of his knowledge and belief.

Belinda Poe Elder
Notary Public

My Commission expires:



Certificate of Service

I hereby certify that a true and correct copy of the above and foregoing document was mailed or hand-delivered, this 11th day of January, 2005 to:

General Counsel
Missouri Public Service Commission
P.O. Box 360
Jefferson City, MO 65102

Office of Public Counsel
P.O. Box 7800
Jefferson City, MO 65102

Carl Lumley
Curtis, Oetting, Heinz, Garrett & O'Keefe
130 S. Bemiston, Suite 200
St. Louis, MO 63105

Doug Kinkoph
Vice President Regulatory and External Affairs
XO Communications, Inc.
Two Eastern Oval
Suite 300
Columbus, Ohio 43219

Brian T. McCartney
W. R. England, III/Brian T. McCartney