

BEFORE THE PUBLIC SERVICE COMMISSION OF THE STATE OF MISSOURI

The Staff of the Missouri Public Service Commission,)	
)	
Complainant,)	
)	
v.)	File No. TC-2018-0282
)	
PhoneHost Communications, LLC,)	
)	
Respondent.)	

ORDER DENYING MOTION TO DISMISS

Issue Date: April 25, 2018

Effective Date: April 25, 2018

PhoneHost Communications, LLC (“PHC”) filed a motion to dismiss (“motion”)¹ the complaint.² PHC cites the Commission regulation that addresses the dismissal of a complaint “for failure to state a claim on which relief may be granted [.]”³ The relief sought consists of two orders, and the facts alleged in support are as follows.

First, the complaint seeks an order requiring PHC to apply for a certification or registration to provide telecommunications services.⁴ Second, the complaint asks the Commission to bring a circuit court action for penalties against PHC for violating the law that requires a certification or registration.⁵ In support, the complaint alleges that PHC is selling telecommunications services in Missouri without certification or registration.

¹ Electronic Filing Information System (“EFIS”) No. 1 (April 13, 2018) *Motion to Dismiss*. The Commission received no response within the time set by regulation for responding to the motion. 4 CSR 240-2.080(13).

² EFIS No. 3 (April 6, 2018) *Staff Complaint*.

³ 4 CSR 240-2.070(6).

⁴ EFIS No. 3 (April 6, 2018) *Staff Complaint* fourth page, paragraph 14.

⁵ EFIS No. 3 (April 6, 2018) *Staff Complaint* fourth page, paragraph 15.

To decide the motion, the Commission must:

... assume the facts pleaded by the non-moving party are true and determine whether those facts sufficiently allege a legal cause of action. [6]

PHC does not address whether the complaint's allegations—taken as true for purposes of the motion—support the relief requested. Instead, PHC contests the complaint's allegations with matters outside the complaint.⁷ Whether the complaint's allegations are true is not at issue under the standard that PHC invoked. Therefore, the Commission will deny the motion.

THE COMMISSION ORDERS THAT:

1. The *Motion to Dismiss* is denied.
2. This order is effective immediately upon issuance.



BY THE COMMISSION

A handwritten signature in cursive script that reads "Morris L. Woodruff".

Morris L. Woodruff
Secretary

Daniel Jordan, Regulatory Law Judge,
by delegation of authority pursuant
to Section 386.240, RSMo 2016.

Dated at Jefferson City, Missouri,
on this 25th day of April, 2018.

⁶ ***Show-Me Credit Union v. Mosely***, Case No. ED 106021 (Mo. App., E.D., February 27, 2018), Gaertner, Jr., P.J. That case discusses the identical standard under Missouri Supreme Court Rule 55.27(a)(6).

⁷ Those matters include an affidavit and three other documents. The Commission need not address the evidentiary value of those documents because they are irrelevant to the standard that PHC cites. PHC cites no other standard so the Commission applies no other standard.

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 25th day of April 2018.




Morris L. Woodruff
Secretary

MISSOURI PUBLIC SERVICE COMMISSION

April 25, 2018

File/Case No. TC-2018-0282

**Missouri Public Service
Commission**

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**PhoneHost Communications,
LLC**

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Enclosed find a certified copy of an Order or Notice issued in the above-referenced matter(s).

Sincerely,



**Morris L. Woodruff
Secretary**

Recipients listed above with a valid e-mail address will receive electronic service. Recipients without a valid e-mail address will receive paper service.