

**BEFORE THE
MISSOURI PUBLIC SERVICE COMMISSION**

Staff of the Missouri Public
Services Commission,

Complainant,

v.

Cintex Wireless, LLC,

Respondent.

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Case No. RC-2012-0421

**CINTEX WIRELESS, LLC’S ANSWER AND AFFIRMATIVE DEFENSES TO
STAFF’S COMPLAINT**

Respondent Cintex Wireless, LLC (“Cintex” or “Respondent”), pursuant to Missouri Public Service Commission (the “Commission”) Rule 4 CSR 240-2.070(8), submits this Answer and Affirmative Defenses to the Complaint filed by the Staff of the Commission (“Staff”) and moves for a hearing regarding this matter. In support of its Answer and Affirmative Defenses, Respondent states as follows:

ANSWER

Except as specifically admitted herein, Respondent denies each and every allegation, averment, and statement in the Complaint, and specifically denies that its actions were unlawful or unreasonable as alleged in the Complaint.

Introduction

1. Respondent denies the allegations in Paragraph 1 of the Complaint.

The Parties

2. Respondent admits the allegations in Paragraph 2 of the Complaint.

Respondent

3. Respondent admits the allegations in Paragraph 3 of the Complaint except to state that its principal offices are now located at 1800 I Rockville Pike, Rockville, Maryland 20852.

Jurisdiction

4. Respondent denies the allegations in Paragraph 4 of the Complaint, except to admit that the statutes cited state what they purport to state.

Facts Common to All Counts

5. Respondent admits the allegations in Paragraph 5 of the Complaint.

6. Respondent admits the allegations in Paragraph 6 of the Complaint.

7. Respondent admits the allegations in Paragraph 7 of the Complaint.

8. Respondent denies the allegations of Paragraph 8 of the Complaint except to admit that the statutes cited state what they purport to state.

Count I - Marketing in Areas of Missouri Without ETC Designation

9. Respondent denies the allegations of Paragraph 9 of the Complaint.

10. Respondent admits the allegations of Paragraph 10 of the Complaint except to deny that Cintex contracted with BeQuick to convert the exchange names in its authorized service territory into zip codes.

11. Respondent is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 11 of the Complaint and, therefore, denies the same.

Count II - Misleading Marketing

12. Respondent denies the allegations in Paragraph 12 of the Complaint.

13. Respondent admits the allegations of Paragraph 13 of the Complaint.

14. Respondent denies the allegations of Paragraph 14 of the Complaint, except to admit that statements on the envelope and cover letter state what paragraph 14 purports they state.

Count III - Misstatements to Regulators

15. Respondent denies the allegations of Paragraph 15 of the Complaint.

16. Respondent admits the allegations of Paragraph 16 of the Complaint.

17. Respondent admits the allegations of Paragraph 17 of the Complaint.

18. Respondent admits the allegations of Paragraph 18 of the Complaint.

19. Respondent admits the allegations of Paragraph 19 of the Complaint.

20. Respondent is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 20 of the Complaint and, therefore, denies the same.

Count IV - Unsuitable Leadership

21. Respondent denies the allegation in Paragraph 21 of the Complaint.

22. Respondent denies the allegation in Paragraph 22 of the Complaint.

23. Respondent is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 23 of the Complaint and, therefore, denies the same.

24. Respondent is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 24 of the Complaint and, therefore, denies the same.

25. Respondent is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 25 of the Complaint and, therefore, denies the same.

Respondent specifically denies Staff is entitled to the relief requested in the paragraph beginning with “WHEREFORE” and asks that all Counts be dismissed in its entirety, along with any further relief deemed appropriate by the Commission.

AFFIRMATIVE DEFENSES

1. Respondent denies each and every allegation contained in Staff’s Complaint, unless specifically admitted herein, and incorporates by reference each and every answer set forth above in response to Staff’s allegations in Paragraphs 1 through 25.

2. Staff’s Complaint, and each Count thereof, fails to state a claim upon which relief can be granted.

3. Count I sets forth no claim for relief and constitutes only a general statement of allegations. It should, therefore, be dismissed.

4. Count II sets forth no claim for relief and constitutes only a general statement of allegations. It should, therefore, be dismissed.

5. Count III sets forth no claim for relief and constitutes only a general statement of allegations. It should, therefore, be dismissed.

6. Count IV sets forth no claim for relief and constitutes only a general statement of allegations. It should, therefore, be dismissed.

7. Staff’s claim for relief--that Cintex’s ETC Designation should be revoked--is barred by the doctrines of collateral estoppel, laches, unclean hands and unjust enrichment.

8. Count II, regarding misleading marketing, is barred by the doctrines of collateral estoppel and laches.

WHEREFORE, Respondent respectfully requests that the Commission dismiss Staff's Complaint with prejudice, and award Respondent all just and proper relief.

Respectfully submitted,

/s/ Mark Johnson

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Attorneys for Cintex Wireless, LLC

Certificate of Service

A copy of the foregoing has been emailed this 16th day of July 2012 to all counsel of record.

/s/ Mark Johnson

Attorney for Cintex Wireless, LLC