

**BEFORE THE TENNESSEE PUBLIC UTILITY COMMISSION
NASHVILLE, TENNESSEE**

RE:

Docket No. 19-00099

**AT&T Tennessee Complaint Against
Cellular South, Inc. D/B/A C Spire**

**MOTION TO DISMISS OR SUSPEND THE COMPLAINT
PENDING THE OUTCOME OF PROCEEDINGS BEFORE THE
MISSISSIPPI PUBLIC SERVICE COMMISSION**

Cellular South, Inc., d/b/a C Spire (“C Spire”) asks the Tennessee Public Utility Commission to dismiss without prejudice or suspend this Complaint pending the outcome of an overlapping proceeding – a Complaint between the same parties that involves the same issues and the same dollars as this case – now pending before the Mississippi Public Service Commission (“the MPSC”). See MPSC Docket No. 2019-AD-127.

On August 16, 2019, C Spire filed a complaint at the MPSC against BellSouth Telecommunications, LLC d/b/a AT&T Tennessee (“AT&T”) over a \$422,525 billing dispute involving the exchange of local traffic prior to October, 2017 in four states: Mississippi (where C Spire is headquartered and where the majority of its business is conducted), Tennessee, Alabama and Florida.¹ The Complaint asks the MPSC to resolve the entire dispute.

On September 5, 2019, AT&T filed a response to the Mississippi Complaint and a counter-claim arguing that C Spire owed AT&T \$173,919 involving the exchange of local traffic just in Mississippi and that the parties’ dispute over amounts owed in the other three states must be litigated separately in each state. On October 15, 2019, C Spire denied that it owned any money

¹ C Spire’s Complaint in Mississippi asked the MPSC to address the entire amount in dispute, \$422,525. The amounts at issue are \$234,104 in Tennessee, \$173,919 in Mississippi, and a total of \$14,502 in Alabama and Florida.

to AT&T in any of the four states and argued that the “Parties did not agree that billing disputes must be resolved by the public service commission of each state in which the applicable telecommunications traffic was exchanged.” The MPSC has not yet ruled on whether it has jurisdiction over the entire dispute or on any of the underlying, substantive issues.

On October 24, 2019, AT&T filed the above-captioned Complaint before the Tennessee Public Utility Commission (“TPUC”) concerning the amount in dispute that resulted solely from the exchange of local traffic in Tennessee. AT&T’s Complaint states in a footnote, “There is a Complaint pending in Mississippi to address the amount at issue in that state” but neglects to mention that the Complaint filed by C Spire in Mississippi asks the MPSC to resolve the entire billing dispute including the money at issue in Tennessee.

The Mississippi proceeding was initiated over two months before the Tennessee proceeding. Since the issue of whether C Spire owes AT&T \$234,104 resulting from the exchange of traffic in Tennessee is already pending before the Mississippi Commission, it is not clear whether the Tennessee Commission has subject matter jurisdiction over this dispute. The TPUC should therefore dismiss this Complaint without prejudice or suspend further proceedings pending a ruling by the Mississippi Commission on the jurisdiction issue. Moreover, even if the MPSC determines that it will only address the amount at issue in Mississippi, a ruling by the MPSC interpreting the Parties’ interconnection agreement as it applies to this billing dispute might well be persuasive precedent for the TPSC to consider. Finally, a ruling by the Mississippi Commission on the amount at issue in that state would likely lead to renewed settlement negotiations and perhaps to a settlement of the amounts in dispute in the other three states.

No party will be prejudiced by dismissing or delaying this Complaint pending a decision from the MPSC. The billing dispute involves only the exchange of local traffic prior to October,

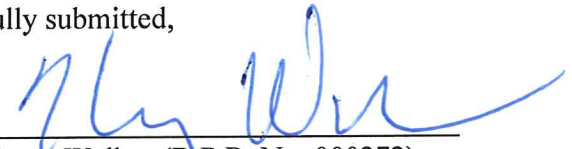
2017 and, therefore, the amounts at issue are not increasing except for the accumulation of interest. In sum, there is no good reason why this Complaint cannot be resolved at a future date and several good reasons to let the matter lie.²

Conclusion

For these reasons, C Spire asks that this Complaint be either dismissed without prejudice or suspended pending the outcome of MPSC Docket No. 2019-AD-127.

Respectfully submitted,

By: _____


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² If this Motion to Dismiss or Suspend the Complaint is granted, it should not be necessary for C Spire to file an answer to the Complaint. See T.P.U.C. Rule 1220-01-02-03(2)(a). If, however, the Hearing Officer would like C Spire to file an answer prior to her ruling on this Motion, C Spire can do so as early as December 2, 2019 or any day thereafter as directed by the Hearing Officer.

CERTIFICATE OF SERVICE

I hereby certify that on the 25th day of November, 2019, a copy of the foregoing document was served on the parties of record, via electronic email transmission and regular U.S. Mail, postage prepaid, addressed as follows:

Joshua R. Denton
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HENRY WALKER