

BEFORE THE STATE CORPORATION COMMISSION OF THE STATE OF KANSAS

In the Matter of the Complaint of Ideatek)
Telcom, LLC, (Complainant) Against)
Wamego Telecommunications Company, Inc.,)
(Respondent) to Require Wamego to (1) Port) Docket No. 19-WTCT-393-COM
Customers and (2) Refrain from Taking Any)
Action that Could Result in the Blocking of)
Customer Calls)

WAMEGO OBJECTION TO NOTICE OF COMPLETION OF SERVICE

Comes now Wamego Telecommunications Company, Inc. ("Wamego") and objects to the Notice of Completion of Service filed herein on April 2, 2019. by IdeaTek Telcom, LLC ("IdeaTek"). For its objection and in support thereof Wamego states:

1. In its Notice of Completion of Service IdeaTek asserts:

On March 26, 2019, Ideatek filed its Complaint against Wamego Telecommunications Company, Inc. ("Wamego") pursuant to the provisions of K.S.A. 66-2003, K.A.R. 82-1-220, K.A.R. 82-1-220a, and K.S.A. 77-536. Ideatek served its Complaint consistent with K.A.R. 82-1-220, but not consistent with K.A.R. 82-1-220a. Ideatek served its Complaint electronically upon counsel for Wamego, but did not follow-up with telephonic confirmation of receipt, as required by K.A.R. 82-1-220(d).

2. In fact, IdeaTek's purported "service" on March 26, 2019 complied neither with K.A.R. 82-1-220 nor with K.A.R. 82-1-220a.

3. K.A.R. 82-1-220a(d) requires: (d) *On the same day* on which any complaint or response to the complaint is filed with the commission in accordance with this regulation, the complaint or response shall be served on the other party, the commission legal staff, and the commission advisory counsel by hand delivery or by facsimile or electronic mail with telephonic *confirmation of receipt*. (Emphasis supplied)

4. This regulation does not authorize curative service of the complaint on a later date other than the date the complaint was filed, by service on an attorney who

was not counsel of record in the proceeding as of the time of service. Plainly the subject of a complaint does not have counsel of record in the proceeding at the time the complaint is filed. The attorney to whom an email copy of the complaint was directed on March 26, 2019 became counsel of record only upon the filing of Wamego's Objection to Jurisdiction, Motion to Dismiss and Contingent Initial Response on March 29, 2019. A complainant is not authorized unilaterally to designate counsel for another party, for purposes of service or otherwise.

5. Additionally, IdeaTek asserts its "on April 2, 2019, counsel for Ideatek placed a phone call to Wamego's counsel regarding the Complaint, as required by the regulation." The regulation, as quoted above, requires telephonic *confirmation of receipt*. Counsel for Wamego received a voicemail message from IdeaTek's counsel on April 2, 2019 advising a copy of the complaint filed March 26, 2019 had been served on Wamego's counsel via email. Upon receipt of that message, and upon opening the referenced email, counsel for Wamego immediately sent a reply email to counsel for IdeaTek, advising the attachment – presumably a copy of the complaint – could not be opened. This does not constitute confirmation of receipt of a complaint, as required by the regulation, *on the day the complaint is filed*.

6. Counsel for Wamego, on April 2, 2019 informed counsel for IdeaTek that the former would secure a copy of the attempted service from the Commission's website and would regard service as having been completed. Whether or not the voicemail message from Counsel for IdeaTek constitutes "telephonic confirmation of receipt" that confirmation was not accomplished on the day the complaint was filed, and such service fails to satisfy the express requirements of K.A.R. 82-1-220a.

7. K.A.R. 82-1-220 specifies a wholly different procedure for service of a complaint seeking treatment under ordinary, non-expedited procedures:

If the commission determines that the formal complaint, either as originally filed or as amended, establishes a prima facie case for commission action and conforms to these regulations, each public utility... complained of shall be served by the commission a true copy of the formal complaint, and the respondent or respondents shall either satisfy the matter complained of or file a written answer within 10 days. (Emphasis supplied)

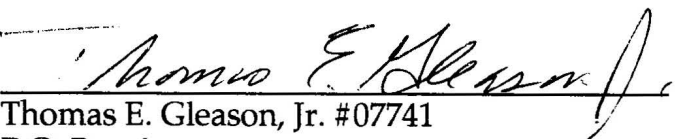
8. Neither K.S.A. 66-2003 nor K.S.A. 77-536 referenced in IdeaTek's "Notice of Completion of Service" addresses the method of service of a complaint.

9. Wamego submits the foregoing information and objection as a supplement to its Objection and Motion to Dismiss filed herein March 29, 2019.

WHEREFORE Wamego requests that the Commission find IdeaTek's service insufficient and ineffective as to proceedings under both K.A.R. 82-1-220 and K.A.R. 82-1-220a(d), and that the Commission grant Wamego's Motion to Dismiss. Alternatively, Wamego urges that the Commission consider the foregoing as additional cause to deny the application of expedited proceedings under K.A.R. 82-1-220a to the Complaint herein.

Respectfully submitted,

GLEASON & DOTY, CHARTERED



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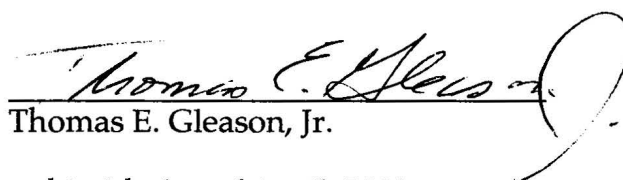
gleason@sunflower.com

Attorneys for Wamego Telecommunications
Company, Inc.

VERIFICATION

STATE OF KANSAS)
) ss:
COUNTY OF DOUGLAS)

I, Thomas E. Gleason, Jr., of lawful age, being first duly sworn upon my oath, state: I am counsel for Wamego Telecommunications Company, Inc. in this proceeding; I have read the foregoing pleading, and upon information and belief state that the matters therein appearing are true and correct to the best of my knowledge and information.

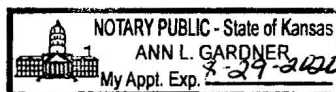

Thomas E. Gleason, Jr.

Subscribed and sworn to before me this 4th day of April, 2019.


Notary Public

My Commission Expires:

8-29-2020



CERTIFICATE OF SERVICE

Thomas E. Gleason, Jr. certifies that the foregoing pleading was served by electronic delivery of a correct copy thereof to the following on the 4th day of April, 2019:

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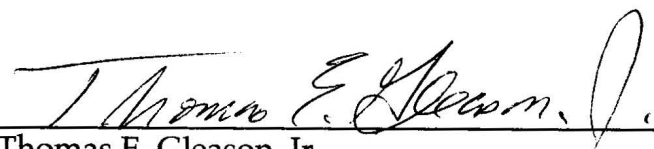
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