

OF THE STATE OF MISSOURI

In the Matter of the Notice of Election for)
 Waiver of Commission Rules and Statutes) **Case No. IE-2009-0187**
 Pursuant to Section 392.420, RSMo,)
 as amended by HB 1779.)

STAFF RECOMMENDATION

COMES NOW the Staff of the Missouri Public Service Commission (Staff) and
for its recommendation in Case No. IE-2009-0187 states as follows:

1. On November 13, 2008, New London Telephone Company (New London or the Company) filed notification with the Missouri Public Service Commission (the Commission) that New London had elected to waive certain Commission rules and statutory provisions pursuant to RSMo Section 392.420.

2. On November 19, 2008, the Commission issued its *Order Directing Filing Of Staff Recommendation*, ordering Staff to file a recommendation in this matter no later than December 1, 2008.

3. New London's reference to RSMo Section 392.420 refers to the statute as revised by the passage of House Bill 1779, which became effective August 28, 2008.

4. Section 392.420, as amended by House Bill 1779, states in relevant part:

In the case of an application for certificate of service authority to provide basic local telecommunications service filed by an alternative local exchange telecommunications company, and for all existing alternative local exchange telecommunications companies, the commission shall waive, at a minimum, the application and enforcement of its quality of service and billing standards rules, as well as the provisions of subsection 2 of section 392.210, subsection 1 of section 392.240, and sections 392.270, 392.280, 392.290, 392.300, 392.310, 392.320, 392.330, and 392.340. Notwithstanding any other provision of law in this chapter and chapter 386, RSMo, *where an alternative local exchange*

telecommunications company is authorized to provide local exchange telecommunications services in an incumbent local exchange telecommunications company's authorized service area, the incumbent local exchange telecommunications company may opt into all or some of the above-listed statutory and commission rule waivers by filing a notice of election with the commission that specifies which waivers are elected. In addition, where an interconnected voice over internet protocol service provider is registered to provide service in an incumbent local exchange telecommunications company's authorized service area under section 392.550, the incumbent local exchange telecommunications company may opt into all or some of the above-listed statutory and commission rule waivers by filing a notice of election with the commission that specifies which waivers are elected.

(Emphasis added).

5. New London is an incumbent local exchange telecommunications company as that term is used in Section 392.420. Furthermore, in the attached Memorandum, labeled as Appendix A, Staff states its position that prior Commission cases adequately demonstrate both that alternative local exchange telecommunications companies and interconnected voice over internet protocol service providers are authorized or registered to provide service in the Company's service territory.

6. New London is currently compliant in obligations relating to Commission assessment, Missouri Universal Service Fund, Relay Missouri, and the submission of an annual report.

WHEREFORE, Staff recommends that the Commission acknowledge New London's election to opt into the waivers listed in its *Notice of Election for Waiver of Commission Rules and Statutes* and direct New London to list these waivers in the Company's tariffs.

Respectfully submitted,

/s/ Eric Dearmont

Eric Dearmont

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Missouri Public Service Commission

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Certificate of Service

I hereby certify that copies of the foregoing have been mailed, hand-delivered, transmitted by facsimile or electronically mailed to all counsel of record this 1st day of December, 2008.

/s/ Eric Dearmont

MEMORANDUM

To: Missouri Public Service Commission Official Case File
Case No. IE-2009-0187, IE-2009-0188, IE-2009-0189, and IE-2009-0190
Company Name: New London Telephone Company, Orchard Farm Telephone Company, Peace Valley Telephone Company, and Stoutland Telephone Company

From: Sara Buyak
Telecommunications Department

William Voight 12-1-08
Utility Operations Division/Date

Subject: Request for Waivers

Date: November 20, 2008

New London Telephone Company, Orchard Farm Telephone Company, Peace Valley Telephone Company, and Stoutland Telephone Company, incumbent local exchange and competitive telecommunications companies, filed a Notice of Election for Waiver of Commission Rules and Statutes pursuant to Section 392.420, RSMo, as amended by House Bill 1779, effective August 28, 2008. The Commission Staff (Staff) has no objections to the requested waivers identified in the filings.

In Case No. TA-2009-0083, Verizon Access Transmission Services (Verizon) obtained authority to expand its certificated area to provide service in all Missouri exchanges, including those of the above named incumbent local exchange carriers. In Case No. TA-2009-0108, XO Communications Services, Inc. (XO) obtained authority to expand its certificated area to provide service in all Missouri exchanges, including those of the above named incumbent local exchange carriers. Although both Verizon and XO were granted statewide authority, Staff notes that neither carrier has filed the necessary tariffs to effectuate its certificate and neither carrier has indicated the presence of customers in any area served by the above named local exchange carriers.

In Case No. DA-2009-0096, Verizon Business Services was issued a VoIP registration to provide service statewide. In Case No. DA-2009-0107, XO was issued a VoIP registration to provide service statewide. Although these VoIP telephone companies have been granted authority to provide service in the above named company areas, Staff notes that neither Verizon or XO have as yet indicated the presence of customers in any area served by the above named local exchange carriers.

New London Telephone Company, Orchard Farm Telephone Company, Peace Valley Telephone Company, and Stoutland Telephone Company requests the Commission waive the following:

4CSR 240-3.550 (4) and (5) (A)
4CSR 240-32.060
4CSR 240-32.070
4CSR 240-32.080
4CSR 240-33.040 (1) through (3) and (5) through (10)
4CSR 240-33.045
392.290
392.300
392.310
392.320
392.330
392.340

Staff recommends the Commission grant to the companies all of the waivers listed above and direct the companies to list these waivers in the tariffs.

- ☒ New London Telephone Company is not delinquent in filing an annual report, paying the PSC assessment, paying Relay, and paying USF.
- ☒ Orchard Farm Telephone Company is not delinquent in filing an annual report, paying the PSC assessment, paying Relay, and paying USF.
- ☒ Peace Valley Telephone Company is not delinquent in filing an annual report, paying the PSC assessment, paying USF, and paying Relay.
- ☒ Stoutland Telephone Company is not delinquent in filing an annual report, paying the PSC assessment, paying Relay, and paying USF.

**BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI**

In the Matter of the Notice of Election for)
Waiver of Commission rules and Statutes)
Pursuant to Section 392.420, RSMo, as)
amended by HB 1779)

Case No. IE-2009-0187
IE-2009-0088
IE-2009-0189
IE-2009-0190

AFFIDAVIT OF Sara Buyak

STATE OF MISSOURI)
) ss:
COUNTY OF COLE)

Sara Buyak, employee of the Missouri Public Service Commission, being of lawful age and after being duly sworn, states that she has participated in preparing the accompanying staff recommendation, and that the facts therein are true and correct to the best of her knowledge and belief.


SARA BUYAK



Subscribed and affirmed before me this 20th day of November 2008


NOTARY PUBLIC

SHARON S. WILES
Notary Public - Notary Seal
State of Missouri
Commissioned for Cole County
My Commission Expires: October 23, 2010
Commission Number: 06429091