

**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                    ) **Case No. IE-2009-0211**  
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 states:

1. On November 18, 2008 BPS Telephone Company (the Company) filed notification with the Missouri Public Service Commission (the Commission) that the Company had elected to waive certain Commission rules and statutory provisions pursuant to RSMo Section 392.420.

2. On November 26, 2008, the Commission issued its *Order Directing Filing of Staff Recommendation*, ordering Staff to file a recommendation in this matter no later than December 11, 2008.

3. The Company'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. The Company 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. The Company 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 the Company's election to opt into the waivers listed in its *Notice of Election for Waiver of Commission Rules and Statutes* and direct the Company to list these waivers in its tariffs.

Respectfully submitted,

**/s/ William K. Haas**

William K. Haas  
Deputy General Counsel  
Missouri Bar No. 28701

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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 9th day of December, 2008.

**/s/ William K. Haas**

# MEMORANDUM

To: Missouri Public Service Commission Official Case File

Case No.:

IE-2009-0203, IE-2009-0204, IE-2009-0205, IE-2009-0206, IE-2009-0207,  
IE-2009-0208, IE-2009-0209, IE-2009-0211, IE-2009-0212, IE-2009-0215,  
IE-2009-0222, IE-2009-0223, TE-2009-0224, IE-2009-0225, IE-2009-0230,  
IE-2009-0231

Company Name:

Seneca Telephone Company, Oregon Farmers Mutual Telephone Company, Ozark Telephone Company, Goodman Telephone Company, New Florence Telephone Company, Iamo Telephone Company, Rock Port Telephone Company, Mark Twain Rural Telephone Company, BPS Telephone Company, Alma Telephone Company, McDonald County Telephone Company, Farber Telephone Company, Le-Ru Telephone Company, Granby Telephone Company, Holway Telephone Company, and KLM Telephone Company

From: Sara Buyak  
Telecommunications Department

William Voight 12-4-08  
Utility Operations Division/Date

Subject: Request for Waivers

Date: December 4, 2008

Seneca Telephone Company, Oregon Farmers Mutual Telephone Company, Ozark Telephone Company, Goodman Telephone Company, New Florence Telephone Company, Iamo Telephone Company, Rock Port Telephone Company, Mark Twain Rural Telephone Company, BPS Telephone Company, Alma Telephone Company, McDonald County Telephone Company, Farber Telephone Company, Le-Ru Telephone Company, Granby Telephone Company, Holway Telephone Company, and KLM Telephone Company, incumbent local exchange telecommunications carriers, 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.

Case No. IE-2009-0203, IE-2009-0204, IE-2009-0205, IE-2009-0206,  
IE-2009-0207, IE-2009-0208, IE-2009-0209, IE-2009-0211, IE-2009-0212,  
IE-2009-0215, IE-2009-0222, IE-2009-0223, TE-2009-0224, IE-2009-0225,  
IE-2009-0230, IE-2009-0231

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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.

Section 392.420 RSMo describes a process for obtaining waivers of the requested Commission rules and statutes. The specific wording of this statute suggests an interconnected voice over Internet protocol service provider or competitive local exchange carrier simply has to be authorized within the incumbent's area and does not actually need to be providing service. In this regard, Staff has little discretion but to recommend the Commission recognize that the company has elected to opt into the above listed statutory and Commission rule waivers.

Seneca Telephone Company, Oregon Farmers Mutual Telephone Company, Ozark Telephone Company, Goodman Telephone Company, New Florence Telephone Company, Iamo Telephone Company, Rock Port Telephone Company, Mark Twain Rural Telephone Company, BPS Telephone Company, Alma Telephone Company, McDonald County Telephone Company, Farber Telephone Company, Le-Ru Telephone Company, Granby Telephone Company, Holway Telephone Company, and KLM 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  
392.280 \*  
392.290  
392.300  
392.310  
392.320  
392.330  
392.340

\* Waiver of this section has been requested by New Florence Telephone, Mark Twain Rural Telephone Company, BPS Telephone Company, Alma Telephone Company, McDonald County Telephone Company, and Granby Telephone Company.

Case No. IE-2009-0203, IE-2009-0204, IE-2009-0205, IE-2009-0206,  
IE-2009-0207, IE-2009-0208, IE-2009-0209, IE-2009-0211, IE-2009-0212,  
IE-2009-0215, IE-2009-0222, IE-2009-0223, TE-2009-0224, IE-2009-0225,  
IE-2009-0230, IE-2009-0231

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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.

Seneca Telephone Company is not delinquent in filing an annual report, paying the PSC assessment, paying USF, and paying Relay.

Oregon Farmers Mutual Telephone Company is not delinquent in filing an annual report, paying the PSC assessment, paying USF, and paying Relay.

Ozark Telephone Company is not delinquent in filing an annual report, paying the PSC assessment, paying USF, and paying Relay.

Goodman Telephone Company is not delinquent in filing an annual report, paying the PSC assessment, paying USF, and paying Relay.

New Florence Farmers Mutual Telephone Company is not delinquent in filing an annual report, paying the PSC assessment, paying USF, and paying Relay.

Iamo Telephone Company is not delinquent in filing an annual report, paying the PSC assessment, paying USF, and paying Relay.

Mark Twain Rural Telephone Company is not delinquent in filing an annual report, paying the PSC assessment, paying USF, and paying Relay.

BPS Telephone Company is not delinquent in filing an annual report, paying the PSC assessment, paying USF, and paying Relay.

Alma Telephone Company is not delinquent in filing an annual report, paying the PSC assessment, paying USF, and paying Relay.

McDonald County Telephone Company is not delinquent in filing an annual report, paying the PSC assessment, paying USF, and paying Relay.

Farber Telephone Company is not delinquent in filing an annual report, paying the PSC assessment, paying USF, and paying Relay.

Le-Ru Telephone Company is not delinquent in filing an annual report, paying the PSC assessment, and paying Relay.

NO USF

Granby Telephone Company is not delinquent in filing an annual report, paying the PSC assessment, paying USF, and paying Relay.

Holway Telephone Company is not delinquent in filing an annual report, paying the PSC assessment, paying USF, and paying Relay.

KLM Telephone Company is not delinquent in filing an annual report, paying the PSC assessment, paying USF, and paying Relay.

Rock Port Telephone Company is not delinquent in filing an annual report, paying the PSC assessment, paying USF, and paying Relay.

BEFORE THE PUBLIC SERVICE COMMISSION  
OF THE STATE OF MISSOURI

In the Matter of the Petition for Waiver of )  
Commission Rules and Statutes Pursuant to Section )  
392.420, RSMo, as amended by HB 1779. )  
)

Case No. IE-2009-0203  
IE-2009-0204  
IE-2009-0205  
IE-2009-0206  
IE-2009-0207  
IE-2009-0208  
IE-2009-0209  
IE-2009-0211  
IE-2009-0212  
IE-2009-0215  
IE-2009-0222  
IE-2009-0223  
TE-2009-0224  
IE-2009-0225  
IE-2009-0230  
IE-2009-0231

AFFIDAVIT OF Sara Buyak

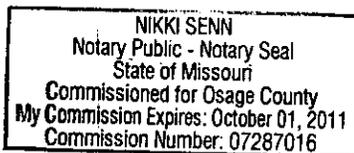
STATE OF MISSOURI )  
) ss:  
COUNTY OF COLE )

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)  
SARA BUYAK

Subscribed and affirmed before me this

4<sup>th</sup> day of December, 2008.



Nikki Senn  
NOTARY PUBLIC