

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

In the Matter of the Joint Notification by Iowa)
Telecommunications Services, Inc. d/b/a Iowa)
Telecom, Windstream Corporation, and Buffalo) **File No. IM-2010-0186**
Merger Sub, Inc, of Agreement and Plan of Merger;)
And the Application of Buffalo Merger Sub, Inc. for)
Issuance of Certificates of Service Authority and)
Waiver of Commission Rules.)

**ORDER GRANTING CERTIFICATES TO PROVIDE
BASIC LOCAL, NONSWITCHED LOCAL, AND INTEREXCHANGE
TELECOMMUNICATIONS SERVICES**

Issue Date: February 1, 2010

Effective Date: February 11, 2010

On December 18, 2009, Iowa Telecommunications Services, Inc. d/b/a Iowa Telecom (Iowa Telecom), Windstream Corporation (Windstream), and Buffalo Merger Sub, Inc. (NewCo) jointly filed a pleading explaining that Windstream will acquire Iowa Telecom through the merger between Iowa Telecom and NewCo. After the merger, Iowa Telecom will cease to exist and NewCo will change its name to Windstream Iowa Communications, Inc.

Iowa Telecom is an Iowa corporation and an incumbent local exchange telecommunications company that provides local exchange service in 286 exchanges in Iowa. It is authorized to do business in Missouri by the Missouri Secretary of State. Three of the exchanges served by Iowa Telecom cross the state line into Missouri. As a result, Iowa Telecom provides service to approximately 70 customers in Missouri.¹

¹ The affected exchanges are located in Clark, Nodaway, and Putnam Counties in Missouri.

Windstream and Iowa Telecom do not ask the Missouri Commission to approve their merger, as this Commission does not have jurisdiction over that transaction. However, NewCo asks the Commission to grant it certificate of service authority to provide basic local and local exchange service within the three exchanges in Missouri currently served by Iowa Telecom. NewCo also seeks authority to provide interexchange telecommunications service throughout Missouri.

After the merger, NewCo will continue to provide basic local, local exchange, and interexchange services to its Missouri customers under the same rates, terms, and conditions as are currently in force for those exchanges. Since NewCo will file a tariff adopting Iowa Telecom's tariff after the merger is complete, it asks the Commission to waive application of Commission Rule 4 CSR 240-3.510(1)(C), which it says would require NewCo to file a tariff along with its application. Since changes in subscriber carrier selections will occur as a result of the merger, NewCo also asks the Commission to waive application of Commission Rule 4 CSR 240-33.150(4), which would require verification of orders for changing telecommunication service providers.

On December 21, the Commission issued an order directing that notice of the application be sent to the media serving Clark, Nodaway, and Putnam Counties and to every company authorized to operate as an ILEC, CLEC, or IXC in Missouri. That notice established January 11, 2010, as the deadline to file an application to intervene. The Commission did not receive any applications to intervene.

On January 13, the Staff of the Commission filed its recommendation. Staff advises the Commission to grant NewCo the certificates of service authority it seeks. Staff also recommends the Commission grant the waivers NewCo requests.

The Commission may grant an application for a certificate of service authority to provide telecommunications service upon a showing that the applicant has met the statutory requirements,² and that the grant of authority is in the public interest.³ Based on the verified application and Staff's uncontested recommendation, the Commission finds that NewCo satisfies the requirements for certification and that granting such certificates is in the public interest. The Commission also finds that the intrastate interexchange market is competitive and that the interexchange services NewCo will offer are subject to competition.

The Commission may waive certain statutes and administrative rules for competitively classified carriers "if such waiver or modification is otherwise consistent with the other provisions of Section 392.361 to 392.520 and the purposes of this chapter."⁴ The Commission has developed a standard list of statutes and regulations that it waives for competitive local exchange and interexchange carriers. The Commission finds that the waiver of those statutes and regulations is consistent with the purposes of Chapter 392, and will waive those provisions for NewCo. In addition, NewCo is entitled to certain waivers pursuant to Section 392.420, RSMo Supp. 2009. The Commission will also grant those waivers. The Commission will also waive application of 4 CSR 240-33.150, which requires verification of orders for changing providers.

NewCo also asked the Commission to waive application of 4 CSR 240-3.510(1)(C), which would require NewCo to file a tariff along with its application. The

² See Sections 392.450, 392.451 and 392.455, RSMo 2000. All statutory references, unless otherwise specified, are to the Revised Statutes of Missouri (RSMo), revision of 2000.

³ Sections 392.430 and 392.440.

⁴ Sections 392.361.5, Supp. 2009 and 392.420 Supp. 2009.

Commission does not need to waive that provision as the rule explicitly states that filing a tariff along with the application is optional. NewCo will still need to file an appropriate tariff before it begins providing service to the affected exchanges.

The Commission places NewCo on notice that failure to comply with certain obligations pursuant to law may result in penalties assessed against the company. These obligations include, but are not limited to, the following:

- A) The obligation to file an annual report, as established by Section 392.210, RSMo 2000. Failure to comply with this obligation will make the utility liable for a penalty of \$100 per day for each day that the violation continues. Rule 4 CSR 240-3.540 requires telecommunications utilities to file their annual report on or before April 15 of each year.
- B) The obligation to pay an annual assessment fee established by the Commission, as required by Section 386.370, RSMo 2000.
- C) The obligation to comply with all relevant laws and regulations, as well as orders issued by the Commission. If the company fails to comply it is subject to penalties for noncompliance ranging from \$100 to \$2,000 per day of noncompliance, under Section 386.570, RSMo 2000.
- D) The obligation to keep the Commission informed of its current address and telephone number.

The company is reminded that its officers may not represent it before the Commission. The company must be represented by an attorney licensed to practice law in Missouri.

In addition, Section 392.410.5, RSMo Supp. 2009, provides that the company's certificate of service authority becomes null and void one year from the date of this order unless the company has exercised its authority under that certificate.

The Commission notes that before providing telecommunications services in Missouri, a party shall possess the following: (1) an interconnection agreement approved by the Commission; (2) except for wireless providers, a certificate of service authority from the Commission to provide interexchange or basic local telecommunications services; and (3) except for wireless providers, a tariff approved by the Commission.

THE COMMISSION ORDERS THAT:

1. Buffalo Merger Sub, Inc. is granted a certificate of service authority to provide basic local telecommunications services in the Athens, South Braddyville, and South Seymour exchanges currently served by Iowa Telecommunications Services, Inc. d/b/a Iowa Telecom.
2. Buffalo Merger Sub, Inc. is granted certificates of service authority to provide nonswitched local exchange and interexchange telecommunications services in the state of Missouri.
3. Application of the following statutes and Commission rules is waived:

Statutes

- 392.210.2 - uniform system of accounts
- 392.240.1 - rates-rentals-service & physical connections
- 392.270 - valuation of property (ratemaking)
- 392.280 - depreciation accounts
- 392.290 - issuance of securities
- 392.300 - acquisition of stock
- 392.310 - stock and debt issuance
- 392.320 - stock dividend payment
- 392.330 - issuance of securities, debts and notes
- 392.340 - reorganization(s)

Commission Rules

- 4 CSR 240-3.550(4) and (5)(A)
- 4 CSR 240-32.060
- 4 CSR 240-32.070
- 4 CSR 240-32.080
- 4 CSR 240-33.040 with the exception of subsection (4), which shall remain in effect
- 4 CSR 240-33.045

4. The Commission waives application of Commission Rule 4 CSR 240-33.150 to the extent it would apply to Buffalo Merger Sub, Inc.

5. The certification granted herein is conditioned upon the company's compliance with the regulatory obligations set out in this order

6. This order and Buffalo Merger Sub, Inc.'s certificates shall become effective on February 11, 2010.

7. This file shall be closed on February 12, 2010.

BY THE COMMISSION

(S E A L)



Steven C. Reed
Secretary

Morris L. Woodruff, Chief Regulatory Law Judge,
by delegation of authority pursuant
to Section 386.240, RSMo 2000.

Dated at Jefferson City, Missouri,
on this 1st day of February, 2010.