

**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-2009-0184

Staff Recommendation

COMES NOW the Staff of the Missouri Public Service Commission (“Staff”) and for its recommendation states as follows:

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

2. Fidelity’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.

3. 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.*

(Emphasis added).

4. Fidelity 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, along with the most recent annual reports submitted by companies, adequately demonstrate that alternative local exchange telecommunications companies are authorized to provide service in the Company's territory, although there is no evidence that any are currently providing service in the Company's territory.

5. Fidelity 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 Fidelity's election to opt into the waivers listed in its Notice of Election for Waivers and direct Fidelity to file tariff pages in compliance with the waivers that designate the rules and statutes waived.

Respectfully submitted,

/s/ Sarah Kliethermes
Sarah L. Kliethermes
Legal Counsel
Missouri Bar No. 60024

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Certificate of Service

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

/s/ Sarah L. Kliethermes

MEMORANDUM

To: Missouri Public Service Commission Official Case File
Case No. IE-2009-0183, IE-2009-0184, IE-2009-0185, and IE-2009-0186
Company Name: Kingdom Telephone Company, Fidelity Telephone Company,
Green Hills Telephone Company, and Miller Telephone Company

From: Sara Buyak
Telecommunications Department

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

Subject: Request for Waivers

Date: November 20, 2008

Kingdom Telephone Company, Fidelity Telephone Company, Green Hills Telephone Company, and Miller 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.

Kingdom Telephone Company, Fidelity Telephone Company, Green Hills Telephone Company, and Miller 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 Kingdom Telephone only.

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.

- ☒ Kingdom Telephone Company is not delinquent in filing an annual report, paying the PSC assessment, paying USF, and paying Relay.
- ☒ Fidelity Telephone Company is not delinquent in filing an annual report, paying the PSC assessment, Relay, and paying USF.
- ☒ Green Hills Telephone Company is not delinquent in filing an annual report, paying the PSC assessment, paying USF, and paying Relay.
- ☒ Miller Telephone Company is not delinquent in filing an annual report, paying the PSC assessment, 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-2009-0183
IE-2009-0184
IE-2009-0185
IE-2009-0186

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