

BEFORE THE PUBLIC SERVICE COMMISSION  
OF THE STATE OF MISSOURI

Application of Orchard Farm Telephone Company     )  
for Approval of a Traffic Exchange Agreement     )     Case No. \_\_\_\_\_  
under the Telecommunications Act of 1996     )

**APPLICATION OF ORCHARD FARM TELEPHONE COMPANY  
FOR APPROVAL OF A TRAFFIC EXCHANGE AGREEMENT  
UNDER THE TELECOMMUNICATIONS ACT OF 1996**

COMES NOW Orchard Farm Telephone Company ("Orchard Farm") and hereby files this Application for Approval of a Traffic Exchange Agreement between Orchard Farm and Charter Fiberlink – Missouri, LLC ("Charter") under the Telecommunications Act of 1996 ("the Act"). In support of this Application, Orchard Farm states to the Missouri Public Service Commission ("Commission") as follows:

**I. AGREEMENT REACHED**

Orchard Farm is a local exchange carrier operating in Missouri. Orchard Farm is a Missouri corporation in good standing with the Missouri Secretary of State. In Case No. TO-2004-0370, Orchard Farm filed a Certificate of Good Standing from the Missouri Secretary of State which Orchard Farm requests be incorporated by reference in this case.

Orchard Farm is not aware of any pending action or final unsatisfied judgments or decisions against them from any state or federal agency or court which involve customer service or rates. Orchard Farm's annual reports and assessment fees are not overdue. This information is still current and correct, as evidenced by the notarized affidavit of Ms. Linda Lowrance (Attachment I).

Charter is a competitive local exchange carrier operating in Missouri.

On May 9, 2006, after good faith negotiations, Orchard Farm and Charter executed a Mutual Traffic Exchange Agreement (“the Agreement”) for the state of Missouri pursuant to the terms of the Federal Act (see Agreement, Attachment II). Pursuant to the Act, Orchard Farm hereby submits this Agreement for approval by the Commission. The Agreement complies fully with Section 252(e) of the Federal Act because the Agreement is consistent with the public interest, convenience and necessity and does not discriminate against any telecommunications carrier. The Agreement consists of eleven (11) pages and one (1) schedule. There are no outstanding issues between the Orchard Farm and Charter that need the assistance of mediation or arbitration.

## **II. REQUEST FOR APPROVAL**

Orchard Farm seeks the Commission’s approval of the Agreement, consistent with the provisions of the Federal Act and Missouri law. Orchard Farm represents that the implementation of this negotiated and executed Agreement complies fully with both Missouri law and Section 252(e) of the Federal Act because the Agreement is consistent with the public interest, convenience and necessity and does not discriminate against any telecommunications carrier. Orchard Farm respectfully requests that the Commission grant expeditious approval of this Agreement, without change, suspension or delay in its implementation. This is a bilateral agreement, reached as a result of negotiations and compromise between the parties. Correspondence, orders and decisions in this matter should be addressed to:

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(counsel for Charter)

### **III. COMMISSION AUTHORITY**

Under the Federal Telecommunications Act of 1996 (“the Act”), the Commission has the authority to grant the relief requested by Orchard Farm. Specifically, Section 252(a) of the Act provides:

#### **(a) AGREEMENTS ARRIVED AT THROUGH NEGOTIATION**

- (1) **VOLUNTARY NEGOTIATIONS.** -- Upon receiving a request for interconnection, services, or network elements pursuant to section 251, an incumbent local exchange carrier may negotiate and enter into a binding agreement with the requesting telecommunications carrier or carriers without regard to the standards set forth in subsections (b) and (c) of section 251. The agreement shall include a detailed schedule of itemized charges for interconnection and each service or network element included in the agreement. The agreement, including any interconnection agreement negotiated before the date of enactment of the Telecommunications Act of 1996, shall be submitted to the State commission under subsection (e) of this section.

### **IV. STANDARD OF REVIEW**

Under Section 252 of the Act, the Commission has the authority to approve an agreement negotiated between an incumbent local exchange company (ILEC) and other telecommunications carriers. The Commission may only reject an agreement if

the agreement is discriminatory to a nonparty or is inconsistent with the public interest, convenience, and necessity. Section 252(e)(2) of the Act provides as follows:

**GROUND FOR REJECTION.**-- The State Commission may only reject --

- (A) an agreement (or any portion thereof) adopted by negotiation under subsection (a) if it finds that --
  - (i) the agreement (or portion thereof) discriminates against a telecommunications carrier not a party to the agreement; or
  - (ii) the implementation of such agreement or portion is not consistent with the public interest, convenience, and necessity;

The affidavit of Ms. Linda Lowrance, Manager-Interconnection for Orchard Farm, establishes that the Agreement satisfies these standards. (Affidavit, Attachment I)

## **V. CONCLUSION**

WHEREFORE, Orchard Farm respectfully requests that the Commission issue an Order that: (1) approves expeditiously the Traffic Exchange Agreement between Orchard Farm and Charter, and (2) grants such other relief as is reasonable in the circumstances.

Respectfully submitted,

By /s/ Brian T. McCartney  
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Attorneys for Orchard Farm Telephone Company

## CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the above and foregoing document this 24<sup>th</sup> day of May, 2006, to the following parties:

General Counsel  
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**/s/ Brian T. McCartney**

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