

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

Staff of the Public Service Commission)
of the State of Missouri,)
Complainant,)

V.

Case No. TC-2006-0184

New Florence Telephone Company,)
)
Respondent.)

ANSWER OF RESPONDENT
NEW FLORENCE TELEPHONE COMPANY

Comes now Respondent New Florence Telephone Company (“New Florence”), pursuant to Commission Rule 4 CSR 240-2.070, and for its Answer to the Complaint of Staff of the Missouri Public Service Commission (“Commission”) states as follows:

Count I

1. With respect to the averments contained in paragraph one (1) of the Complaint, New Florence states that Section 386.600, RSMo 2000, speaks for itself and no admission or denial is required.

2. With respect to the averments contained in paragraph two (2) of the Complaint, New Florence states that the case law quoted by Complainant speaks for itself and, therefore, no admission or denial is required.¹ The rest of paragraph two (2) contains legal assertions and conclusions and no answer is required.

¹Complainant cites *State ex rel. Sure-way Transportation, Inc. v. Division of Transportation*, 836 S.W.2d 23 (Mo. App. W.D. 1992).

3. With respect to the averments contained in paragraph three (3) of the Complaint, New Florence states that Section 386.390.1, RSMo 2000, speaks for itself and no admission or denial is required.

4. With respect to the averments contained in paragraph four (4) of the Complaint, New Florence states that Section 386.240, RSMo 2000, speaks for itself, and no admission or denial is required.

5. With respect to the averments contained in paragraph five (5) of the Complaint, New Florence states that Commission Rule 4 CSR 240-2.070(1) speaks for itself, and no admission or denial is required.

6. With respect to the averments contained in paragraph six (6) of the Complaint, New Florence states that the Commission's order issued in Case No. TO-2006-0143 speaks for itself, and no admission or denial is required.

7. New Florence admits the averments contained in paragraph seven (7) of the Complaint.

8. New Florence admits the averments contained in paragraph eight (8) of the Complaint.

9. With respect to the averments contained in paragraph nine (9) of the Complaint, New Florence admits it is a "telecommunications company" and a "public utility" as those terms are defined in § 386.020, RSMo 2000, to the extent it provides telecommunications services to the public in the State of Missouri in accordance with rates, terms and conditions of service on file with and approved by the Commission.

10. With respect to the averments contained in paragraph ten (10) of the Complaint, New Florence states that Section 386.570, RSMo 2000, speaks for itself, and no admission or denial is required.

11. With respect to the averments contained in paragraph eleven (11) of the Complaint, New Florence states that Commission Rule 4 CSR 240-30.040 speaks for itself, and no admission or denial is required.

12. With respect to the averments contained in paragraph twelve (12) of the Complaint, New Florence states that Commission Rule 4 CSR 240-30.040 and Federal Communications Commission rule 47 C.F.R. 32.27 speak for themselves, and no admission or denial is required.

13. With respect to the averments contained in paragraph thirteen (13) of the Complaint, New Florence states that Federal Communications Commission rule 47 C.F.R. 32.9000 speaks for itself, and no admission or denial is required.

14. With respect to the averments contained in paragraph fourteen (14) of the Complaint, New Florence states that Federal rule 47 C.F.R. § 69.601(c) speaks for itself, and no admission or denial is required.

15. With respect to the averments contained in paragraph fifteen (15) of the Complaint, New Florence states that Section 386.560, RSMo 2000, speaks for itself, and no admission or denial is required.

16. New Florence admits the averments contained in paragraph sixteen (16) of the Complaint.

17. New Florence admits the averments contained in paragraph seventeen (17) of the Complaint.

18. New Florence admits that after August 21, 1998, Local Exchange Company, LLC (LEC, LLC) and Robert D. Williams each had an ownership interest in Tiger Telephone, Inc. New Florence is not sure what is meant by the phrase "At all times pertinent to the allegations in this complaint" so is without sufficient information or belief to answer further. New Florence, consequently, denies the averment.

19. New Florence admits that from August 21, 1998 to January 21, 2005, Kenneth M. Matzdorff had an ownership interest in Tiger Telephone, Inc. New Florence is without sufficient information or belief to answer further averments in paragraph nineteen (19). Consequently, New Florence denies the averments.

20. With respect to paragraph twenty (20) of the Complaint, the statement that "LEC, LLC, Robert D. Williams and Kenneth M. Matzdorff controlled New Florence Telephone Company" is a legal conclusion, and no admission or denial is required. To the extent an answer is required, New Florence is without sufficient information or belief to enable New Florence to answer. Consequently, New Florence denies the averment.

21. With respect to paragraph twenty-one (21) of the Complaint, the statement that "at all times pertinent to the allegations in this complaint, LEC, LLC was an affiliate of New Florence Telephone Company" is a legal conclusion, and no admission or denial is required. To the extent an answer is required, New Florence is without sufficient information or belief to enable New Florence to answer. Consequently, New Florence denies the averment.

22. With respect to paragraph twenty-two (22) of the Complaint, the statement that “at all times pertinent to the allegations in this complaint, Robert D. Williams was an affiliate of New Florence Telephone Company” is a legal conclusion, and no admission or denial is required. To the extent an answer is required, New Florence is without sufficient information or belief to enable New Florence to answer. Consequently, New Florence denies the averment.

23. With respect to paragraph twenty-three (23) of the Complaint, the statement that “at all times pertinent to the allegations in this complaint, Kenneth M. Matzdorff was an affiliate of New Florence Telephone Company” is a legal conclusion, and no admission or denial is required. To the extent an answer is required, New Florence is without sufficient information or belief to enable New Florence to answer. Consequently, New Florence denies the averment.

24. New Florence admits that on or about July 1, 2001, New Florence elected to receive interstate settlements from National Exchange Carriers Association, Inc. (NECA) and the Universal Service Fund (USF) on a “cost” basis.

25. New Florence admits that as a result of its election to become a “cost company” it received interstate settlements from NECA and USF based on its costs as determined by its cost studies.

26. New Florence admits the averments of paragraph twenty-six (26).

27. New Florence admits that it received administrative services from LEC, LLC, but it is without sufficient information or belief to answer the remaining averments of paragraph twenty-seven (27). New Florence, consequently, denies these averments.

28. New Florence is without information or belief sufficient to enable it to answer the averments of paragraph twenty-eight (28). Consequently, New Florence denies the averments

pursuant to 4 CSR 240-2.070(8).

29. New Florence is without information or belief sufficient to enable it to answer the averments of paragraph twenty-nine (29). Consequently, New Florence denies the averments pursuant to 4 CSR 240-2.070(8).

30. New Florence is without information or belief sufficient to enable it to answer the averments of paragraph thirty (30). Consequently, New Florence denies the averments pursuant to 4 CSR 240-2.070(8).

31. With respect to the averments stated in paragraph thirty-one (31), New Florence states that Commission rule 4 CSR 240-30.040 speaks for itself, and no admission or denial is required.

32. New Florence is without information or belief sufficient to enable it to answer the averments of paragraph thirty-two (32). Consequently, New Florence denies the averments pursuant to 4 CSR 240-2.070(8).

33. New Florence is without information or belief sufficient to enable it to answer the averments of paragraph thirty-three (33). Consequently, New Florence denies the averments pursuant to 4 CSR 240-2.070(8).

34. New Florence is without information or belief sufficient to enable it to answer the averments of paragraph thirty-four (34). Consequently, New Florence denies the averments pursuant to 4 CSR 240-2.070(8).

35. New Florence admits that in October of 2004 it made an entry in its books of account to reflect reduced administrative costs from LEC, LLC. New Florence is without information or belief sufficient to enable it to answer the remaining averments of paragraph

thirty-five (35). Consequently, New Florence denies these averments pursuant to 4 CSR 240-2.070(8).

36. New Florence admits that a portion of the amounts recorded on its books of account for administrative services provided by LEC, LLC, were capitalized and included in New Florence Telephone Company's plant in service. New Florence is without information or belief sufficient to enable it to respond to the remaining averments of paragraph thirty-six (36). Consequently, New Florence denies those averments pursuant to 4 CSR 240-2.070(8).

New Florence denies all allegations in "**Count I**" of the Complaint not specifically admitted herein.

New Florence further denies that Complainant is entitled to the relief prayed for in the WHEREFORE clause of the Complaint or is entitled to any relief whatsoever in the premises.

Count II

37. New Florence incorporates by reference the answers to the allegations in paragraphs 1- 14 and 16-25 above.

38. New Florence admits the averments contained in paragraph thirty-eight (38) of the Complaint.

39. New Florence admits the averments contained in paragraph thirty-nine (39) of the Complaint.

40. New Florence admits the averments contained in paragraph forty (40) of the Complaint.

41. New Florence admits the averments contained in paragraph forty-one (41) of the Complaint.

42. New Florence admits the averments contained in paragraph forty-two (42) of the Complaint.

43. New Florence admits the averments contained in paragraph forty-three (43) of the Complaint.

44. New Florence denies the averments contained in paragraph forty-four (44) of the Complaint.

45. New Florence does not have information or belief on the subject sufficient to enable it to answer the allegations contained in paragraph forty-five (45) of the Complaint. Consequently, New Florence denies those averments pursuant to 4 CSR 240-2.070(8).

46. New Florence denies the averments contained in paragraph forty-six (46) of the Complaint.

47. New Florence denies the averments contained in paragraph forty-seven (47) of the Complaint.

48. New Florence denies the averments contained in paragraph forty-eight (48) of the Complaint.

New Florence denies all allegations in “**Count II**” of the Complaint not specifically admitted herein.

New Florence denies that Complainant is entitled to the relief prayed for in the WHEREFORE clause of the Complaint or is entitled to any relief whatsoever in the premises.

Count III

49. New Florence incorporates by reference the answers to the allegations of paragraphs 1-14 and 16-25 above.

50. New Florence admits that Robert D. Williams is the sole owner of South Holt Communications, Inc. New Florence is without information or belief sufficient to enable it to answer the other averments and legal conclusions contained in paragraph fifty (50) of the Complaint. Consequently, New Florence denies those averments pursuant to 4 CSR 240-2.070(8).

51. New Florence does not have information or belief on the subject sufficient to enable it to answer the allegations contained in paragraph fifty-one (51) of the Complaint. Consequently, New Florence denies those averments pursuant to 4 CSR 240-2.070(8).

52. New Florence admits the averments contained in paragraph fifty-two (52) of the Complaint.

53. New Florence admits the averments contained in paragraph fifty-three (53) of the Complaint.

54. New Florence admits the averments contained in paragraph fifty-four (54) of the Complaint.

55. New Florence admits that New Florence and South Holt Communications, Inc. did not execute a written agreement for management consulting services.

56. New Florence denies the averments and legal assertions and conclusions contained in paragraph fifty-six (56) of the Complaint.

57. New Florence does not have information or belief on the subject sufficient to enable it to answer the allegations contained in paragraph fifty-seven (57) of the Complaint. Consequently, New Florence denies those averments pursuant to 4 CSR 240-2.070(8).

58. New Florence denies the averments and legal assertions and conclusions contained in paragraph fifty-eight (58) of the Complaint.

59. New Florence denies the averments and legal assertions and conclusions contained in paragraph fifty-nine (59) of the Complaint.

60. New Florence denies the averments and legal assertions and conclusions contained in paragraph sixty (60) of the Complaint.

New Florence denies all allegations in “**Count III**” of the Complaint not specifically admitted herein.

New Florence further denies that Complainant is entitled to the relief prayed for in the WHEREFORE clause of the Complaint or is entitled to any relief whatsoever in the premises.

Count IV

61. New Florence incorporates by reference the answers to the allegations of paragraphs 1-14 and 16-25 above.

62. New Florence does not have information or belief sufficient to enable it to answer the averments of paragraph sixty-two (62) of the Complaint. Consequently, New Florence denies those averments pursuant to 4 CSR 240-2.070(8).

63. New Florence does not have information or belief on the subject sufficient to enable it to answer the allegations contained in paragraph sixty-three (63) of the Complaint. Consequently, New Florence denies those averments pursuant to 4 CSR 240-2.070(8).

64. New Florence admits the averments of paragraph sixty-four (64) of the Complaint.

65. New Florence admits the averments of paragraph sixty-five (65) of the Complaint.

66. New Florence admits the averments of paragraph sixty-six (66) of the Complaint.

67. New Florence admits the averments of paragraph sixty-seven (67) of the Complaint.

68. New Florence denies the averments and legal assertions and conclusions contained in paragraph sixty-eight (68) of the Complaint.

69. New Florence does not have information or belief on the subject sufficient to enable it to answer the allegations contained in paragraph sixty-nine (69) of the Complaint. Consequently, New Florence denies those averments pursuant to 4 CSR 240-2.070(8).

70. New Florence denies the averments and legal assertions and conclusions contained in paragraph seventy (70) of the Complaint.

71. New Florence denies the averments and legal assertions and conclusions contained in paragraph seventy-one (71) of the Complaint.

72. New Florence denies the averments and legal assertions and conclusions contained in paragraph seventy-two (72) of the Complaint.

New Florence denies all allegations in “**Count IV**” of the Complaint not specifically admitted herein.

New Florence further denies that Complainant is entitled to the relief prayed for in the WHEREFORE clause of the Complaint or is entitled to any relief whatsoever in the premises.

Count V

73. New Florence incorporates by reference the answers to the allegations contained in paragraphs 1-13 and 16-23 above.

74. With respect to paragraph seventy-four (74) of the Complaint, New Florence is without information or belief upon the subject sufficient to enable New Florence to answer. Consequently, New Florence denies those averments pursuant to 4 CSR 240-2.979(8).

75. New Florence does not have information or belief on the subject sufficient to enable it to answer the allegations contained in paragraph seventy-five (75) of the Complaint. Consequently, New Florence denies those averments pursuant to 4 CSR 240-2.070(8).

76. New Florence admits that Robert D. Williams had a fifty (50) percent ownership interest in Williams Holdings, Inc. New Florence is without information or belief sufficient to enable it to answer the other averments and legal conclusions contained in paragraph seventy-six (76) of the Complaint. Consequently, New Florence denies those averments pursuant to 4 CSR 240-2.070(8).

77. New Florence is without information or belief upon the subject sufficient to enable New Florence to answer the averments and legal conclusions contained in paragraph seventy-seven (77) of the Complaint. Consequently, New Florence denies those averments pursuant to 4 CSR 240-2.979(8).

78. New Florence admits the averments contained in paragraph seventy-eight (78).

79. New Florence admits the averments contained in paragraph seventy-nine (79).

80. New Florence admits the averments contained in paragraph eighty (80).

81. New Florence is without information or belief upon the subject sufficient to enable New Florence to answer the averments and legal conclusions contained in paragraph eighty-one (81) of the Complaint. Consequently, New Florence denies those averments pursuant to 4 CSR 240-2.979(8).

82. Paragraph eighty-two (82) of the Complaint contains a legal conclusion, thus no admission or denial is required. To the extent an answer is required, New Florence denies the legal assertions and conclusions contained in paragraph 82.

83. New Florence is without knowledge or belief of what is meant by the phrases “near the time” and “multiple entries” in paragraph eighty-three (83) sufficient to allow it to respond. New Florence therefore denies the averments and legal assertions and conclusions contained in paragraph eighty-three (83) of the Complaint.

84. New Florence is without knowledge or belief of what is meant by the phrases “near the time” and “multiple entries” in paragraph eighty-four (84) sufficient to allow it to respond. New Florence therefore denies the averments and legal assertions and conclusions contained in paragraph eighty-four (84) of the Complaint.

85. New Florence is without knowledge or belief of what is meant by the phrases “near the time” and “multiple entries” in paragraph eighty-five (85) sufficient to allow it to respond. New Florence therefore denies the averments and legal assertions and conclusions contained in paragraph eighty-five (85) of the Complaint.

86. New Florence denies the averments and legal assertions and conclusions contained in paragraph eighty-six (86) of the Complaint.

87. New Florence admits the averments contained in paragraph eighty-seven (87) of the Complaint.

88. New Florence is without knowledge or belief sufficient to enable it to know what the Commission would include in the company’s cost of service for the purpose of ratemaking and therefore denies the averments of paragraph eighty-eight (88).

New Florence denies all allegations in “**Count V**” of the Complaint not specifically admitted herein.

New Florence further denies that Complainant is entitled to the relief prayed for in the WHEREFORE clause of the Complaint or is entitled to any relief whatsoever in the premises.

Count VI

89. New Florence incorporates the answers to Staff’s allegations contained in paragraphs 1-36 of the Complaint.

90. New Florence denies the averments and legal assertions and conclusions contained in paragraph ninety (90) of the Complaint.

New Florence denies all allegations in “**Count VI**” of the Complaint not specifically admitted herein.

New Florence further denies that Complainant is entitled to the relief prayed for in the WHEREFORE clause of the Complaint or is entitled to any relief whatsoever in the premises.

Count VII

91. New Florence incorporates its answers to Staff’s allegations contained in paragraphs 1-25 and 38-48 above.

92. New Florence denies the averments and legal assertions and conclusions contained in paragraph ninety-two (92) of the Complaint.

New Florence denies all allegations in “**Count VII**” of the Complaint not specifically admitted herein.

New Florence further denies that Complainant is entitled to the relief prayed for in the WHEREFORE clause of the Complaint or is entitled to any relief whatsoever in the premises.

Count VIII

93. New Florence incorporates its answers to Staff's allegations contained in paragraphs 1-25 and 50-60 above.

94. New Florence denies the averments and legal assertions and conclusions contained in paragraph ninety-four (94) of the Complaint.

New Florence denies all allegations in "**Count VIII**" of the Complaint not specifically admitted herein.

New Florence further denies that Complainant is entitled to the relief prayed for in the WHEREFORE clause of the Complaint or is entitled to any relief whatsoever in the premises.

Count IX

95. New Florence incorporates its answers to Staff's allegations contained in paragraphs 1-25 and 62-72 above.

96. New Florence denies the averments and legal assertions and conclusions contained in paragraph ninety-six (96) of the Complaint.

New Florence denies all allegations in "**Count IX**" of the Complaint not specifically admitted herein.

New Florence further denies that Complainant is entitled to the relief prayed for in the WHEREFORE clause of the Complaint or is entitled to any relief whatsoever in the premises.

Count X

97. New Florence incorporates its answers to Staff's allegations contained in paragraphs 1-23 and 74-88 above.

98. New Florence denies the averments and legal assertions and conclusions contained in paragraph ninety-eight (98) of the Complaint.

New Florence denies all allegations in “**Count X**” of the Complaint not specifically admitted herein.

New Florence further denies that Complainant is entitled to the relief prayed for in the WHEREFORE clause of the Complaint or is entitled to any relief whatsoever in the premises.

Count XI

99. New Florence incorporates its answers to Staff’s allegations contained in paragraphs 1-23, 74-82, 87-88 and 98 above.

100. New Florence admits the averments contained in paragraph 100 of the Complaint.

101. New Florence admits the averments contained in paragraph 101 of the Complaint.

102. New Florence admits the averments contained in paragraph 102 of the Complaint.

103. New Florence admits the averments contained in paragraph 103 of the Complaint.

104. New Florence admits that Kenneth M. Matzdorff and Robert D. Williams in their capacity as directors of New Florence Telephone Company approved the loans referenced in paragraphs 100 - 103 above.

105. New Florence is without knowledge or belief sufficient to understand what is meant by the phrases “short period of time” and “multiple entries” in order to enable it to answer the averments in paragraph 105 of the Complaint. Consequently, New Florence denies those averments pursuant to 4 CSR 240-2.070(8).

106. New Florence is without knowledge or belief sufficient to understand what is meant by the phrases “short period of time” and “multiple entries” in order to enable it to answer

the averments in paragraph 106 of the Complaint. Consequently, New Florence denies those averments pursuant to 4 CSR 240-2.070(8).

107. New Florence is without knowledge or belief sufficient to understand what is meant by the phrases “short period of time” and “multiple entries” in order to enable it to answer the averments in paragraph 107 of the Complaint. Consequently, New Florence denies those averments pursuant to 4 CSR 240-2.070(8).

108. New Florence admits that it made an entry in its books that had the effect of reducing the value of the switch and that it has made no entry to offset or reverse the reduction of the loan balances owed by Robert D. Williams to New Florence. For further answer, New Florence states that its books related to these transactions have been reviewed by an outside auditor which found no problem.

109. New Florence admits that it made an entry in its books that had the effect of reducing the value of the switch and that it has made no entry to offset or reverse the reduction of the loan balances owed by Kenneth M. Matzdorff to New Florence. For further answer, New Florence states that its books related to these transactions have been reviewed by an outside auditor which found no problem.

110. New Florence admits that it made an entry in its books that had the effect of reducing the value of the switch and that it has made no entry to offset or reverse the capital distribution to LEC, LLC. For further answer, New Florence states that its books related to these transactions have been reviewed by an outside auditor which found no problem.

111. New Florence admits that it posted a \$135,532 reduction in the loan balances owed by Robert D. Williams to New Florence, but denies all other inferences and legal assertions

and conclusions contained in paragraph 111 of the Complaint.

112. New Florence admits that it posted a \$135,532 reduction in the loan balances owed by Kenneth M. Matzdorff to New Florence, but denies all other inferences and legal assertions and conclusions contained in paragraph 112 of the Complaint.

113. New Florence admits that it posted a \$135,532 capital distribution to LEC, LLC, but denies all other inferences and legal assertions and conclusions contained in paragraph 113 of the Complaint.

New Florence denies all allegations in “**Count XI**” of the Complaint not specifically admitted herein.

New Florence further denies that Complainant is entitled to the relief prayed for in the WHEREFORE clause of the Complaint or is entitled to any relief whatsoever in the premises.

114. For further answer and defense, pursuant to Commission Rule 4 CSR 240.2070(8), Respondent New Florence provides the following additional grounds of defense, both of law and of fact, in further answer and response to the Complaint:

A. The Complaint fails to set forth facts showing that Complainant is entitled to relief prayed for or any relief whatsoever in the premises, and fails to state a claim upon which relief can be granted against New Florence.

(1) Section 386.570 RSMo is unconstitutionally vague and overbroad in that it does not reasonably identify the nature of the conduct proscribed by the statute such that a corporation, person or public utility is reasonably put on notice as to what actions are punishable thereunder. The practical scope of this clause absent some meaningful boundaries is quite literally limitless.

(2) The penalty provided in Section 386.570, RSMo 2000, is not applicable to the conduct alleged against New Florence in Counts I through XI to the extent that a penalty under Section 386.560 RSMo can be assessed, because the relief under Section 386.570 RSMo is only available “in a case in which a penalty has not herein been provided for such corporation, person or public utility.”

(3) The Complaint is nothing more than a run-of-the-mill cost of service audit postured in the form of a penalty action. Staff does not contend the costs about which it complains are reflected in rates but, rather, “would be included in the cost of service” used to set rates if the Commission were asked to set rates. In other words, the challenged costs are not reflected in the rates New Florence customers pay for regulated service. It necessarily follows that the Complaint presents no grounds to conclude any public detriment has occurred. Moreover, the Complaint presents nothing more than compound conjecture about what the Commission might do if New Florence were to seek recovery of the challenged cost entries in a hypothetical rate case. Any audit of the books and records of a regulated public utility results in legitimate disputes about inter-company transactions, accounting entries on the books and records of the utility and whether challenged costs should be included in rate schedules for regulated service. These routine regulatory challenges by the Commission’s auditors should not be submitted to the Commission with a presumption of culpability and the threat of onerous penalties and criminal action. The Commission’s role is one of regulation, not prosecution. The use of the § 386.570 RSMo penalty provision in the absence of any allegation of harm to the rate payers or the financial integrity of New Florence is unjustified and unwarranted.

B. The construction and interpretation of Chapter 386 RSMo 2000 that Complainant seeks to apply in this action:

- (1) constitutes an unreasonable, inconsistent, and arbitrary construction and interpretation of the statute;
- (2) constitutes an unreasonable, inconsistent, and arbitrary application of the statute;
- (3) exceeds the statutory authority, powers, and jurisdiction of the Commission; and
- (4) constitutes the making of law or an adjudication in violation of the authority, powers, and jurisdiction of the Commission as limited by the Constitution of Missouri, Article III, §§1 and 49, and by Chapters 386 and 392 RSMo. 2000.

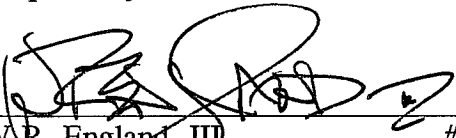
C. New Florence is immune under Section 386.470, RSMo 2000, in that the Complaint purports to impose a penalty for alleged transactions or conduct with respect to which New Florence has provided documentary evidence or with respect to which New Florence has testified under oath through Robert Williams. New Florence is also immune under that statute in that New Florence's alleged liability is based solely upon the alleged transactions or conduct of Robert Williams who himself is immune from penalties under the same immunity statute based upon his testimony under oath and/or his providing documentary evidence, and his immunity also exonerates New Florence from liability for penalties for that conduct.

D. The Complaint is barred by limitations on actions provided by law and equitable principles of laches.

E. Respondent New Florence reserves the right to raise additional affirmative defenses which may become apparent through the course of discovery.

WHEREFORE, having fully answered the Complaint, Respondent New Florence requests that the Complaint be dismissed for failure to state a claim with respect to which relief can be granted and for lack of statutory authority for the Commission to authorize the General Counsel to seek statutory penalties against New Florence under these circumstances and for such other relief as may be appropriate in the circumstances. In the alternative, New Florence requests the Commission convene a hearing for the presentation of evidence with respect to the allegations set forth in each count of the Complaint because there are genuine issues of material fact. Pursuant to Commission Rule 4 CSR 240-2.140, New Florence further requests an opportunity to present oral argument and to file briefs at an appropriate time after the close of the record.

Respectfully submitted,


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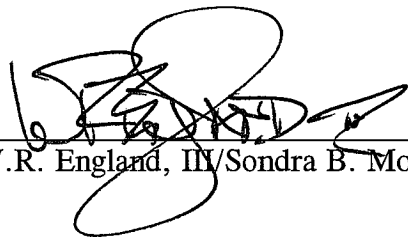
Attorneys for New Florence Telephone Company

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the above and foregoing document was sent electronically, by U.S. Mail, postage prepaid, or hand-delivered on this 23rd day of November, 2005, to the following parties:

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