



Missouri Public Service Commission

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June 29, 2000

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JUN 29 2000

Missouri Public
Service Commission

Mr. Dale Hardy Roberts
Secretary/Chief Regulatory Law Judge
Missouri Public Service Commission
P. O. Box 360
Jefferson City, MO 65102

RE: Case No. TA-2000-786

Dear Mr. Roberts:

Enclosed for filing in the above-captioned case are an original and eight (8) conformed copies of a STAFF RECOMMENATION.

This filing has been mailed or hand-delivered this date to all counsel of record.

Thank you for your attention to this matter.

Sincerely yours,

Nathan Williams
by MDP

Nathan Williams
Assistant General Counsel
(573) 751-8702
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NW/lb
Enclosure
cc: Counsel of Record

BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI

FILED³

JUN 29 2000

Missouri Public
Service Commission

In the Matter of the Application of)
Holway Long Distance Company and)
Fiber Four Corporation to grant Holway)
Long Distance Company a Certificate of)
Service Authority to provide)
Interexchange and Local Exchange)
Telecommunications Service and for)
Authority to Transfer to Holway Long)
Distance Company Assets of Fiber Four)
Corporation Used to Provide Service to)
Customers of Fiber Four Corporation)
d/b/a Holway Long Distance.)

Case No. TA-2000-786

STAFF RECOMMENDATION

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

1. Holway Long Distance Company ("HLDC"), a newly incorporated Missouri corporation, and Fiber Four Corporation ("FFC") on May 26, 2000, filed a joint application seeking orders necessary for them to effectuate the transfer of the provisioning of interexchange telecommunications services to the customers of Fiber Four Corporation d/b/a Holway Long Distance ("FFC d/b/a HLD") from FFC d/b/a HLD to Holway Long Distance Company ("HLDC"). The Commission issued an Order Directing Notice fixing a June 22, 2000 intervention date. No parties have intervened. The Staff did not receive substitute tariff sheets required for it to make a favorable recommendation until June , 2000. The effective date of the tariff filed for HLDC in this case is July 10, 2000.

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2. In this case HLDC seeks a certificate of service authority to provide interexchange and local exchange services. In addition, jointly with FFC, HLDC seeks approval of the transfer to HLDC of the customers of FFC receiving interexchange telecommunications services pursuant to the temporary certificate of service authority this Commission issued to FFC d/b/a HLD in Case No. TA-2000-24. HLDC and FFC also seek Commission approval of the transfer of assets related to FFC's provisioning of services to customers under its alias "Holway Long Distance." Finally, FFC seeks, contemporaneous with the transfer of customers to HLDC, cancellation of its temporary certificate of service authority issued by the Commission for FFC d/b/a HLD in Case No. TA-2000-24.

3. In the attached Memorandum, which is labeled Appendix A, the Staff recommends that the Missouri Public Service Commission ("Commission") grant to HLDC a certificate to provide interexchange telecommunications services and local exchange services. The Commission shall grant an application for a certificate of telecommunications service authority upon a finding that the grant of authority is in the public interest. (See §§ 392.430 and 392.440, RSMo 1994).

4. Staff also recommends that the Commission classify the company HLDC and its services as competitive. The Commission may classify a telecommunications provider or its services as competitive if the Commission determines it is subject to sufficient competition to justify a lesser degree of regulation. (See §392.361.2 RSMo 1994). All the services a competitive company provides must be classified as competitive. (See §392.361.3 RSMo 1994).

5. The Staff recommends that the Commission approve for HLDC the waivers listed in the joint application. These waiver citations comport with the waivers now typically listed in Commission Notices of Application for authority to provide interexchange telecommunications

services. The Commission may waive the application of its rules and certain statutes if the Commission determines that waiver is consistent with the purposes of Chapter 392 RSMo. (See §§ 392.361.3 and 392.420 RSMo 1994 and § 392.185 RSMo Supp. 1999).

6. The Staff recommends approval of the tariff filed by HLDC, as substituted. The Commission is to review a tariff to assure the provisions thereof are both lawful and just and reasonable. See §§ 392.190 to 392.530, RSMo., generally and 392.200, RSMo. Supp. 1999, in particular.

7. The Staff recommends that the Commission approve the transfer to HLDC of the assets of FFC, including those customers receiving interexchange telecommunications services from FFC d/b/a HLD, needed to effectuate the transfer of the provisioning of interexchange telecommunications services to present customers of FFC d/b/a HLD to HLDC. The applicants have complied with the requirement of §392.300.1, RSMo. 1996 and 4 CSR 240-2.060(7)(F), that they state the impact on the tax revenues of political subdivisions. The Commission is to approve a transfer of assets from a telecommunications company so long as the transfer is not detrimental to the public interest. See §392.300.1, RSMo. 1996, and 4 CSR 240-2.060(7)(D).

8. In Case No. TA-2000-24 the Commission granted FFC d/b/a HLD temporary authority to provide interexchange telecommunications services and dedicated, private line local exchange services. Because the legislature, through §392.410.6, RSMo. 1996, has given the Commission power to “issue a temporary certificate which shall remain in force not to exceed one year . . . pending the determination of an application for a certificate” and the Commission entered its order granting FFC d/b/a HLD a temporary certificate effective July 30, 1999, the temporary certificate issued to FFC d/b/a HLD will expire by operation of law on July 29, 2000. The Staff recommends the Commission enter an order, effective contemporaneously with the

expiration or earlier Commission cancellation of the temporary certificate of authority to provide interexchange telecommunications services the Commission granted to FFC d/b/a HLD in Case No. TA-2000-24, that 1) cancels the tariff the Commission approved for FFC d/b/a HLD in Case No. TA-2000-24; 2) grants HLDC a certificate of authority to provide interexchange telecommunications services; 3) classifies the HLDC and its services as competitive and 4) approves the transfer of assets from FFC to HLDC. The Commission has the authority to modify or alter a certificate of service authority after proper procedure. See §392.410.5, RSMo. Supp. 1999.

WHEREFORE, the Staff requests the Commission to issue an order that:

1) effective contemporaneously with the end, by Order or operation of law, of the temporary certificate of service authority of Fiber Four Corporation d/b/a Holway Long Distance to provide interexchange and dedicated, private line local exchange services authorized in Case No. TA-2000-24, grants HLDC a certificate to provide interexchange telecommunications services and dedicated, private line local exchange services;

2) classifies the foregoing services and the company, as competitive;

3) approves the waivers as listed in the joint application filed in this case;

4) approves the tariff pages Holway Long Distance Company PSC Mo. No. 1, Original Sheets 1-45 to become effective on the date its certificate becomes effective;

5) effective contemporaneously with the end, by Order or operation of law, of the temporary certificate of service authority of Fiber Four Corporation d/b/a Holway Long Distance to provide interexchange and dedicated, private line local exchange services authorized in Case No. TA-2000-24, approves the transfer to HLDC of the assets of FFC, including those customers receiving interexchange telecommunications services from FFC d/b/a HLD, needed to effectuate

the transfer of the provisioning of interexchange telecommunications services to present customers of FFC d/b/a HLD to HLDC; and

6) effective contemporaneously with the end, by Order or operation of law, of the temporary certificate of service authority of Fiber Four Corporation d/b/a Holway Long Distance to provide interexchange and dedicated, private line local exchange services authorized in Case No. TA-2000-24, cancels the tariff approved by the Commission for Fiber Four Corporation d/b/a Holway Long Distance in Case No. TA-2000-24.

Respectfully submitted,

DANA K. JOYCE
General Counsel



Nathan Williams
Assistant General Counsel
Missouri Bar No. 35512

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Certificate of Service

I hereby certify that copies of the foregoing have been mailed or hand-delivered to all counsel of record as shown on the attached service list this 29th day of June 2000.



MEMORANDUM

To: Missouri Public Service Commission Official Case File
Tariff File No. 200001082 Case No. TA-2000-786
Holway Long Distance Company
Fiber Four Corporation

From: Sherri Murphy *SM BN*
Telecommunications Department

[Signature] 6/28/00
Utility Operations Division/Date

[Signature] 6-29-00
General Counsel's Office/Date

Subject: Staff Recommendation to Approve Joint Application

Date: June 26, 2000

On May 26, 2000, Holway Long Distance Company (Holway-LD) and Fiber Four Corporation (FFC), filed a Joint Application. Holway-LD requests a certificate of service authority to provide interexchange and local exchange telecommunications service, designation of those services and the company as competitive, and a waiver of certain Commission rules and statutes. Holway-LD and FFC request authority to transfer a portion of FFC's assets to Holway-LD and simultaneously cancel Fiber Four Corporation d/b/a Holway Long Distance 's (FFC-HLD's) temporary certificate of service authority and tariff which were approved in Case No. TA-2000-24. The temporary certificate was granted to FFC-HLD on July 29, 1999, and is effective for up to one year.

On June 2, 2000, the Commission issued an Order Directing Notice in Case No. TA-2000-786 which established a June 22, 2000 intervention deadline for applications to intervene, requests for a hearing or comments. No parties filed in response to the Commission's Order.

Although Holway-LD requests statewide authority to provide interexchange and local exchange telecommunication service, Holway-LD proposes to provide service initially only to customers in the Maitland and Skidmore exchanges. Holway-LD has no pending or final judgments or decisions against it from any state or federal agency which involve customer service or rates. Holway-LD requests the same waivers as those ordinarily granted to interexchange and local exchange companies.

Regarding the application for transfer of assets, FFC proposes to transfer a portion of its assets to Holway-LD. These assets include the name "Holway Long Distance," the customers of FFC-HLD and the associated billed revenues and receivables. The Asset

Official Case File Memorandum

Case No. TA-2000-789

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Purchase Agreement is attached to the Joint Application as Appendix D. The proposed transfer of assets should have no impact on the tax revenues of the political subdivisions in which the structures, facilities and equipment of the companies are located. According to the Joint Application, Holway-LD will provide service under the same rates, terms and conditions as are currently provided by FFC-HLD. Affected customers will be notified of the transfer of assets by a direct mail notice which is attached to the Joint Application as Appendix C. The notice explains the procedure for customers to use if they want to switch to another carrier.

The Staff recommends that the Commission grant Holway-LD a certificate of service authority to provide interexchange and local exchange telecommunications services and classify the company and its services as competitive.

At the request of the Staff, Holway-LD filed substitute tariff pages on June 23, 2000. The Staff has no objections to the proposed tariff, as amended, and recommends the Commission approve the following tariff pages to become effective July 10, 2000:

Holway Long Distance Company PSC Mo. No. 1
Original Sheets 1-45

Staff also recommends that the Commission approve the proposed transfer of assets and cancel FFC-HLD's temporary certificate of service authority and accompanying tariff simultaneously with the approval of Holway-LD's certificate and tariff.

**Service List for
Case No. TA-2000-786
June 29, 2000**

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