

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

Staff of the Missouri Public Service )  
Commission )  
Complainant, )  
v. )  
Cintex Wireless, LLC, )  
Respondent. )

**File No. RC-2012-0421**

**STAFF RESPONSE TO CINTEX’S REQUEST FOR ORAL ARGUMENT AND  
SUBMISSION OF CINTEX’S PROPOSED UNDERTAKING**

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

1. On June 14, 2012, the Staff filed its Complaint and Motion to Show Cause Why the ETC Designation of Cintex Wireless, LLC Should Not Be Provisionally Revoked. If, as Cintex asserts, it is not presently marketing its services in the State of Missouri, no due process is attached to such a provisional revocation. Further since Cintex is not receiving federal Universal Service support, there is no threat of harm to Cintex’s Lifeline business in Missouri. In support thereof, the Staff attaches hereto a letter from Cintex’s counsel attesting to such.

2. In its Request for Oral Argument, Cintex asserted that the provisional revocation is like a preliminary injunction, an analogy with which the Commission appeared to agree in its Agenda discussion on August 8, 2012. The Staff respectfully disagrees. However, Cintex asserts that the undertakings in its letter remove any threat of immediate harm, which is required for such injunctive relief. Although the Staff does not agree that injunctive relief is the appropriate

standard, and although Cintex's letter is the only assurance the Commission has received, the Staff concedes that if the letter is sufficient, much of the threat of imminent harm will be removed. As a practical matter, Cintex stopped marketing in Missouri after the Federal Communications Commission disallowed Universal Service Fund support because Cintex did not have an FCC-approved compliance plan. Although it appears that the FCC may be waiting to approve Cintex's compliance plan until after the resolution of this matter, there is nothing to indicate that the FCC will continue to wait, or that it really is purposefully delaying such approval. The FCC could approve Cintex's compliance plan at any time, whereupon Cintex would seek immediate support for the approximately 1,300 Missouri customers it does have, including those the Staff believes cannot be served because the Commission's regulations preclude it. The undertaking in Cintex's letter does not preclude it from seeking such support.

3. If the Commission agrees with the company that the standards for injunctive relief apply, and believes that Cintex's Counsel's representation are sufficient, then the Staff withdraws its request for provisional revocation and requests that this matter be set for hearing on an expedited basis. The Staff's case is based almost entirely on documentary evidence and the Staff is ready to go to hearing on very short notice.

**WHEREFORE**, the Staff prays that the Commission, if it believes the standard of review for provisional revocation is the same as for temporary injunctive relief, and if it believes that Cintex's Counsel's letter is a sufficient safeguard against "irreparable harm," the Staff respectfully withdraws its Request for Provisional Revocation and asks that the hearing and all further proceeding in the matter be expedited as much as possible.

Respectfully submitted,



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**CERTIFICATE OF SERVICE**

I hereby certify that copies of the foregoing have been mailed, hand-delivered, transmitted by facsimile or electronically mailed to all counsel of record this 14<sup>th</sup> day of August, 2012.

