

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

The Staff of the Missouri Public)	
Service Commission,)	
)	
Complainant,)	
)	
v.)	<u>File No. RC-2012-0421</u>
)	
Cintex Wireless, LLC,)	
)	
Respondent.)	

**EXPLANATION OF REVISIONS TO THE
UNANIMOUS STIPULATION AND AGREEMENT**

On November 15, 2012, the Commission held an on-the-record presentation of the Unanimous Stipulation and Agreement, at which certain questions were raised. Set forth below are the issues raised and the changes to the Unanimous Stipulation and Agreement the Parties propose:

I – “AGREEMENTS” AND “COMMITMENTS”

In several places, the Parties used both “agrees” and “commits”. The Commission asked for clarification of the difference between the words.

AGREEMENT

The Parties agree that those terms are synonymous for purposes of this agreement. To great extent, the phrase “agrees to” has been used to identify the commitments Cintex makes in the Unanimous Stipulation and Agreement. The word “commits” has been changed to “agrees” in many places for further clarification.

STAFF OPINION

The Staff believes the language change, as well as the Parties' agreement on the record, clarifies that the terms "agreement" and "commitment" are synonymous. The Staff notes that the Unanimous Stipulation and Agreement still contains the word "commitment," but not in the first part of each commitment, which begins with Cintex or the Staff agreeing to do or refrain from doing something.

II – PARAGRAPH 13

There were questions raised about when a matter should be disclosed to the Staff, and whether the language of the paragraph was sufficiently broad to serve its purpose.

AGREEMENT

The language was expanded to include all those who hold more than a 10% interest either directly or indirectly, and to include all managers, officers, or directors, regardless of their ownership interest.

STAFF OPINION

The Staff believes that the additional language captures all those in whom the Commission would be interested in following, as it covers all those who may be able to guide company policies. The Staff notes that 10% is indeed an arbitrary number, but that it is widely used as a threshold of control in securities regulation, and appears reasonable in this context.

III – PARAGRAPH 14

Commissioners expressed concern that the requirements for notification in 13 would be inapplicable if the Commission does not impose the same requirement on all other ETCs in Missouri after one year.

AGREEMENT

The Parties have altered the one-year requirement, so that instead of it automatically ending the reporting requirement, Cintex may ask to be relieved of the reporting obligation.

STAFF OPINION

The Staff already uniformly asks that this condition be imposed when new ETC status is granted. It is in the proposed Chapter 31 revisions, which the Commission has instructed the Staff to send to the Department of Economic Development for approval to begin the formal rulemaking process. If the rulemaking process does take more than a year to complete, and Cintex asks for and receives relief from this condition, the rulemaking should be very near completion at that time, so any relief from the reporting requirement would only be a brief respite.

IV – PARAGRAPH 28

Commissioners raised concerns about Mr. Mensh's autonomy and his successor.

AGREEMENT

The Parties have inserted language that clarifies that Mr. Mensh will be independent and autonomous in his direction of Cintex's operations. In the event he leaves the company, Cintex will notify the Staff of his successor, who will enjoy the same autonomy.

STAFF OPINION

The Staff believes that this language clarifies that Mr. Mensh or his successor will be sufficiently free from interference in running Cintex's Missouri operations.

V – PARAGRAPH 30

The Commission expressed its displeasure that the Parties intimated that the Commission could not provisionally revoke a company's ETC status without prior notice and hearing. On the record, the Parties clarified that this paragraph's references to notice and a hearing applied only to

permanent revocation, except for permanent revocation for certain breaches of the Unanimous Stipulation and Agreement.

AGREEMENT

In addition to the insertion of the word “permanently” in places where a hearing is mentioned, the Parties have added the following: Cintex and the Staff agree that nothing in this provision is intended to limit the Commission’s authority to provisionally revoke an ETC designation.

STAFF OPINION

The Staff believes the Commission does have the authority to provisionally revoke ETC status when necessary to safeguard the public interest, and never had opinions to the contrary.

WHEREFORE, the Parties submit this explanation to assist the Commission in its review of the Unanimous Stipulation and Agreement and renew their request that the Commission approve it as the resolution of all issues in this matter.

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 6th day of December, 2012.

A handwritten signature in black ink, appearing to be "All Day".