

**STATE OF MISSOURI
PUBLIC SERVICE COMMISSION**

At a session of the Public Service Commission held at its office in Jefferson City on the 7th day of March, 2006.

In the Matter of the Joint Application of Comtel)
Telecom Assets LP and VarTec Telecom, Inc.,)
Excel Telecommunications, Inc., and VarTec) **Case No. TM-2006-0186**
Solutions, Inc., for Approval of a Transfer of)
Assets)

ORDER GRANTING VARIANCE

Issue Date: March 7, 2006

Effective Date: March 17, 2006

Syllabus: This order grants the Joint Applicants a variance from Commission rule 4 CSR 240-33.150(4)(B) by allowing them to send subscribers notice of a transfer of assets by means of a separate letter instead of through a notice in the subscriber's bill.

On February 3, 2006, the Commission approved a Joint Application for Consent to Transfer Assets whereby Comtel Telecom Assets LP acquired certain assets from VarTec Telecom, Inc., Excel Communications, Inc., and VarTec Solutions, Inc. In a separate case, the Commission granted Comtel a certificate of service authority to provide basic local and interexchange telecommunications services, and approved its tariffs.¹ Both Commission orders were effective on February 6, 2006.

In the Commission's order approving the transfer of assets to Comtel, the Commission ordered the Applicants to comply with Commission rule 4 CSR 240-33.150(4)

¹ Commission Case No. TA-2006-0214.

which provides at subparagraph (B) that upon a merger or transfer of assets “a telecommunications carrier will notify all subscribers of such change through a notice in each subscriber’s bill at least thirty (30) days prior to the effective date of the change.”

On February 24, 2006, the Joint Applicants filed a Motion for Modification or Clarification of the Commission’s February 3 order, requesting that Applicants be allowed to send the notice required by 4 CSR 240-33.150(4) by separate letter instead of through a notice in the subscriber’s bill. In effect, Applicants’ Motion seeks a variance from 4 CSR 240-33.150(4)(B).

In its Motion, Applicants allege good cause for a variance from rule 33.150(4)(B) because requiring that notice be given in each subscriber’s bill “would entail significant delays in notifying subscribers and substantial additional costs associated with providing the notices within bills.”² Applicants state that a significant number of their customers receive their bills through local exchange carriers and that, having investigated the matter, it will take at least 90 days to have notices inserted in the local exchange carrier’s bills. Applicants claim the costs of bill inserts with local exchange carriers’ bills could be in the tens of thousands of dollars. They also assert that for direct billed customers, they would have to pay tens of thousands of dollars to outside billing vendors in order to prepare special billing inserts to mail to subscribers. Applicants believe they can notify their subscribers in a more timely manner by providing them a letter in a single mass mailing, which would take place in mid-March.

The Staff of the Commission filed a response to Applicants’ motion, recommending that the Commission grant Applicants a variance from rule 4 CSR 240-

² Applicants’ Motion at p. 1.

33.150(4)(B). Staff concludes the Applicants have stated good cause to send subscribers notice of the transfer of assets by letter instead of through a notice in the subscriber's bill. Staff agrees that subscribers will still receive the required notice, 30 days in advance of the change, without the additional costs and delay in preparing bill inserts.

The Commission finds that the Applicants have set forth good cause for a variance from Commission rule 4 CSR 240-33.150(4)(B). The Applicants will be directed to send a notice that complies with rule 4 CSR 240-33.150(4) by means of a separate letter instead of a bill insert.

IT IS ORDERED THAT:

1. The Commission grants the Joint Applicants a variance from Commission rule 4 CSR 240-33.150(4)(B) in order for Applicants to notify all subscribers of the transfer of assets by means of a separate letter to each subscriber instead of a notice in the subscriber's bill.

2. The Joint Applicants' notice to subscribers shall comply with Commission rule 4 CSR 240-33.150(4) in all other respects, including subparagraph (C) which notifies subscribers of the right to switch to another service provider.

3. The Joint Applicants shall comply with Commission rule 4 CSR 240-3.520(2)(G) regarding the required notice and file a copy of the customer notification with the Commission.

4. All other terms of the Commission's order dated February 3, 2006, shall remain in full force and effect.

4. This order shall become effective on March 17, 2006.
5. This case may be closed on March 18, 2006.

BY THE COMMISSION

A handwritten signature in black ink, appearing to read 'Colleen M. Dale', written in a cursive style.

Colleen M. Dale
Secretary

(S E A L)

Davis, Chm., Murray, Gaw, Clayton and Appling, CC., concur

Reed, Regulatory Law Judge