

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

In the Matter of the Joint Application of)
Comtel Telecom Assets LP and VarTec)
Telecom, Inc., Excel Telecommunications,)
Inc., and VarTec Solutions, Inc., for)
Approval of a Transfer of Assets.)

Case No. TM-2006-0186

**STAFF RESPONSE TO JOINT APPLICANTS'
MOTION FOR MODIFICATION OR CLARIFICATION
OF ORDER APPROVING SALE OF ASSETS**

COMES NOW the Staff of the Missouri Public Service Commission and for its response states:

1. By Order issued February 3, 2006, the Commission approved the Joint Application for Consent to Transfer Assets. In that Order, the Commission directed the Applicants to send a notice to all subscribers as required by 4 CSR 240-33.150(4) which provides at subparagraph (B): “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.” (Emphasis added.)

2. On February 24, 2006, the Applicants filed a Motion for Modification or Clarification of the Commission’s February 3 order requesting, in effect, a variance from the above rule. The Applicants request that “[t]he Commission’s Order be clarified or modified to permit Applicants to send notices to all of their subscribers **by letter** at least 30 days prior to the change, with the letter to include all of the information prescribed by Commission rules 4 CSR 240-33.150(4) and 4 CSR 240-3.520(G).” (Emphasis added.)

3. Commission rule 4 CSR 240-33.100 authorizes a telecommunications company to request authority for a variance from any provision of Chapter 33. Commission rule 4 CSR 240-

2.060 directs that an application for variance from a commission rule shall contain the “reasons for the proposed variance and a complete justification setting out the **good cause** for the variance.” (Emphasis added).

4. The Staff agrees that the Applicants have stated good cause to send subscribers notice of the transfer by letter instead of through a notice in the subscriber’s bill. Subscribers will receive the information required by Commission rule at least 30 days prior to the change as required by Commission rule, but notifying subscribers by letter in a single-mass mailing allows the Applicants to proceed to send the notices without the additional costs and delay in preparing billing inserts.

WHEREFORE, the Staff recommends the Commission grant the Applicants a variance of 4 CSR 240-33.150(4) to permit subscriber notice by letter.

Respectfully submitted,

/s/ William K. Haas

William K. Haas
Deputy General Counsel
Missouri Bar No. 28701

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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 28th day of February 2006.

/s/ William K. Haas

William K. Haas

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AFFIDAVIT OF Sara Buyak

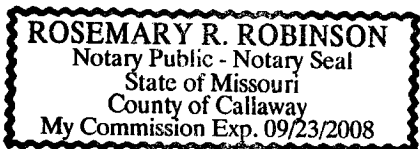
STATE OF MISSOURI)
) ss:
COUNTY OF COLE)


Sara Buyak, employee of the Staff of the Missouri Public Service Commission, being of lawful age and after being duly sworn, states that she has participated in the preparation of the accompanying staff response and that the facts therein are true and correct to the best of her knowledge and belief.



Sara Buyak

Subscribed and affirmed before me this 28th day of February, 2006,
I am commissioned as a notary public within the County of Cole, State of Missouri
and my commission expires on 9-23-2008





NOTARY PUBLIC