

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

In the Matter of the Application of MCC Telephony     )  
of Missouri, Inc., for Waiver of Compliance with     )  
the Requirements of 4 CSR 240-32.                             )     Case No. TE-2006-0415

**STAFF’S REPLY BRIEF**

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

**Introduction**

In its initial brief, the Staff anticipated and addressed the arguments presented in MCC’s initial brief concerning the two issues proposed in the list of issues. At the hearing, an additional issue was raised. The Staff’s initial brief phrased Issue No. 3 as “When a customer agrees to an installation date more than five working days after the customer ordered service, has the customer requested that installation date?” MCC’s initial brief phrased Issue No. 3 as “By meeting 97.5% of its installations by the installation date to which MCC and its customer agree, has MCC complied with the requirements of 4 CSR 240-32.080(5)(A)?” The Staff’s reply brief will respond to Issue No. 3 as phrased by MCC.

**Argument**

Assuming that MCC meets 97.5% of its installations by the date to which MCC and its customer agree, MCC has not complied with the requirements of 4 CSR 240-32.080(5)(A)<sup>1</sup>.

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<sup>1</sup> MCC’s witness did not know if this calculation reflected the first commitment date or the second commitment date if MCC has to reschedule because of an order error. (Trefry, Tr. 133-34).

MCC Telephony of Missouri, Inc., filed an application with the Commission requesting a waiver of compliance with the requirements of 4 CSR 240-32.080 (5) (A) 1 related to time standards for installation of service. This rule provides, in part:

(5) The service objectives, surveillance levels and monitoring criteria for the following categories are:

(A) Orders for basic local telecommunications service –

1. Service objective – that ninety percent (90%) or more of such orders shall be installed, except for customer-caused delays, delays caused by a declared natural disaster or a specific exemption requested by a company and approved by the commission staff to address a unique situation or condition –

A. Within five (5) working days after the customer ordered service; or

B. On or by the date requested if it is at least five (5) working days after the date the customer ordered service.

MCC's phrasing of Issue No. 3 is relevant to its compliance with a separate objective, 4 CSR 240-32.080(5)(B)1, related to installation commitments. This rule provides, in part:

(5) The service objectives, surveillance levels and monitoring criteria for the following categories are:

(B) Installation commitments – all customers shall be given a commitment of when service will be installed in accordance with 4 CSR 240-32.070(4) –

1. Service objective—that ninety-five percent (95%) or more of commitments for installation of basic local telecommunications service shall be met, except for customer-caused delays, delays caused by a declared natural disaster or a specific exemption requested by a company and approved by the commission staff to address a unique situation or condition.

The requirement of Rule (5)(B)1 that a telecommunications company shall show up for 95% of its installation appointments is different from and not relevant to the requirement of Rule (5)(A)1 that 90% of those installations shall be worked within 5 business days. Where MCC offers and meets a “take it or leave it” installation date beyond the five-day installation objective, MCC cannot be said to have complied with the five-day installation objective.

### **Conclusion**

WHEREFORE, for the reasons stated in the Staff's testimony and briefs, the Staff recommends that the Commission deny MCC's application for a waiver of 4 CSR 240-32.080(5)(A)1.

Respectfully submitted,

/s/ William K. Haas

William K. Haas

Deputy General Counsel

Missouri Bar No. 28701

Attorney for the Staff of the  
Missouri Public Service Commission

P. O. Box 360

Jefferson City, MO 65102

(573) 751-7510 (Telephone)

(573) 751-9285 (Fax)

[william.haas@psc.mo.gov](mailto:william.haas@psc.mo.gov)

### **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 6<sup>th</sup> day of April 2007.

/s/ William K. Haas