

BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI

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

**OFFICE OF PUBLIC COUNSEL’S OBJECTION AND
OPPOSITION TO APPLICATION FOR WAIVER**

The Office of the Public Counsel objects to and opposes MCC Telephony of Missouri’s application for a waiver of compliance with the requirements of 4 CSR 240-32 .080(5)(A) 1 related to time standards for installation of service. Public Counsel states that, on the face of the application, the applicant has not stated good cause for granting this waiver and asks the Public Service Commission to deny the application.

1. MCC states at the beginning of its application that it seeks a “temporary waiver,” but does not identify a proposed time for the waiver in the rest of the pleading, including its prayer for relief. Without a time period, MCC fails to state the exact relief requested and has not pleaded “good cause” justifying a temporary waiver. The application fails to comply with 4 CSR 240-2.015 (waiver of rules for good cause) and 4 CSR 240-2.060 (4) (B) requiring a statement of the reasons for the proposed waiver and a complete justification setting out the good cause for granting the waiver).
2. MCC has not stated good cause to grant any type or length of waiver of compliance with the time standards for installation. The only reason MCC gives is that a part of the provisioning of its local service is “due to a unique situation beyond MCC's control.” MCC claims it has no control over its CLEC partner that

provides network interconnection, switching, numbering and other key inputs to MCC's service. Sprint must provision the service on its network before MCC installs service at the customer's premises. In addition, MCC blames unidentified ILECs for "rather long porting intervals that jeopardize the ability of Sprint and Mediacom to meet service quality measurements for installation. . . ." (Application, para. 6).

3. These vague and overbroad allegations do not rise to the level of good cause to deny MCC customers the protection of the PSC's standards for installation of service.
4. These vague and overbroad allegations do not advance any public purpose identified in Section 392.185, RSMo 2000, that states the intent and purpose of the telecommunications laws.
5. A waiver would shift the burden to the ratepayer who is denied timely installation of service and may be without telephone service for unknown time. By its rule, the Commission has established a public policy that defines the reasonable time for installation. The rule does not recognize any variance from the rule for porting or a partner's failure to adhere to the rule timeframes. To tack on the 5 days requirement to an unknown period it takes for Sprint to act or the ILEC to port is unreasonable and inconsistent with the protection of the ratepayers and is not in the public interest.
6. MCC does not identify how this waiver would benefit any customers or how it would not cause hardship or inconvenience (or perhaps even cause harm) due to delay of installation beyond the PSC's rule.

7. When MCC applied for its certificate of authority it was charged with knowledge of the statutes and rules that govern the rights, duties and obligations of local exchange company. Since MCC had to identify how it was to provide service, it should have been aware of the process it would employ to meet those obligations.
8. To argue that it has no control is to ignore that MCC had opportunities in its contracts and interconnection agreements to establish time frames that would allow it to meet the PSC standards; if it did not do so, it falls on MCC, and should not fall on the customer. If it did make such provisions, it is under its control and it should have remedies that will not place the burden on ratepayers.

For these reasons, Public Counsel asks the Public Service Commission to deny the waiver, whether temporary, permanent, or indeterminate.

Respectfully submitted,

OFFICE OF THE PUBLIC COUNSEL

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CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing was emailed, mailed or hand delivered this 28th day of April, 2006 to the following attorneys of record:

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