

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

Staff of the Public Service Commission of the	)	
State of Missouri,	)	
	)	
Complainant,	)	
	)	
v.	)	Case No. TC-2006-0184
	)	
New Florence Telephone Company,	)	
	)	
Respondent.	)	

**PROPOSED PROCEDURAL SCHEDULE**

**COMES NOW** the Staff of the Missouri Public Service Commission (“Staff”), on behalf of itself, respondent and the Office of the Public Counsel, and states:

1. The parties have continued since the prehearing conference held December 15, 2005 to work out a mutually agreeable procedural schedule for this case.

2. Section 516.390 RSMo 2000 provides:

If the penalty is given in whole or in part to the state, or to any county or city, or to the treasury thereof, a suit therefor may be commenced, by or in behalf of the state, county or city, at any time within two years after the commission of the offense, and not after.

and section 516.103 RSMo 2000 provides:

The time for commencement of any suit provided for in sections 516.380, 516.390 and 516.400, shall not be tolled by the filing or pendency of any administrative complaint or action and no such suit may be brought or maintained unless commenced within the time prescribed by said sections. An administrative order authorizing the commencement of any such suit shall not be considered as evidence of the violations alleged in any such suit.

3. Although it gathered information from current and past employees of Local Exchange Company, LP pertinent to the matters alleged in its complaint in this case as part of its investigation, the Staff anticipates it will need to depose many of those individuals again in this

case. Similarly, although it obtained documents from Local Exchange Company, LLC in its investigation, the Staff anticipates it will need to obtain documents from Local Exchange Company, LLC by subpoenas issued in this case.

4. In light of the foregoing, which have opposing influences on how quickly this case can be processed, the parties have agreed to an aggressive schedule. If discovery issues arise, it may be necessary to revisit the hearing date and other dates set out in the proposed schedule.

5. The Staff does not anticipate filing a motion for summary disposition in this case.

6. Commission rule 4 CSR 240-2.117 provides:

(1) Summary Determination.

(A) Except in a case seeking a rate increase or which is subject to an operation of law date, any party may by motion, with or without supporting affidavits, seek disposition of all or any part of a case by summary determination at any time after the filing of a responsive pleading, if there is a respondent, or at any time after the close of the intervention period. However, a motion for summary determination shall not be filed less than sixty (60) days prior to the hearing except by leave of the commission.

(B) Motions for summary determination shall state with particularity in separately numbered paragraphs each material fact as to which the movant claims there is no genuine issue, with specific references to the pleadings, testimony, discovery, or affidavits that demonstrate the lack of a genuine issue as to such facts. Each motion for summary determination shall have attached thereto a separate legal memorandum explaining why summary determination should be granted and testimony, discovery or affidavits not previously filed that are relied on in the motion. The movant shall serve the motion for summary determination upon all other parties not later than the date upon which the motion is filed with the commission.

(C) Not more than thirty (30) days after a motion for summary determination is served, any party may file and serve on all parties a response in opposition to the motion for summary determination. Attached thereto shall be any testimony, discovery or affidavits not previously filed that are relied on in the response. The response shall admit or deny each of movants factual statements in numbered paragraphs corresponding to the numbered paragraphs in the motion for summary determination, shall state the reason for each denial, shall set out each additional material fact that remains in dispute, and shall support each factual assertion with specific references to the pleadings, testimony, discovery, or affidavits. The

response may also have attached thereto a legal memorandum explaining why summary determination should not be granted.

(D) For good cause shown, the commission may continue the motion for summary determination for a reasonable time to allow an opposing party to conduct such discovery as is necessary to permit a response to the motion for summary determination.

(E) The commission may grant the motion for summary determination if the pleadings, testimony, discovery, affidavits, and memoranda on file show that there is no genuine issue as to any material fact, that any party is entitled to relief as a matter of law as to all or any part of the case, and the commission determines that it is in the public interest. An order granting summary determination shall include findings of fact and conclusions of law.

(F) If the commission grants a motion for summary determination, but does not dispose thereby of the entire case, it shall hold an evidentiary hearing to resolve the remaining issues. Those facts found in the order granting partial summary determination shall be established for purposes of the hearing.

(G) The commission may hear oral argument on a motion for summary determination.

(2) Determination on the Pleadings. Except in a case seeking a rate increase or which is subject to an operation of law date, the commission may, on its own motion or on the motion of any party, dispose of all or any part of a case on the pleadings whenever such disposition is not otherwise contrary to law or contrary to the public interest.

7. The proposed procedural schedule does not comply with Commission Rule 4 CSR 240-2.117, and the parties request the Commission for leave to file a motion for summary determination less than sixty (60) days prior to the hearing, but in accordance with the proposed procedural schedule.

8. Because the issues are framed by the complaint and answer, the parties do not propose a preliminary list of issues.

9. Because the parties propose prehearing briefs, no position statements are proposed.

10. The parties propose to take up when transcripts of the hearing, post-hearing briefs and post-hearing reply briefs would be filed at the close of the hearing.

11. The parties propose the following procedural schedule for this case:

Nine (9) Calendar days for Discovery response, with response due next business day if ninth day is on weekend or holiday. 5 days to object.	Tuesday, January 03, 2006
Staff Direct Testimony	Wednesday, February 22, 2006
Settlement Conference	Tuesday, February 28, 2006
New Florence Rebuttal Testimony	Tuesday, March 28, 2006
Seven (7) Calendar days for Discovery response, with response due next business day if 7th day is on weekend or holiday. 5 days to object.	Tuesday, March 28, 2006
Staff & Public Counsel Surrebuttal Testimony	Tuesday, April 11, 2006
List of Issues, Order of Witnesses, and Order of Cross-Examination	Thursday, April 13, 2006
Dispositive Motions	Thursday, April 13, 2006
Prehearing Briefs	Tuesday, May 02, 2006
Evidentiary Hearing	Wednesday, May 10, 2006 Thursday, May 11, 2006

**WHEREFORE**, the Staff, on behalf of the parties, presents, for this case, the proposed procedural schedule set forth above.

Respectfully submitted,

DANA K. JOYCE  
General Counsel

/s/ Nathan Williams

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Senior Counsel  
Missouri Bar No. 35512

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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 3<sup>rd</sup> day of January 2006.

/s/ Nathan Williams

Nathan Williams