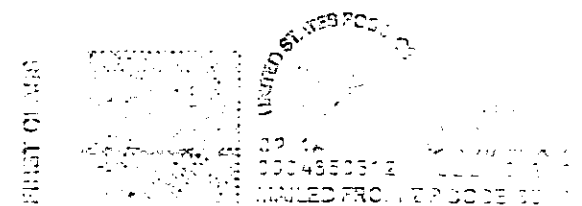


FILED  
August 14, 2007  
Data Center  
Missouri Public  
Service Commission

PUBLIC SERVICE COMMISSION  
P O BOX 360  
JEFFERSON CITY MO 65102

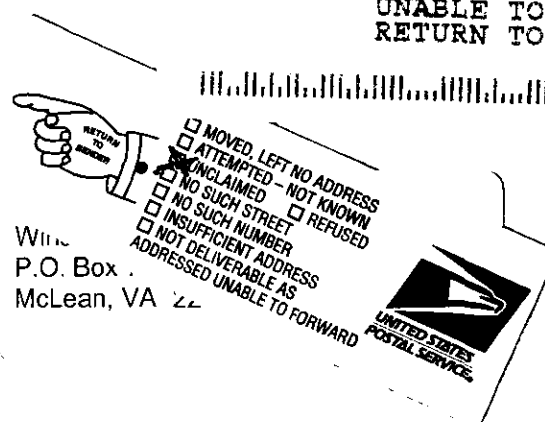
MO 419-1183 (12-91)



NIXIE

2007 1 13 08/10/07

RETURN TO SENDER  
UNCLAIMED  
UNABLE TO FORWARD  
RETURN TO SENDER



Will  
P.O. Box  
McLean, VA

LN  
7-13

FIRST NOTICE 7.23.07  
SECOND NOTICE 7.23.07  
RETURNED 8.3.07



PLACE STICKER AT TOP OF ENVELOPE TO THE RIGHT  
OF THE RETURN ADDRESS, FOLD AT DOTTED LINE

TC-07-6499 7-10-07

**SENDER: COMPLETE THIS SECTION**

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

Winstar Communications, LLC  
P.O. Box 7153  
McLean, VA 22106

**COMPLETE THIS SECTION ON DELIVERY**

A. Signature ☐ Agent  
☐ Addressee  
**X**

B. Received by (*Printed Name*) C. Date of Delivery

D. Is delivery address different from item 1? ☐ Yes  
If YES, enter delivery address below: ☐ No

3. Service Type  
☒ Certified Mail ☐ Express Mail  
☐ Registered ☐ Return Receipt for Merchandise  
☐ Insured Mail ☐ C.O.D.

4. Restricted Delivery? (*Extra Fee*) ☐ Yes

2. Article Number  
(*Transfer from s*) 7004 1350 0003 1351 6452

PS Form 3811, February 2004

Domestic Return Receipt

102595-02-M-1540

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

The Staff of the Missouri Public Service Commission,	)	
	)	
	)	
Complainant,	)	
	)	
v.	)	<b><u>Case No. TC-2007-0494</u></b>
	)	
Winstar Communications, LLC,	)	
	)	
Respondent.	)	

**NOTICE OF COMPLAINT**

Issue Date: July 10, 2007

Winstar Communications, LLC  
P.O. Box 7153  
McLean, VA 22106  
**CERTIFIED MAIL**

Winstar Communications, LLC  
333 West Fort St., Suite 1600  
Detroit, MI 48226  
**CERTIFIED MAIL**

C T Corporation System  
Registered Agent for Winstar Communications, LLC  
120 S. Central Ave.  
Clayton, MO 63105  
**CERTIFIED MAIL**

On June 29, 2007, the Staff of the Missouri Public Service Commission filed a complaint with the Commission against Winstar Communications, LLC. A copy of the complaint is enclosed. Under Commission Rule 4 CSR 240-2.070, Winstar Communications has 30 days from the date of this notice to file an answer or to file notification that the complaint has been satisfied. Winstar Communications is reminded that, as a limited liability company, it cannot appear before the Commission unless it is represented by an attorney licensed to practice law in Missouri. Therefore, its answer must be signed by a Missouri attorney.

All pleadings must be mailed to:

Secretary of the Public Service Commission  
P.O. Box 360  
Jefferson City, Missouri 65102-0360

A copy must be served upon the Staff of the Commission at the address listed within the enclosed complaint.

**BY THE COMMISSION**

A handwritten signature in black ink, appearing to read 'Colleen M. Dale', is written over a horizontal line.

Colleen M. Dale  
Secretary

( S E A L )

Dated at Jefferson City, Missouri,  
on this 10th day of July, 2007.

Dippell, Deputy Chief Regulatory Law Judge

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

The Staff of the Missouri Public Service Commission,	)	
	)	
	)	
Complainant,	)	
	)	
v.	)	Case No. TC-2007-_____
	)	
Winstar Communications, LLC,	)	
	)	
Respondent.	)	

**COMPLAINT**

COMES NOW the Staff of the Missouri Public Service Commission ("Staff") and initiates its complaint pursuant to Section 386.390, RSMo (2000) and 4 CSR 240-2.070, against Winstar Communications, LLC for violation of the Commission's statutes and rules relating to Relay Missouri payments, Missouri Universal Service Fund payments, annual report submissions and quarterly quality of service reports. In support of its complaint, Staff respectfully states as follows:

**GENERAL ALLEGATIONS**

1. The Commission granted Winstar Communications, LLC a certificate of service authority to provide interexchange telecommunications services, as well as non-switched local exchange telecommunications services limited to providing dedicated private line services, in Case No. TA-2002-353 in its order effective as of April 5, 2002.

2. The Commission granted Winstar Communications, LLC a certificate of service authority to provide basic local telecommunications services in Case No. TA-2002-352 in its order effective as of April 5, 2002.

3. Respondent Winstar Communications, LLC is a “telecommunications company” and a “public utility” as defined in Section 386.020 RSMo (2000) and is subject to the jurisdiction of the Missouri Public Service Commission pursuant to Section 386.250.

4. The Company has provided the following contact information to the Commission:

P.O. Box 7153  
McLean, VA 22106

This address has been provided for the company’s consultant. Additional research has also revealed the following address for the company:

Fort Washington Plaza  
333 West Fort Street  
Suite 1600  
Detroit, MI 48226

5. Winstar Communications, LLC is a Delaware limited liability company and the Missouri Secretary of State website indicates that the company is “active.”

6. The registered agent for Winstar Communications, LLC in Missouri is:

C T Corporation System  
120 South Central Avenue  
Clayton, MO 63105

7. Section 386.390.1 RSMo. (2000) authorizes the Commission to entertain a complaint “setting forth any act or thing done or omitted to be done by a public utility in violation of any law, or of any rule, order or decision” of the Commission.

8. Commission Rule 4 CSR 240-2.070(1) provides that the Commission’s Staff, through the General Counsel, may file a complaint.

9. The Missouri courts have imposed a duty upon the Public Service Commission to first determine matters within its jurisdiction before proceeding to those courts. As a result, “[t]he courts have ruled that the Division cannot act only on the information of its staff to

authorize the filing of a penalty action in circuit court; it can authorize a penalty action only after a contested hearing.” *State ex rel. Sure-Way Transp., Inc. v. Division of Transp., Dept. of Economic Development, State of Mo.*, 836 S.W.2d 23, 27 (Mo. App. W.D. 1992) (relying on *State v. Carroll*, 620 S.W.2d 22 (Mo. App. 1981)). See also *State ex rel. Cirese v. Ridge*, 138 S.W.2d 1012 (Mo. banc 1940). If the Commission determines after a contested hearing that the Company failed, omitted, or neglected to comply with Commission statutes, rules or orders, the Commission may then authorize its General Counsel to bring a penalty action in the circuit court as provided in Section 386.600, RSMo. (2000).

10. The first two sections of Section 386.570 RSMo. (2000) provide that:

1. Any corporation, person or public utility which violates or fails to comply with any provision of the constitution of this state or of this or any other law, or which fails, omits or neglects to obey, observe or comply with any order, decision, decree, rule, direction, demand or requirement, or any part or provision thereof, of the commission in a case in which a penalty has not herein been provided for such corporation, person or public utility, is subject to a penalty of not less than one hundred dollars nor more than two thousand dollars for each offense.

2. Every violation of the provisions of this or any other law or of any order, decision, decree, rule, direction, demand or requirement of the commission, or any part or portion thereof, by any corporation or person or public utility is a separate and distinct offense, and in case of a continuing violation each day's continuance thereof shall be and be deemed to be a separate and distinct offense.

11. Section 386.590 RSMo. (2000) provides that:

All penalties accruing under this chapter shall be cumulative of each other, and the suit for the recovery of one penalty shall not be a bar to or affect the recovery of any other penalty or forfeiture or be a bar to any original prosecution against any corporation, person or public utility, or any officer, director, agent or employee thereof.

12. The statutes referenced in paragraphs 10 and 11 above apply to violations of Commission orders pertaining to the implementation of the Relay Missouri program; to violations of Section 392.248.1 RSMo. (2000) and Commission rules and orders pertaining to the

Missouri Universal Service Fund; and to violations of 4 CSR 240-3.550(5) pertaining to the Commission's Quarterly Quality of Service Reports.

### COUNT ONE

#### ***Failure to Remit Relay Missouri Surcharges Pursuant to Section 209.255 RSMo.***

13. Winstar Communications, LLC is offering and providing basic local exchange telecommunications service in Missouri, in the exchanges served by Southwestern Bell Telephone Company, LP d/b/a AT&T Missouri.

14. As a provider of basic local telephone service, Winstar Communications, LLC is required to apply the surcharge established by the Commission to each basic telephone access line in accordance with Section 209.255, RSMo. (2000). The surcharge was established in the Commission's Order in Case No. TO-90-174.<sup>1</sup> As Winstar Communications, LLC received its certificate in 2002, it is bound by the Commission's orders in Case No. TO-2003-0171 (effective April 5, 2003); Case No. TO-2005-0308 (effective July 1, 2005), and Case No. TO-2007-0306 (effective June 17, 2007), which set and adjusted the surcharge local exchange companies must collect.

15. Winstar Communications, LLC is required to collect this surcharge from its customers and to remit this surcharge to the State to fund the State's dual-party relay system for the hearing impaired in accordance with Section 209.255, RSMo.

16. Winstar Communications, LLC has not made the remittance of the deaf relay service surcharge as required by Section 209.255, RSMo. See affidavit of Walt Cecil, attached as Exhibit A.

---

<sup>1</sup> Order Adopting Recommendations, *In the Matter of the Development of a Rule to Implement Enhanced Telephone Service for the Deaf and Hearing Impaired*, Case No. TO-90-174, 30 Mo.P.S.C. (N.S.) 477 (Feb. 19, 1991).



17. Walt Cecil of the Commission's Staff has estimated the amount Winstar Communications, LLC could have paid to be as much as \$10,168.32 for the period of July 2002 through December 2005. This is an estimate based on information obtained from Winstar Communications, LLC's publicly available annual report. The maximum assumes each line is at a separate location. As Winstar Communications, LLC has been unwilling to communicate with Staff, Staff has been unable to make a more definitive estimate. Staff has not attempted to calculate Winstar Communications, LLC's liability for the period after December 2005 through the present because Staff has no information on line counts or locations (see Count Three below – failure to file annual report for 2006).

18. The Commission's Rule at 4 CSR 240-2.070(5)(E), requires "a statement as to whether the complainant has directly contacted the person, corporation or public utility about which complaint is being made." Staff counsel has attempted to contact Winstar Communications, LLC's "regulatory representative" and Staff has also attempted to do so. In March 2007 staff member Walt Cecil spoke with that representative and explained that Winstar should be collecting and remitting the relay surcharge. Mr. Cecil asked the company's regulatory representative to investigate Winstar's liability. Mr. Cecil understood a return call would be made on March 20 or 21. Mr. Cecil has made subsequent follow-up calls on April 5, 6, and May 1 and 25, leaving a message each time seeking a return call. To date, he has not received a reply, nor has Winstar begun to make payments into the Relay Missouri Fund. Staff counsel also contacted the company directly and has communicated with Scott Aschenbrenner, Chief Operations Officer regarding the violations discussed above, but the violations still have not been addressed.

19. Also, by letter dated May 30, 2007, Staff counsel informed Winstar Communications, LLC's representative at the address provided by the company of Staff's intention to file a Complaint if the proper remittance was not submitted. As of the date of this Complaint, Staff has received no response. See Exhibit B.

## COUNT TWO

### ***Failure to Remit Missouri Universal Service Fund Surcharges Pursuant to Section 392.248.1RSMo.***

20. Winstar Communications, LLC is offering and providing telecommunications service in Missouri.

21. As a provider of telecommunications service, Winstar Communications, LLC is required to apply the surcharge established by the Commission to customers in Missouri and to remit assessments to the Missouri Universal Service Fund. The assessment was established in the Commission's Order in Case No. TO-98-329 in March 2005 and has been amended in a subsequent order.<sup>2</sup> The assessment was again adjusted in April 2007. The Commission established a revenue threshold for companies to exempt companies from the assessment process (4 CSR 240-31.010(1) currently sets that amount at \$24,000) but Winstar Communications, LLC's reported revenues are well above that amount.

22. Under the Commission's rules, Winstar Communications, LLC is required to collect this surcharge from its customers and to remit this surcharge to the State. See, e.g., 4 C.S.R. 240-31.065(1) ("All applicable carriers shall place on each retail end-user customer's bill, a surcharge equal to the percentage assessment ordered by the commission."); (4) ("All

---

<sup>2</sup> Order Granting Staff Motion, *In the Matter of an Investigation into Various Issues Related to the Missouri Universal Service Fund*, Case No. TO-98-329, 13 Mo.P.S.C.3d 417 (March 17, 2005), as amended by Notice of Correction of March 18, 2005.

applicable carriers shall remit to the Fund Administrator the funds received as a result of the application of the MoUSF surcharge.” )).

23. Winstar Communications, LLC has failed to remit any funds to the Missouri Universal Service Fund’s administrator since the third quarter of 2005. Accordingly Winstar Communications, LLC owes remittances for the fourth quarter of 2005, all of 2006, and 2007 to date. See affidavit of Mike Scheperle, attached as Exhibit C.

24. Mike Scheperle of the Commission’s Staff has estimated the amount Winstar Communications, LLC owes based on publicly available information to be as follows:

<b>Winstar Telecommunication, LLC</b>	<b>2005</b>	<b>2006 (2)</b>	<b>2007 (2)</b>	<b>Total to Date</b>
Missouri Jurisdictional Operating Revenues from Telecommunications Services - Annual Report Information	\$962,759	\$962,759	\$962,759	
Factor (1)	25.00%	100.00%	33.33%	
Estimated Missouri Jurisdictional Operating Revenues from Telecommunications Services	\$240,690	\$962,759	\$320,888	
Mo USF Assessment	0.18%	0.18%	0.18%	
Estimated MoUSF not paid to date (thru April 2007)	\$433.24	\$1,732.97	\$577.60	<b>\$2,743.81</b>

- (1) The Missouri Commission established a start date of May 1, 2005 for the Missouri USF with a carrier surcharge of .18% of net jurisdictional revenue. Winstar paid two quarterly payments for 2nd quarter and 3rd quarter 2005 (did not pay 4th quarter). The factor for 4th quarter (3 months/12=25%), 2006 had January through December (12 months, 12/12=100%), 2007 to date has 4 months not paid at this time (April payment due May 22, 2007) (4 months, 4/12=33.33%). Beginning May 1, 2007, the carrier surcharge increased to .29%.
- (2) 2006 and 2007 Revenues based on 2005 Mo. Jurisdictional Revenue.

25. Winstar Communications, LLC has been sent all mailings since the commencement of the Missouri Universal Service Fund notifying carriers of their obligations under state statute, rule and Commission order pertaining to collecting and remitting the Missouri Universal Service Fund surcharge.

26. The Commission’s Rule at 4 CSR 240-2.070(5)(E), requires “a statement as to whether the complainant has directly contacted the person, corporation or public utility about which complaint is being made.” By letter dated June 21, 2007, Staff counsel informed Winstar

Communications, LLC of Staff's intention to file a Complaint if the proper remittance was not submitted. Staff also contacted the company directly and has communicated with Scott Aschenbrenner, Chief Operations Officer regarding the violations discussed above, but the violations still have not been addressed.

### **COUNT THREE**

#### ***Failure to Submit Annual Report Pursuant to Section 392.210.1***

27. Section 392.210.1 states that telecommunications companies must "file an annual report with the Commission at a time and covering the yearly period fixed by the commission."

28. Commission Rule 4 CSR 240-3.540(1) requires all telecommunications companies to file their annual reports on or before April 15 of each year.

29. On January 19, 2007, the Executive Director, in compliance with Section 392.210.1, RSMo (2000) sent all regulated utilities, including Winstar Communications, LLC, a letter notifying them of the requirement to file, on or before April 15, 2007, an annual report covering the calendar year 2006, together with the appropriate form for the Company to complete and return to the Commission, and instructions on how the Company may complete its filing electronically. The letter that was sent to the Company was not returned.

30. The Company never returned a completed form, nor did it file its annual report electronically; and as of the date of this pleading, has not filed its 2006 Annual Report. See affidavit of Joan Wandel, attached as Exhibit D.

31. Section 393.140(6), RSMo (2000) provides that "Any such person or corporation...which shall neglect to make any such report...within the time prescribed by the Commission shall be liable to a penalty of one hundred dollars for each day after the prescribed time for which it shall neglect to file...to be sued for in the name of the state of Missouri."

32. The Commission's Rule at 4 CSR 240-2.070(5)(E), requires "a statement as to whether the complainant has directly contacted the person, corporation or public utility about which complaint is being made." In addition to the letter and accompanying form the Executive Director sent in January 2007, the Commission's General Counsel sent Winstar Communications, LLC a letter on April 19, 2007 to an address provided by the company, reminding them that the company failed to submit its annual report by the April 15<sup>th</sup> deadline and warning them that such failure to file will subject the company to legal action under state law that allows a penalty of one hundred dollars for each day that it is late in filing. See letters attached as Exhibits E and F.

33. Further, on May 29, 2007, Staff attempted to contact the representative of the company that had previously performed a regulatory function for the company to indicate that the annual report was overdue. Staff also sent a letter to the company's regulatory representative on May 30, 2007, indicating the annual report had not arrived at the Commission and that a complaint was imminent. See Exhibit A. Staff has never received a response. Staff also contacted the company directly and has communicated with Scott Aschenbrenner, Chief Operations Officer regarding the violations discussed above, but the violations still have not been addressed.

#### **COUNT FOUR**

##### ***Failure to Submit Quarterly Quality of Service Report Pursuant to 4 CSR 240-3.550(5)***

34. Commission Rule 4 CSR 240-3.550(5), requires that each company which provides basic local telecommunications service is required to "file with the commission no later than forty-five days following the end of each quarter a report, referred to as the quarterly report

[or Quarterly Quality of Service Report], of the quality of the telephone service provided to its customers.”

35. 4 CSR 240-3.550(5)(A) provides that the report is due “no later than forty-five (45) days following the end of each quarter,” or in the case of the first quarter of calendar year 2007, no later than April 15, 2007.

36. Winstar Communications, LLC has not filed its Quarterly Quality of Service Reports covering the first quarter of calendar year 2007 in compliance with 4 CSR 240-3.550(5). See affidavit of Mick Johnson, attached as Exhibit G.

37. The Commission’s Rule at 4 CSR 240-2.070(5)(E), requires “a statement as to whether the complainant has directly contacted the person, corporation or public utility about which complaint is being made.” Staff has contacted the company directly and has communicated with Scott Aschenbrenner, Chief Operations Officer regarding the violations discussed above, but the violations still have not been addressed.

#### **PRAYER FOR RELIEF**

**WHEREFORE**, Staff now requests that the Commission (1) open a complaint case pursuant to Section 386.390; and, after hearing, find that Winstar Communications, Inc. failed, omitted, or neglected to remit surcharges pursuant to Section 209.255 RSMo. (deaf relay) and 392.248 RSMo. (Missouri Universal Service Fund) and Commission rules and orders; to submit its 2006 Annual Report; and to submit quarterly quality of service reports for the first quarter of calendar year 2007; (2) authorize its General Counsel to bring a penalty action against the Company in the circuit court as provided in Section 386.600, RSMo (2000) based on the statutory penalties set forth in Sections 392.210.1 (for failing to submit annual reports pursuant to statute and Commission rule) and 386.570 and 386.590 (for failing to remit surcharges

pursuant to statute and Commission orders, and for failing to submit quarterly quality of service reports pursuant to Commission rule).

Respectfully submitted,

**/s/ David A. Meyer**

---

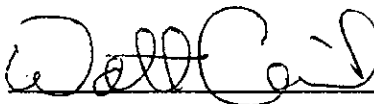
David A. Meyer  
Senior Counsel  
Missouri Bar No. 46620

Attorney for the Staff of the  
Missouri Public Service Commission  
P.O. Box 360  
Jefferson City, MO 65102  
(573) 751-8706 (Telephone)  
(573) 751-9285 (Fax)  
[david.meyer@psc.mo.gov](mailto:david.meyer@psc.mo.gov)

**AFFIDAVIT**

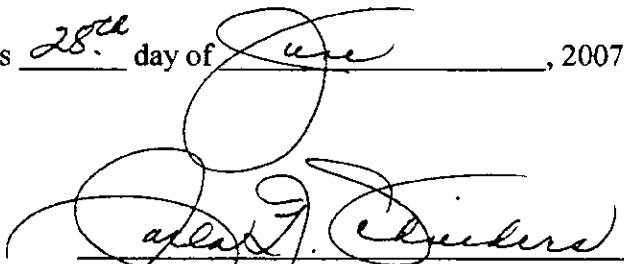
STATE OF MISSOURI   )  
                                  )  
COUNTY OF COLE     )

I, Walt Cecil, employed by the Missouri Public Service Commission as Regulatory Economist II, being duly sworn on my oath state that the Public Service Commission's records do not reflect the receipt of Relay Missouri surcharges, and that the affiant has read the accompanying pleading, and that the facts in Count One therein are true and correct to the best of his knowledge.

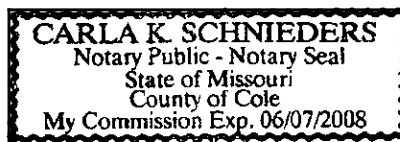


Walt Cecil

Subscribed and sworn to before me this 28<sup>th</sup> day of June, 2007.



NOTARY PUBLIC







**Commissioners**

**JEFF DAVIS**  
Chairman

**CONNIE MURRAY**

**STEVE GAW**

**ROBERT M. CLAYTON III**

**LINWARD "LIN" APPLING**

***Missouri Public Service Commission***

POST OFFICE BOX 360  
JEFFERSON CITY MISSOURI 65102  
573-751-3234  
573-751-1847 (Fax Number)  
<http://www.psc.mo.gov>

**WESS A. HENDERSON**  
Executive Director

**DANA K. JOYCE**  
Director, Administration and  
Regulatory Policy

**ROBERT SCHALLENBERG**  
Director, Utility Services

**WARREN WOOD**  
Director, Utility Operations

**COLLEEN M. DALE**  
Secretary/Chief Regulatory Law Judge

**KEVIN A. THOMPSON**  
General Counsel

May 30, 2007

Winstar Communications, LLC  
Kim Bradley  
P. O. Box 7153  
McLean, VA 22106

Dear Madam:

Winstar Communications, L.L.C (Winstar) has failed to submit its Relay Missouri surcharge revenue and its 2006 annual report.

According to Missouri Public Service Commission (Commission) records and pursuant to Section 209.255.1, Revised Statutes of Missouri, Winstar has not remitted Relay Missouri surcharge revenues since the company indicated it began to provide basic local telecommunications service in 2002. Based upon annual reports filed by Winstar, the Commission's telecommunications department staff estimates Winstar should have submitted surcharge revenues totaling \$10,168.32 through December 2005. An estimate for 2006 will be prepared when Winstar submits its 2006 annual report. Relay surcharge amounts are also due for January through April 2007.

In March 2007 staff member Walt Cecil contacted you and explained that Winstar should be collecting and remitting the relay surcharge. Mr. Cecil asked you to investigate Winstar's liability. Mr. Cecil understood a return call would be made on March 20 or 21. Mr. Cecil has made subsequent follow-up calls on April 5, 6, and May 1 at which times he left messages seeking a return call. To date, he has not received a reply nor has Winstar begun to make payments into the Relay Missouri Fund.

Also, as you should be aware, Winstar has not submitted its 2006 statement of revenue. You have received correspondence and telephone calls regarding these delinquencies. The Commission is statutorily authorized to estimate the assessment Winstar owes if we receive no response, and that estimate will be done in the next week or two.

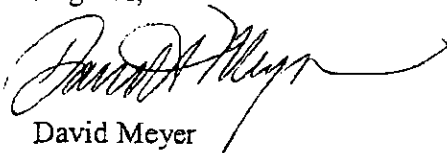
The 2006 annual report was due on April 15, 2007, and you have already received a warning letter and a follow-up telephone call on that delinquency.

May 30, 2007

Page Two

The unpaid Relay Missouri surcharges must be made current and the annual report must be submitted immediately, or the staff will be compelled to file a complaint with the Commission.

Regards,

A handwritten signature in dark ink, appearing to read "David Meyer", with a long, sweeping horizontal line extending to the right.

David Meyer  
Senior Counsel  
Missouri Public Service Commission

c: Walt Cecil, John Van Eschen

**AFFIDAVIT**

**STATE OF MISSOURI**     )  
                                      )  
**COUNTY OF COLE**        )

I, Michael S. Scheperle, employed by the Missouri Public Service Commission as Regulatory Economist II, being duly sworn on my oath state that the Public Service Commission's records do not reflect the receipt of Missouri Universal Service Fund surcharges, and that the affiant has read the accompanying pleading, and that the facts in Count Two therein are true and correct to the best of his knowledge.

Michael S. Scheperle  
Michael S. Scheperle

Subscribed and sworn to before me this 29th day of June, 2007.

I am commissioned as a notary public within the County of Callaway, State of Missouri  
and my commission expires on 9-21-10



SUSAN L. SUNDERMEYER  
My Commission Expires  
September 21, 2010  
Callaway County  
Commission #06942086

Susan L. Sundermeyer  
NOTARY PUBLIC

**Exhibit C**

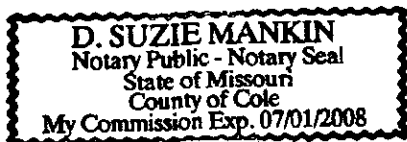
**AFFIDAVIT**

**STATE OF MISSOURI     )**  
**)**  
**COUNTY OF COLE        )**

I, Joan C. Wandel, employed by the Missouri Public Service Commission as a Utility Regulatory Manager III, being duly sworn on my oath state that the Public Service Commission's records do not reflect the receipt of Winstar Communications LLC's calendar year 2006 annual report, and that the affiant has read the accompanying pleading, and that the facts in Count Three therein are true and correct to the best of her knowledge.

Joan C. Wandel  
Joan C. Wandel

Subscribed and sworn to before me this 28<sup>th</sup> day of June, 2007.



D. Suzie Mankin  
NOTARY PUBLIC



Commissioners

JEFF DAVIS  
Chairman

CONNIE MURRAY

STEVE GAW

ROBERT M. CLAYTON III

LINWARD "LIN" APPLING

## *Missouri Public Service Commission*

POST OFFICE BOX 360  
JEFFERSON CITY MISSOURI 65102  
573-751-3234  
573-751-1847 (Fax Number)  
<http://www.psc.mo.gov>

WESS A. HENDERSON  
Executive Director

DANA K. JOYCE  
Director, Administration and  
Regulatory Policy

ROBERT SCHALLENBERG  
Director, Utility Services

WARREN WOOD  
Director, Utility Operations

COLLEEN M. DALE  
Secretary/Chief Regulatory Law Judge

KEVIN A. THOMPSON  
General Counsel

January 19, 2007

Mac McIntyre  
Winstar Communications, LLC - CLEC  
1850 M St., NW Ste. 300  
Washington, DC 20036

RE: Calendar Year 2006 Annual Report

### **IMPORTANT NOTICE TO ALL MISSOURI PUBLIC UTILITIES**

Pursuant to Section 392.210, RSMo., Section 393.140, RSMo., and the rules at 4 CSR 240-3.540 (Telecommunications Companies), public utilities are required to submit an annual report to the Missouri Public Service Commission.

Please Note:

- ✓ Due on or before **April 15, 2007**
- ✓ The form(s) submitted to the Commission must be originals in loose-leaf format (in lieu of a hard copy, an electronic version may be submitted in the Commission's Electronic Filing and Information System, EFIS).
- ✓ Attempts to substitute forms such as stockholder reports without concurrently filing official Commission forms with appropriate cross-references will be considered non-compliant.
- ✓ Complete each question fully and accurately, even if it has been answered in a previous annual report. Enter the word "None", "0" or "N/A" where it truly and completely states the fact. An unanswered question will result in a deficiency notice requiring an additional response.
- ✓ Each utility must submit a report even if it had NO revenues during the reporting year.

Reports that do not meet these requirements will not be considered "submitted." Utilities will be subject to legal action under state law for failure to submit annual reports on time without a timely extension request. A utility that does not timely file its annual report, or its response to a notice that its annual report is deficient when a response is sought, is subject to a penalty of one hundred dollars for each day that it is late in filing its annual report or response to a notice of deficiency.

#### **Requests to submit annual report data under seal:**

Utilities may request classification of selected portions of their annual report as non-public. Please note that all information classified as non-public will still remain subject to potential disclosure as provided under the Missouri open records act (Chapter 610 RSMo) and Section 386.480, RSMo.

*Informed Consumers, Quality Utility Services, and a Dedicated Organization for Missourians in the 21st Century*

**Exhibit E**

January 19, 2007

Page 2 of 2

In order to take advantage of this procedure, the submitter, either through EFIS or in hard copy form, must:

- A. Provide both a fully completed version to be kept under seal and a redacted public version that clearly informs the reader that the redacted information has been submitted under seal. The cover of each version must clearly identify whether it is the public or the non-public version. Each page of each version of the report containing non-public information should be clearly identified as containing such information.
- B. Submit both versions of the annual report with a cover letter stating that the utility is designating some or all of the information in its annual report as confidential information, including the name, phone number and e-mail address (if available) of the person responsible for addressing questions regarding the confidential portions of the annual report.
- C. Prominently attach a detailed affidavit to both versions that identifies the specific types of information to be kept under seal, provides a reason why the specific information should be a closed record, and stating that none of the requested information is available to the public in any format.

**Requests for extension to submit annual report:**

Utilities may request an extension of less than 30 days by 1) submitting a written notification prior to April 15<sup>th</sup> to the Manager of the Data Center (the EFIS option for this is located under "Filing/Submission - Non-case Related Submission - MO PSC Annual Report Extension Request") that states the reason for the extension, and 2) certifying that a copy of the written request was sent to all parties of record in pending cases where the Company's activities are the primary focus (i.e., where the Company is identified as a moving party in the case caption) of the proceeding.

All requests for an extension of 30 days or more must be filed prior to April 15th as a legal pleading. If the Company is a corporation or partnership, the pleading must be filed by an attorney licensed to practice in Missouri. If the utility is individually-owned, the Company owner may file this pleading. The pleading must state the reason for the extension and certify that a copy of the written request was sent to all parties of record in pending cases where the Company's activities are the primary focus of the proceeding (i.e., where the Company is identified as a moving party in the case caption). The filing should be submitted in pleading form and comply with the filing requirements of Chapter 2 of 4 CSR 240.

Questions about the annual report form or its content may be submitted to:  
Joan Wandel (573) 751-4785 or by email at [Joan.Wandel@psc.mo.gov](mailto:Joan.Wandel@psc.mo.gov)

The completed document should be submitted under EFIS (accessible from the Commission's Web page <http://www.psc.mo.gov/>) or mailed to:

Manager of the Data Center  
Missouri Public Service Commission  
200 Madison Street, Suite 100, Jefferson City, MO 65101  
(P.O. Box 360, Jefferson City, MO 65102-0360)

Sincerely,



Wess A. Henderson  
Executive Director

Enclosure



Commissioners

JEFF DAVIS  
Chairman

CONNIE MURRAY

STEVE GAW

ROBERT M. CLAYTON III

LINWARD "LIN" APPLING

**Missouri Public Service Commission**

POST OFFICE BOX 360  
JEFFERSON CITY MISSOURI 65102  
573-751-3234  
573-751-1847 (Fax Number)  
<http://www.psc.mo.gov>

April 19, 2007

WESS A. HENDERSON  
Executive Director

DANA K. JOYCE  
Director, Administration and  
Regulatory Policy

ROBERT SCHALLENBERG  
Director, Utility Services

WARREN WOOD  
Director, Utility Operations

COLLEEN M. DALE  
Secretary/Chief Regulatory Law Judge

KEVIN A. THOMPSON  
General Counsel

Winstar Communications, LLC - IXC - CLEC  
Bill Pereira  
520 Broad St.  
New York, NJ 07102

Dear Sir/Madam:

Pursuant to Section 392.210, RSMo Section 393.140, RSMo and the rules at 4 CSR 240-3.165 (Electric Utilities), 4 CSR 240-3.245 (Gas Utilities), 4 CSR 240-3.335 (Sewer Utilities), 4 CSR 240-3.435 (Steam Heating Utilities), 4 CSR 240-3.540 (Telecommunications Companies), and 4 CSR 240-3.640 (Water Utilities), public utilities are required to submit an annual report to the Missouri Public Service Commission on or before April 15th.

**This letter is a notification that the Missouri Public Service Commission has not received from your company its required 2006 Annual Report as of the date of this letter.**

If your company does not file its report on or before April 15th, it will be subject to legal action under state law for failure to submit an annual report on time. A utility that does not timely file its annual report is subject to a penalty of one hundred dollars and an additional penalty of one hundred dollars for each day that it is late in filing its annual report.

Questions about the annual report form or its content may be submitted to:

Joan Wandel (573) 751-4785 or by email at [Joan.Wandel@psc.mo.gov](mailto:Joan.Wandel@psc.mo.gov)

The completed document should be submitted under EFIS (accessible from the Commission's Web page <http://www.psc.state.mo.us/>) or mailed to:

Manager of the Data Center  
Missouri Public Service Commission  
200 Madison Street, Suite 100  
P.O. Box 360  
Jefferson City, MO 65102-0360

Sincerely,

Kevin A. Thompson  
General Counsel

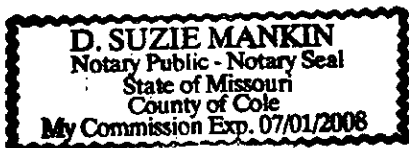
**AFFIDAVIT**

STATE OF MISSOURI    )  
                                  )  
COUNTY OF COLE     )

I, Mick Johnson, employed by the Missouri Public Service Commission as Utility Technical Specialist II, being duly sworn on my oath state that the Public Service Commission's records do not reflect the receipt of Winstar Communications LLC's first quarter 2007 Quarterly Quality of Service Report, and that the affiant has read the accompanying pleading, and that the facts in Count Four therein are true and correct to the best of his knowledge.

*Mick Johnson*  
Mick Johnson

Subscribed and sworn to before me this 28<sup>th</sup> day of June, 2007.



*D. Suzie Mankin*  
NOTARY PUBLIC



**STATE OF MISSOURI**

**OFFICE OF THE PUBLIC SERVICE COMMISSION**

**I have compared the preceding copy with the original on file in this office and  
I do hereby certify the same to be a true copy therefrom and the whole thereof.**

**WITNESS my hand and seal of the Public Service Commission, at Jefferson City,  
Missouri, this 10<sup>th</sup> of July, 2007.**

A handwritten signature in black ink, appearing to read 'Colleen M. Dale', is written over a horizontal line.

**Colleen M. Dale  
Secretary**

**MISSOURI PUBLIC SERVICE COMMISSION**

**July 10, 2007**

**Case No. TC-2007-0494**

General Counsel's Office  
P.O. Box 360  
200 Madison Street, Suite 800  
Jefferson City, MO 65102

Lewis R. Mills, Jr.  
P.O. Box 2230  
200 Madison Street, Suite 650  
Jefferson City, MO 65102

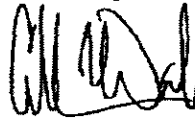
CT Corporation System  
Registered Agent  
120 South Central Ave.  
St. Louis, MO 63105

Winstar Communications, LLC  
Legal Department  
P. O. Box 7153  
McLean, VA 22106

Winstar Communications, LLC  
Legal Department  
333 West Fort St., Ste. 1600  
Detroit, MI 48226

***Enclosed find a certified copy of a NOTICE in the above-numbered case(s).***

***Sincerely,***

A handwritten signature in black ink, appearing to read 'Colleen M. Dale', written over a horizontal line.

***Colleen M. Dale  
Secretary***