

**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.)	

**STAFF’S SUGGESTIONS IN SUPPORT
OF STIPULATION AND AGREEMENT**

COMES NOW the Staff of the Public Service Commission of Missouri and submits the following suggestions in support of the Stipulation and Agreement filed with the Commission on June 2, 2006:

Scope of Agreement

1. This Stipulation and Agreement addresses issues raised in the Staff’s complaint against New Florence Telephone Company for violations of Commission Rules and Public Service Commission laws, and more. The Stipulation resolves all outstanding issues between New Florence and the Staff, provides for significant payments to the Public School Fund and credits to New Florence customers, puts New Florence in a position to be sold, and provides a strong economic incentive for a sale of New Florence that will eliminate all the current owners, including those with alleged mob ties and/or recent criminal convictions related to federal USF and NECA fraud. More specifically, the Stipulation includes resolution of any additional complaints that might be brought for acts before January 1, 2006; a two-year rate moratorium; sale of New Florence Telephone Company to a *bona fide*, independent, third-party purchaser; a

requirement New Florence undergo Commission rate-of-return review before it may obtain a status where its rates are no longer subject to Commission rate-of-return review; a \$100,000 payment to the Public School Fund; an additional \$250,000 payment to the Public School Fund if an application for approval of a sale of New Florence is not filed with the Commission by October 2, 2006; \$50 per access line credits to qualifying New Florence customers; adjustments to New Florence's books, record and annual reports; and criteria where the Staff will certify New Florence for federal USF support. The Stipulation is not piecemeal and each provision in the Stipulation is interdependent with all others.

Signatories and Conduct of Settlement Negotiations

2. The signatories to the Stipulation are the Staff; the Office of the Public Counsel (Public Counsel), New Florence Telephone Company (New Florence), Local Exchange Company, LLC (LEC)—an indirect owner of New Florence and Robert Williams—an indirect owner of New Florence. While one indirect owner of New Florence—Rebecca Malcolm—is not a signatory to the Stipulation, she has signed an affidavit—a copy of which is attached—affirmatively stating information she provided the Staff is true and correct and that she did not misrepresent any facts material and relevant to the Staff's inquiry or fail to provide material and/or information responsive to any request or inquiry the Staff directed to her.

3. The terms of the Stipulation resulted from extensive negotiations between the signatories. During the negotiations that culminated in the Stipulation numerous drafts with significant changes preceding the final agreement were circulated between New Florence, LEC, Robert Williams, the Staff and Public Counsel.

Payment to Public School Fund (pp. 4-5)

4. As part of the overall settlement, this Stipulation provides for payment of \$100,000 to the Public School Fund the earlier of Friday, December 29, 2006 or the date a sale of New Florence to a *bona fide*, independent, third-party purchaser and the payment of an additional \$250,000 to the Public School Fund on October 3, 2006, if an application for approval of such a sale is not filed with the Commission by October 2, 2006, unless both the Staff and Public Counsel agree in writing to extend the October 2, 2006 deadline. Therefore, New Florence and its owners have a significant economic incentive to quickly effectuate a sale of New Florence.

Sale of New Florence Telephone Company (pp. 4-5)

5. The Stipulation requires New Florence to pursue the sale of New Florence or its assets to a *bona fide*, independent, third-party purchaser. As indicated in the preceding paragraph, New Florence has economic inducement to push forward quickly with such a sale, since if an application for authority to transfer New Florence or its assets to a *bona fide*, independent, third-party purchaser is not filed with the Commission by October 2, 2006, unless both the Staff and Public Counsel agree in writing to extend the October 2, 2006 deadline, New Florence is obligated to pay \$250,000 to the Public School Fund on October 3, 2006.

Customer Credits (p. 7)

6. This Stipulation provides that credits of \$50 per customer are to be distributed to customers of New Florence who are paying the full tariff rate for and receiving basic local service from New Florence on June 2, 2006 (the date the Stipulation is filed with the Commission). The credits are to be distributed the earlier of thirty days after a sale of New Florence closes or Friday, December 29, 2006.

7. Any New Florence customer who qualifies for the credit but who discontinues basic local service from New Florence, or its successor, before receiving the credit is to instead receive a payment in the amount of the credit, less any amounts due and owing New Florence, or its successor. Within sixty days of the latter of the date the credits issue or the payments issue, an amount equivalent to the aggregate amount of all checks that have not been cashed is to be paid to the North East Community Action Corporation for funding that agency's low-income housing energy assistance program.

8. Depending on which is providing service to CassTel Missouri customers at the time the credits are issued, New Florence or its successor will issue the credits. Likewise, depending on the timing of the issuance of any checks or payment to the North East Community Action Corporation, New Florence, or its successor, will issue the checks and payment.

Reporting of Credits and Cash Distributions (p. 7-8)

9. Within eighty (80) days of the latter of the date the credits are applied or the checks issued, New Florence or its successor is to provide the Commission's Executive Director a report that shows: (1) the credits issued, (2) the checks issued in lieu of credits, (3) any offsets made to checks issued and (4) the amount paid to the North East Community Action Corporation for funding that agency's low-income housing energy assistance program.

Adjustments to Books of Account and Annual Reports (p. 5)

10. As part of the Stipulation New Florence will make specific adjusting entries in its books and records to eliminate the percentage increases LEC included in administrative charges it made to New Florence and the current effects of the transactions the Staff alleged in its complaint in this case were improper. These adjustments result in an accurate valuation of New Florence's telephone plant-in-service and depreciation reserve accounts, which will allow proper

ratemaking treatment of current plant in future rate case. New Florence will also file with the Commission a 2005 annual report showing corrections and include supplements to its annual reports for years 2001, 2002, 2003 and 2004 referring to the corrected 2005 annual report.

Staff Recommendations Regarding Federal Universal Service Funds (p. 5)

11. As part of the Stipulation the Staff has committed to recommend to the Commission, if New Florence has implemented sufficient financial and managerial controls so that it has independent management with no relationship or ties to current owners and has sufficient knowledge and skill to be acceptable to the Staff, the Commission should certify to the Federal Communications Commission that New Florence, prospectively, will use funds received from the federal high cost support funding mechanisms in accordance with Section 254(e) of the federal Telecommunications Act of 1996 (47 USC § 254(e)). Similarly, if there is a pending sale and the Staff is satisfied the potential new owner will implement sufficient financial and managerial controls to warrant receipt of federal high cost support funds, the Staff will recommend, subject to closing of the sale, the Commission certify to the FCC that the new owner will use funds received from the federal high cost support funding mechanisms in accordance with Section 254(e) of the federal Telecommunications Act of 1996 (47 USC § 254(e)).

Moratorium (p. 8)

12. As part of the Stipulation the signatories to the Stipulation agree not to file a general rate increase or earnings complaint case regarding New Florence, and its successor, for a period of two years commencing from the earlier of the date New Florence is sold or December 29, 2006.

13. The signatories agree that if a general rate increase case or complaint case is filed due to extraordinary circumstances, any resulting rate adjustment would not become effective

before six (6) months following the filing of the case resulting in the rate adjustment, and they acknowledge the Commission's authority to cause a contrary result. The signatory parties agree that filing revenue neutral tariffs does not violate their agreement.

Rate-of-Return Review Before Any Non Rate-of Return Status (pp. 8-9)

14. New Florence agrees not seek a status where it is not rate-of-return regulated before a Commission order is effective, final and non-appealable in a case where Missouri basic local telephone service rates for New Florence, or its successor, as applicable, are reviewed by the Commission. Further, New Florence agrees to inclusion of the foregoing as a condition of the sale of New Florence to a successor, by asset transfer or otherwise.

Specific Releases (p. 9)

15. In Section III. H. of the Stipulation the Staff specifically assents that the Stipulation satisfies each count of the pending complaint and each enforcement complaint the Staff could have brought for acts or omissions made by New Florence before January 1, 2006 and releases New Florence, its successors, assigns, partners, agents, managers, officers and employees from any penalty or forfeiture under the Public Service Commission Law for any such acts or omissions.

Termination of the Stipulation (p. 10)

16. Section IV.A. provides that if the Commission finds New Florence, its officers or employees, or LEC failed to provide the Staff or Public Counsel with material and relevant information in the possession of any of them or that any of them misrepresented facts material and relevant to the Stipulation, the Stipulation is immediately terminated.

Effect on Agreement if Modified or Conditioned by Commission (p. 11)

17. If the Commission does not accept the Stipulation without modification or condition, then, by the terms of the Stipulation § IV.C.(1) and (3)), the Stipulation is void and may neither be used to bar any party from a decision on the merits in this case nor considered as part of the record in this case.

Waivers and Limitation of Scope of Effect of Agreement (pp. 10-12)

26. The Stipulation includes the typical provisions that it is being entered into solely for resolution of the issues in the cases, that it does not constitute approval or acquiescence of any party to any ratemaking or procedural principle and that it is not binding, except as expressly specified in the agreement. It also includes an integration clause stating it includes all agreements made regarding the issues addressed in the Stipulation. Further, if the Stipulation is accepted by the Commission, the Stipulation provides for the typical waivers of further contested proceedings and judicial review, and that the testimony prefiled in this case may be made part of the record in the case without the witnesses taking the stand.

WHEREFORE the Staff submits the foregoing Suggestions in Support of the Stipulation and Agreement filed with the Commission on June 2, 2006.

Respectfully submitted,

/s/ Nathan Williams

Nathan Williams

Senior Counsel

Missouri Bar No. 35512

Attorney for the Staff of the
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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 7th day of June 2006.

/s/ Nathan Williams

Nathan Williams

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Staff of the Public Service Commission
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Complainant,

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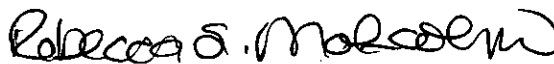
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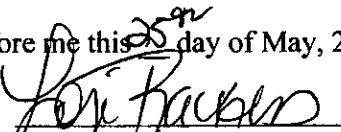
AFFIDAVIT OF REBECCA MALCOLM

Rebecca Sue Malcolm, of lawful age, on her oath states: she is Vice President of Administration of New Florence Telephone Company; that in the context of the Staff's investigation in Case No. TO-2005-0237, she provided information to the Commission's Staff under oath in a deposition taken on August 25, 2005, and/or in response to data requests; that the information given by her is true and correct and she did not misrepresent any facts material and relevant to that investigation nor did she fail to provide responsive material and/or information to any request or inquiry directed to her by Staff.



Rebecca Sue Malcolm

Subscribed and sworn to before me this ^{25th} day of May, 2006.


Notary Public

My commission expires:

