

BEFORE THE PUBLIC SERVICE COMMISSION  
STATE OF MISSOURI

FILED

APR 19 2005

In the matter of the Petition of )  
TON Services Inc. for a Waiver of )  
Portions of Rule 4 CSR 240-31.065 )  
Requiring a Billing Surcharge for the )  
Universal Service Fund Assessment )

Case No.

Missouri Public  
Service Commission

**APPLICATION FOR RULE WAIVER**  
**AND MOTION FOR EXPEDITED TREATMENT**

COMES NOW TON Services Inc. ("TON" or "Applicant"), pursuant to 4 CSR 240-2.060(14), and requests a waiver of Rule 4 CSR 240-31.065 regarding the requirement to bill the Missouri Universal Service Fund assessment as a separate surcharge on customer bills. In addition, Applicant, pursuant to 4 CSR 240-2.080(16), that the application be approved on an expedited basis.

In support of this Application for Rule Waiver, TON provides the following:

1. TON is a certified long distance carrier in Missouri with its principal office located at 4185 Harrison Boulevard, Suite 301, Ogden Utah 84403. Its Certificate to Transact Business as a Foreign Corporation was most recently filed with the Commission in Case No. PA-2005-0349, and is incorporated herein by reference.
2. TON does not have any pending actions or final unsatisfied judgments or decisions against it from any state or federal agency or court which involve customer service or rates, which action, judgment or decision has occurred within three (3) years of the date of the application. TON does not, to the best of its knowledge, have any overdue annual reports or assessment fees.

3. All communications, correspondence and pleadings in regard to this application should be directed to:

James M. Fischer, Esq.  
Larry W. Dority, Esq.  
FISCHER & DORITY, P.C.  
101 Madison, Suite 400  
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For Applicant:

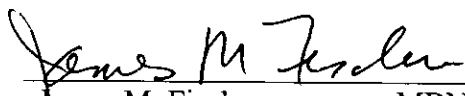
Robin Norton  
Technologies Management, Inc.  
P.O. Drawer 200  
Winter Park, FL 32789

4. TON provides long distance service by the sale of prepaid debit cards only.
5. TON provides no other form of long distance service.
6. Rule 4 CSR 240-31.065 sets forth the procedures for collection of the Missouri USF and states in part:
- (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.
- (2) The surcharge shall appear as a separate line item detailed as "Missouri Universal Service Fund."
- (3) The surcharge percentage shall be applied to each customer's total charges equating to the applicable carrier's net jurisdictional revenues.
- (5) No carrier may recover its Universal Service Fund (USF) assessment in any way other than through this charge.
7. As a debit card provider only, TON does not render bills to its customers, who are the purchasers of its debit cards.

8. TON clearly cannot recover USF or any other regulatory fees imposed by any regulatory agency on the basis of jurisdictional usage since no usage has taken place at the time of purchase of a debit card.
9. Therefore, TON cannot bill or otherwise assess a particular customer for the Missouri USF, or recover any such amounts on a customer-specific basis.
10. Pursuant to 4 CSR 240.2.080(16), TON requests that this application be approved on an expedited basis, as soon as practical, in order for TON to avoid a technical violation of 4 CSR 240-31.065. This request was filed as soon as possible since it is being filed as a part of the Application For Rule Waiver.

WHEREFORE, TON Services Inc. respectfully requests that the Commission waive Rule 4 CSR 240-31.065 (1), (2), (3) and (5) as it pertains to billing a USF surcharge, as well as that portion of subsection (4) which requires TON to remit revenues received as a result of the surcharge. TON requests that it be allowed to remit the required assessment directly to QSI, the administrator of the Missouri USF, from collected revenues derived from its base rates. TON respectfully requests that the Commission issue an order on an *expedited* basis granting the relief requested herein, and for such further relief as the Commission deems appropriate.

Respectfully submitted,

  
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James M. Fischer MBN 27543  
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Jefferson City, Missouri 65101  
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ATTORNEY FOR APPLICANT

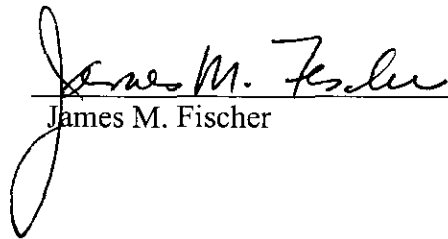
## CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing document was emailed, hand-delivered or mailed, postage prepaid, this 19th day of April 2005, to:

Office of the Public Counsel  
P.O. Box 7800  
Jefferson City, MO 65102

Dana K. Joyce, General Counsel  
Missouri Public Service Commission  
P.O. Box 360  
Jefferson City, MO 65102

Missouri Universal Service Fund Administrator  
QSI Consulting, Inc.  
Attn: Peter Gose  
14530 NW 63<sup>rd</sup> Street  
Parkville, MO 64153

  
James M. Fischer

# VERIFICATION

I, Ian Williams, first being duly sworn upon oath depose and say I am Vice President and General Manager of TON Services, Inc.; that I have read the above and foregoing application by me subscribed and know the contents thereof, that said contents are true in substance and in fact, except as to those matters stated upon information and belief, and as to those, I believe same to be true.

  
Ian Williams

Subscribed and sworn before me this 18 day of April, 2005.

  
(NOTARY PUBLIC) My Commission expires on: 4/5/09

