

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

In The Matter of the Joint Application of     )  
CIMCO Communications, Inc. and             )  
Comcast Phone of Missouri, LLC for         )  
Authority to Transfer Customer Base and     )  
Motion for Expedited Treatment.             )

**Case No. TO-2010-0117**

**RESPONSE IN OPPOSITION  
TO MOTION FOR EXPEDITED TREATMENT**

COMES NOW the Staff of the Missouri Public Service Commission (Staff), by and through counsel, and submits its Response in Opposition to Motion for Expedited Treatment (Response in Opposition) as follows:

1. On October 14, 2009, CIMCO Communications, Inc. (CIMCO) and Comcast Phone of Missouri, LLC d/b/a Comcast Digital Phone (Comcast Phone)(collectively referred to hereinafter as the Applicants) filed with the Missouri Public Service Commission (the Commission) their Joint Application for Authority to Transfer Customer Base and Motion for Expedited Treatment (Joint Application). In this Joint Application the Applicants request Commission approval of a transaction whereby Comcast Phone will acquire the customer accounts of those CIMCO customers located in the State of Missouri. Additionally, the Applicants request the Commission approve the Joint Application as soon as possible, but in no event later than December 1, 2009.

2. Also on October 14, 2009, the Commission issued its Notice of Application, and Order Regarding Filing of Motions for Intervention and Responses to Motion for Expedited Treatment, ordering any response to the Applicant's motion for expedited treatment be filed no later than October 29, 2009.

3. On October 20, 2009, the Applicants filed their Substitution of Exhibit and Adoption Notice, substituting for a previous tariff page another single tariff page, meant to serve both as a revised tariff title sheet and as an adoption notice.

4. This approach is not permitted under the Commission's rules. In this case Comcast Phone has two options. The Company can either file a new set of tariffs under its own name, or it can file a revised tariff title page and separately file an adoption notice. Commission Rule 4 CSR 240-3.545(11) states that "[s]ubject to commission approval, a telecommunications company may concur in the tariff filed by another telecommunications company." Staff views this requirement as separate from the mandate contained in Commission Rule 4 CSR 240 3.545(8)(A), which requires a telecommunications company to include at the beginning of its tariffs the name of the company as registered with the Missouri Secretary of State and as certificated by the Commission.

5. For these reasons Staff cannot support expedited treatment of this matter. Although Staff's opposition to expedited treatment is based upon the technical requirements of the tariff filing and not upon a substantive review of the transaction between the Applicants, Staff states that a positive recommendation cannot be provided until such time as the Company complies with the Commission's tariff requirements.

**WHEREFORE,** Staff submits this Response in Opposition for the Commission's information and consideration in this matter.

Respectfully submitted,

/s/ Eric Dearmont

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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 29th day of October, 2009.

/s/ Eric Dearmont