

**STATE OF MISSOURI
PUBLIC SERVICE COMMISSION**

At a session of the Public Service
Commission held at its office in
Jefferson City on the 12th day of
November, 2009.

**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)**

File No. TO-2010-0117
Tracking No. YL-2010-0275

ORDER GRANTING APPLICATION AND APPROVING TARIFF

Issue Date: November 12, 2009

Effective Date: November 13, 2009

The Missouri Public Service Commission is granting the application to transfer customers ("application") and approving the substitute tariff sheets.

A. Procedure

On October 14, 2009, CIMCO Communications, Inc. ("CIMCO"), and Comcast Phone of Missouri, LLC ("Comcast") filed the application. With the application, CIMCO and Comcast ("applicants") filed a supporting affidavit, an implementing tariff, and a motion for expedited treatment ("motion"). On October 14, 2009, the Commission gave notice to all Missouri certified telecommunications companies of the application.

The Commission received no motions to intervene. On November 5, 2009, CIMCO and Comcast ("applicants") filed substitute tariffs, and the Commission's staff ("Staff") filed a recommendation in favor of the tariffs as substituted. On November 6, 2009, the Office of Public Counsel ("OPC") filed its response to the recommendation, stating that it does not oppose the application.

Because no party disputes the application, no law requires a hearing before granting the application, so the Commission convened no hearing, and bases its findings on the verified application.¹

B. Application and Tariff

CIMCO is an Illinois corporation that holds a certificate of service authority to provide interexchange telecommunications services in Missouri. Comcast is a Delaware limited liability company that holds a certificate of authority to provide local exchange, basic local exchange, and interexchange telecommunications services in Missouri. Applicants are authorized to do business in Missouri.

The application seeks the Commission's:

. . . approval or other authority as may be required to consummate a transaction involving the transfer of the Missouri customer base of CIMCO to Comcast . . . [²]

under the statute providing that:

No telecommunications company shall hereafter . . . transfer . . . any part of its . . . system . . . , nor . . . merge . . . any part thereof, with any other . . . public utility, without having first secured from the commission an order authorizing it so to do. [³]

The Commission's regulations further require the Commission's:

. . . authority to . . . transfer assets[. ⁴]

Staff favors the transfer, and no party opposes the transfer, so the Commission will approve the application and the substitute tariffs implementing such transfer.⁵

¹ *State ex rel. Rex Deffenderfer Ent., Inc. v. Public Serv. Com'n*, 776 S.W.2d 494, 496 (Mo. App., W.D. 1989).

² Application, first paragraph. CIMCO's tariff JX-2009-0046 does not include a waiver of Section 392.300.1.

³ Section 392.300.1, RSMo 2000.

⁴ 4 CSR 240-3.520(2).

C. Motion for Expedited Treatment

The motion requests a decision no later than December 1, 2009. The substituted tariffs bear an effective date of November 13, 2009. That effective date renders the motion moot so the Commission will not rule on the motion.

THE COMMISSION ORDERS THAT:

1. The application to transfer customers from CIMCO Communications, Inc., to Comcast Phone of Missouri, LLC is approved.
2. The substitute tariff sheets filed on November 5, 2009, are approved.
3. The substitute tariff sheets approved are:

Missouri P.S.C. Tariff No. 3
Original Sheet No. Adoption Notice A
1st Revised Title Page

4. This order shall become effective on November 13, 2009.
5. This file may close on November 16, 2009.

BY THE COMMISSION



Steven C. Reed
Secretary

(S E A L)

Clayton, Chm., Davis, Jarrett, Gunn,
and Kenney, CC., concur.

Jordan, Regulatory Law Judge

⁵ Staff also argues that Section 392.200.1 and related regulations are already waived under Section 392.420, RSMo Supp. 2008. That statute (a) requires the waiver of Section 392.300.1 for all existing and newly certified alternative local exchange telecommunications companies; (b) allows such waiver for interexchange or local exchange providers upon petition; and (c) allows such waiver for incumbent local exchange telecommunications companies upon notice of election. Because the Commission is approving the tariff, the Commission need not decide Staff's argument.