

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

In the Matter of the Application of Inmate)
Calling Solutions, LLC d/b/a ICSolutions) **File No. XE-2011-0065**
for Waiver of Commission Rules and Statutes)

STAFF RECOMMENDATION

COMES NOW the Staff of the Missouri Public Service Commission and for its recommendation states:

1. On September 3, 2010, ICSolutions (the “Company”), filed an application for waiver of certain Commission rules and statutes, requesting that the Commission waive certain rules and statutory provisions pursuant to §§392.245.5(8) and 392.420 RSMo Supp. 2009.

2. Section 392.420, as amended by H.B. 1779, states in relevant part that

The commission is authorized, in connection with ... a certificate of interexchange ... service authority ... to entertain a petition to suspend or modify the application of its rules or the application of any statutory provision contained in sections 392.200 to 392.340 if such waiver or modification is otherwise consistent with the other provisions of sections 392.361 to 392.520 and the purposes of this chapter.

3. Section 392.245.5(8) provides that the Commission shall retain the authority to hear and resolve customer complaints based upon certain federal regulations and standards, the company’s tariff, or Commission rules “other than those related to customer billing, network engineering and maintenance, and service objectives and surveillance levels or a failure to provide service in a manner that is safe, adequate, usual and customary in the telecommunications industry.”

4. In addition to that retention of authority, the Staff notes that these waivers do not relieve the Company of any reporting or other obligations that arise from a source other than the waived rules or statutory provisions, such as undertakings made in a Stipulation or Agreement or as a merger or other condition.

5. The Company is an interexchange telecommunications company as that term is used in the statutory provisions recited above. In the attached Memorandum, labeled Appendix A, the Staff recommends the Commission grant the requested waivers, which are:

392.210.2 Accounting (system of accounts)


- 392.240.1 Rates
- 392.270 Accounting (valuation)
- 392.280 Accounting (depreciation/accounts)
- 392.290 Issuance of stocks, bonds and other indebtedness
- 392.300.1 Transfer of property and ownership of stock
- 392.310 Approval of issuing stocks, bonds and other indebtedness
- 392.320 Certificate of Commission to be recorded stock dividends
- 392.330 Disposition of proceeds of sales of stocks, bonds, notes, and other indebtedness
- 392.340 Reorganization
- 4 CSR 240-3.550(4) and (5)(A) Held order records, Quality of service reports.
- 4 CSR 240-10.020 Income on Depreciation Fund Investments
- 4 CSR 240-30.040 Uniform System of Accounts
- 4 CSR 240-32.060 Engineering and maintenance
- 4 CSR 240-32.070 Quality of Service
- 4 CSR 240-32.080 Service objectives and surveillance levels
- 4 CSR 240-33.040 (1) through (3) and (5) through (10) Billing and payment standards
- 4 CSR 240-33.045 Clear identification and placement of charges on bills
- 4 CSR 240-33.080 (1) Toll-free number for billing disputes
- 4 CSR 240-33.130 (1), (4), and (5) Operator service billing requirements

6. The Company is currently compliant in obligations relating to Commission assessment, Missouri Universal Service Fund, Relay Missouri, and the submission annual reports.

7. The Staff notes that the Public Counsel opposes granting certain of the requested waivers based on the fact that the Company provides telecommunications service to inmates under circumstances in which the Company faces no competition. The Staff agrees that, once the Company is granted a contract to provide services at a penal institution, it is the sole telecommunications provider for inmates. However, the Staff notes that those contracts are awarded by the Department of Corrections and the Office of the Administration through a competitive bidding process. Granting the requested waivers does not preclude those agencies from requiring adherence to the waived rules as a condition of being awarded a contract. The Staff believes that the Company has established that it is entitled to the requested waivers; in light of the Commission's grant of the same waivers to other carriers that provide service to penal institutions, failure to grant the waivers in this matter may appear arbitrary.

WHEREFORE, the Staff recommends that the Commission grant the Company the waivers requested in its Application and require it to amend its tariff to reflect the granted waivers.

Respectfully submitted,



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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 21st day of September, 2010.



MEMORANDUM

To: Missouri Public Service Commission Official Case File
Case No. XE-2011-0065

From: William Voight
Supervisor, Rates and Tariffs
Telecommunications Department

Subject: Staff's Recommendation to Approve Waivers and Deny the Office of
Public Counsel's Request for Hearing

Date: September 20, 2010

On September 3rd, Inmate Calling Solutions, LLC d/b/a ICSolutions filed a request for approval of certain waivers from Missouri statutes and Public Service Commission rules. The Telecommunications Department Staff (Staff) has examined the waiver request and Staff finds that the waivers are the same as have been previously been granted by the Commission; therefore, the Staff recommends the waiver requests be approved.

On September 17th, the Office of the Public Counsel filed an objection to waivers of the Commission's billing and operator service rules, which constitute a subset of ICSolutions' overall waiver request. Public Counsel states that granting waivers of these rules is contrary to the public interest. The Staff notes that Subsection 392.420 requires the Commission to waive its billing rules for basic local exchange companies; however, ICSolutions is an interexchange company providing long distance telecommunications service. Nevertheless, the Staff recommends the billing rules be waived in this instance as well. Staff notes that the Commission's billing rules have previously been waived for other interexchange companies, and that neglecting to do so in the instant case would not be consistent with prior cases.

In conclusion, the Staff recommends the Commission grant ICSolutions' waiver request and that the Commission deny Public Counsel's request for hearing. The Staff is unaware of any other matter that affects, or that would be affected by, this matter.

BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI

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Case No. XE-2011-0065

AFFIDAVIT OF William Voight

STATE OF MISSOURI)
) ss:
COUNTY OF COLE)

William Voight, employee of the Missouri Public Service Commission, being of lawful age and after being duly sworn, states that he has participated in preparing the accompanying staff recommendation, and that the facts therein are true and correct to the best of his knowledge and belief.

Bill Voight

WILLIAM VOIGHT

Subscribed and affirmed before me this 20th day of September 2010

Sharon S. Wiles

NOTARY PUBLIC

