

# **BEFORE THE PUBLIC SERVICE COMMISSION**

## **OF THE STATE OF MISSOURI**

In the Matter of the Application by Telecom	)	
Management, Inc., d/b/a Pioneer Telephone,	)	<b><u>Case No. XM-2009-0104</u></b>
and Broadwing Communications, LLC, for	)	Tariff No. YX-2009-0283
Approval of Asset Purchase Agreements	)	

### **ORDER APPROVING JOINT APPLICATION**

Issue Date: November 4, 2008

Effective Date: November 20, 2008

#### **Syllabus**

This order approves a Joint Application of Telecom Management, Inc., d/b/a Pioneer Telephone, (hereafter “Pioneer”) and Broadwing Communications, LLC (hereafter “Broadwing”), which asks the Commission to approve a transfer of certain assets from Broadwing to Pioneer.

#### **The Applicants**

On September 18<sup>1</sup>, Pioneer and Broadwing (hereafter the “Joint Applicants”) asked the Commission to approve a transfer of certain assets from Broadwing to Pioneer. The assets consist of approximately 1,948 residential and 985 small medium enterprise customers in Missouri.

The Commission granted Pioneer a certificate of service authority to provide interexchange telecommunications services in Case No. XA-2005-0061. Further, the

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<sup>1</sup> All calendar date references are to 2008 unless otherwise stated.

Commission granted Broadwing a certificate of service authority to provide interexchange and non-switched local exchange telecommunications services in Case No. XA-2003-0356.

On October 21, Pioneer filed tariff sheets intended to grandfather Broadwing's customers' rates into Pioneer's tariffs for Broadwing's customers. These tariff sheets bear an effective date of November 20.

### **The Transaction**

The Joint Applicants ask for authority for Pioneer to purchase Broadwing's residential and small medium enterprise long distance customer accounts in Missouri. They state that Pioneer will provide interexchange telecommunications services to Broadwing's current customers at the same rates, terms and conditions that Broadwing's customers currently enjoy.

The Joint Applicants further aver that the transaction will serve the public interest in that the customers will continue to receive uninterrupted service, while Pioneer will achieve a heightened level of operating efficiency. They included a proposed customer notice with their application. No tax impact to any Missouri political subdivision is expected.

### **Discussion**

On October 22, Staff filed its recommendation. Staff notes that Commission Rule 4 CSR 240-3.520 governs the sale of assets. The Commission may approve an asset sale if it is "not detrimental to the public interest."<sup>2</sup>

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<sup>2</sup> See, e.g., *In re WorldCom*, 5 Mo. P.S.C.3d 312, 315 (1996); *In re Computer Network Technology Corporation*, Commission Case No. XM-2005-0283 (Order Approving Merger and Directing Filing, March 29, 2005).

Staff agrees that the Commission's approval of the merger will not be detrimental to the public interest. Staff recommends that the Commission approve the merger.

The Commission has reviewed the verified amended application and Staff's verified recommendation, which are hereby admitted into evidence. The Commission finds that the proposed transaction is not detrimental to the public interest and that the Commission should therefore approve it.

The Commission notes that the asset sale involves competitively classified companies, and the Commission will order that customers being switched from Broadwing to Pioneer to receive notice of the transaction at least 30 days prior to the effective date of the transaction.

**THE COMMISSION ORDERS THAT:**

1. The Joint Application of Telecom Management, Inc., d/b/a Pioneer Telephone, and Broadwing Communications, LLC, is approved.
2. The following tariff sheets filed by Telecom Management, Inc., d/b/a Pioneer Telephone on October 21, 2008, and assigned Tariff No. YX-2009-0283, are approved to become effective on November 20, 2008:

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**PSC Mo. No. 1**

Original Sheet 28  
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3. Customers of Broadwing Communications, LLC affected by this transaction shall receive notice the same as, or substantially similar to, the notice the Joint Applicants included as Exhibit A in their Joint Application, at least 30 days prior to the closing of the transaction.

4. This order shall become effective on November 20, 2008.
5. This case shall be closed on November 21, 2008.

**BY THE COMMISSION**

A handwritten signature in black ink, appearing to read 'Colleen M. Dale', written over a horizontal line.

Colleen M. Dale  
Secretary

( S E A L )

Ronald D. Pridgin, Senior Regulatory  
Law Judge, by delegation of authority  
under Section 386.240, RSMo 2000.

Dated at Jefferson City, Missouri,  
on this 4th day of November, 2008.