

**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) **Case No. XM-2009-0104**
and Broadwing Communications, LLC For) **Tariff File No. YX-2009-0283**
Approval of Asset Purchase Agreements)

STAFF RECOMMENDATION

COMES NOW the Staff (“Staff”) of the Missouri Public Service Commission (“Commission”) and respectfully states as follows:

1. On September 18, 2008, Telecom Management, Inc. d/b/a Pioneer Telephone (“Pioneer”) and Broadwing Communications, LLC (“Broadwing”) (together, the “Applicants”) filed with the Commission a Joint Application for approval of a proposed transfer of certain assets from Broadwing to Pioneer. Specifically, the proposal calls for the purchase by Pioneer of Broadwing’s residential and small medium enterprise (“SME”) long-distance customer accounts in Missouri. The Applicants assert that the transaction is not detrimental to the public interest in that the acquisition will ensure that current Broadwing customers receive uninterrupted service. Further, the transaction will have no impact on the terms and conditions of the services those customers receive, and no rate increases will result. Included with the Joint Application is a sample of the notice that will be sent to the customers affected by the transfer.

2. On October 21, 2008, Pioneer filed two tariff sheets (P.S.C. Mo. Tariff No. 1, Original Sheet 28 and Original Sheet 29) bearing an effective date of November 20, 2008. The tariff sheets are designed to “grandfather” the rates of the Broadwing customers being acquired by Pioneer.

3. On September 22, 2008, the Commission issued an order directing the Staff to file, by October 22, 2008, either a recommendation or a status report indicating when it expects to file its recommendation.

4. The transfer of assets is governed by Section 392.300 RSMo and Commission Rule 4 CSR 240-3.520. The standard for approval of a sale of assets is that the transaction not be detrimental to the public interest. See, *In the Matter of the Application of Computer Network Technology Corporation for Authority to Enter into a Merger and Transfer of Control Transaction with Condor Acquisition, Inc., and McDATA Corporation, and Their Respective Shareholders*, Order Approving Merger And Directing Filing, Case XM-2005-0283 (March 29, 2005) (citing *State ex rel. Fee Fee Trunk Sewer, Inc. v. Litz*, 596 S.W. 2d 466, 468 (Mo. App. E.D. 1980)). Pursuant to Commission Rule 4 CSR 240-33.150(4), customers whose service is being transferred to a different provider shall receive notification of the change at least thirty (30) days prior to the effective date of the change.

5. In the attached Memorandum (Appendix A), the Staff concludes that the transaction is not detrimental to the public interest, and recommends that the Commission approve the Applicants' proposal. The Staff further recommends that the Commission approve the following proposed Pioneer tariff sheets:

P.S.C. Mo. Tariff No. 1
Original Sheet 28
Original Sheet 29

WHEREFORE, the Staff respectfully recommends that the Commission issue an Order: a) approving the proposed sale to Pioneer of Broadwing's residential and small medium enterprise ("SME") long-distance customer accounts in Missouri, b) approving

the two proposed tariff sheets identified above and in the Staff's Memorandum, with an effective date of November 20, 2008, as requested by Pioneer; and c) directing that current Broadwing customers affected by this transaction receive notice of the change at least thirty (30) days prior to the effective date of the change.

Respectfully submitted,

/s/ Dennis L. Frey

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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 22nd day of October 2008.

/s/ Dennis L. Frey