

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

In the Matter of the Application for)
Name Change of MCC Telephony)
of Missouri, Inc. to MCC Telephony)
of Missouri, LLC)

File No. LN-2010-0081
Tracking No. YL-2010-0152

**ORDER SUSPENDING TARIFF AND DIRECTING FILING, AND
NOTICE OF CONTESTED CASE**

Issue Date: October 1, 2009

Effective Date: October 1, 2009

The Missouri Public Service Commission is suspending the adoption notice or revised tariff title sheet (“tariff”) that accompanies the above-styled application. The reason for the suspension is that the application’s allegations may not support the relief it seeks, and MCC Telephony of Missouri, Inc. (“the corporation”), filed the tariff too close to its effective date. The Commission is also issuing notice of a contested case and directing the parties to address whether the facts described in the application constitute a change of name.

A. Application

The application asks the Commission to recognize that the corporation has changed its name but the application describes no change in fictitious name, nor even a change in the name of the corporation. The corporation alleges that it merely changed its name, but its exhibits show that a new legal entity—a limited liability company—came into existence on February 9, 2009, under Delaware law.

Under Missouri law, the corporation alleges that it changed its name with the Missouri Secretary of State, but something else appears in its exhibits. The exhibits show that the corporation withdrew from doing business in Missouri. They also show

that the limited liability company has procured its own separate certificate of registration to do business from the Secretary of State.

Corporations operate under one set of laws¹ and limited liability companies operate under another set of laws.² Each set of laws provides differing rights and duties for the respective entity. Therefore, the Commission will order the parties to address whether the facts described in the application constitute a change of name or require some other procedure for the limited liability company to offer telecommunications services in Missouri.

B. Suspension of Tariff

In the Commission's September 28, 2008, order, the Commission noted that the tariff does not comply with the law³ because the tariff's effective date⁴ is less than 30 days after the tariff's filing date.⁵ The Commission gave until September 30, 2008, for the parties to show an exception to the 30-day requirement, as the law allows for "good cause."⁶ The parties did not respond.

The statutes provide that when a telecommunications company files a tariff:

. . . the commission [may] enter upon **a hearing concerning the propriety** of such [tariff], and **pending such hearing and the decision** thereon, the commission . . . **may suspend** the operation of such [tariff]; and **after full hearing** . . . , the commission **may make such order** in reference to such [tariff] as would be proper in a proceeding initiated after the [tariff] had become effective[.]⁷

¹ Chapter 351, RSMo.

² Chapter 347, RSMo.

³ Section 392.220.2, RSMo Supp. 2008; 4 CSR 240-2.060(5)(C).

⁴ October 5, 2009.

⁵ September 8, 2009 at 9:28:48 AM.

⁶ Section 392.220.2, RSMo Supp. 2008 (emphasis added).

⁷ Section 392.230.3 and .5, RSMo Supp., 2008.

The reasons for suspending the tariff include enforcing the 30-day requirement and determining whether the application's allegations support the relief it seeks.

Therefore, the Commission will suspend the tariff for 30 days.

C. Notice of Contested Case

Suspending the tariff is within the Commission's authority only pending a "full" hearing and decision on the tariff's propriety.⁸ The full, pre-decision hearing provision signifies that this action is now a "contested case."⁹ A contested case is a formal hearing procedure, but it allows for waiver of procedural formalities¹⁰ and a decision without a hearing,¹¹ including by stipulation and agreement.¹² This notice does not require any party to file an answer.¹³ The Commission's discovery regulations are at 4 CSR 240-2.090.¹⁴

THE COMMISSION ORDERS THAT:

1. The tariff that MCC Telephony of Missouri, Inc., filed on September 8, 2009, under tracking number YL-2010-0152 is suspended from October 5, 2009, to November 4, 2009, subject to further suspension as the law provides. The suspended tariff is:

Missouri P.S.C. No 1
First Revised Page 1
Replacing Original Page 1

2. No later than October 15, 2009, the parties shall file a response to this order. Such response will discuss whether the allegations in the application support

⁸ *Id.*

⁹ Section 536.010(4), RSMo Supp. 2008.

¹⁰ Sections 536.060(3) and 536.063(3), RSMo 2000.

¹¹ Sections 536.060, RSMo 2000.

¹² 4 CSR 240-2.115.

¹³ Section 536.067(2)(d), RSMo 2000.

¹⁴ Section 536.067(2)(f), RSMo 2000.

recognition of a name change. Such discussion will address the issues raised in part A of the body of this order.

3. This order shall become effective immediately upon issuance.

BY THE COMMISSION



**Steven C. Reed
Secretary**

(S E A L)

Daniel Jordan, Regulatory Law Judge,
by delegation of authority under
Section 386.240, RSMo 2000.

Dated at Jefferson City, Missouri,
on this 1st day of October, 2009.