

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

In the Matter of the Petition for Waivers of)	
Certain Rules and Statutes on behalf of)	File No. XO-2010-0040
Windstream Communications, Inc.)	

STAFF RECOMMENDATION AND RESPONSE TO PUBLIC COUNSEL

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

1. On July 28, 2009, Windstream Communications, Inc. ("the Company") filed a Petition for Waiver of 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. 2008.

2. Section 392.245.5(8), as amended by H.B. 1779, states in relevant part that
". . . all alternative local exchange telecommunications companies shall not be required to comply with customer billing rules, network engineering and maintenance rules, and rules requiring the recording and submitting of service objectives or surveillance levels established by the commission."

3. Section 392.245.5(8) does provide, however, 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 agrees with the Public Counsel 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. Section 392.420 RSMo, as amended by H.B. 1779, states in part that

“[i]n the case of an application for certificate of service authority to provide basic local telecommunications service filed by an alternative local exchange telecommunications company, and for all existing alternative local exchange telecommunications companies, the commission shall waive, at a minimum, the application and enforcement of its quality of service and billing standards rules, as well as the provisions of subsection 2 of section 392.210, subsection 1 of section 392.240, and sections 392.270, 392.280, 392.290, 392.300, 392.310, 392.320, 392.330, and 392.340.”

6. The Company is an interexchange carrier and provider of nonswitched local exchange service. Although not technically a local exchange telecommunications company as stated in the provisions recited above, it is a logical extension in the spirit of HB 1779 to afford the same waivers as are extended to incumbent and alternative basic local exchange telecommunications service providers to interexchange and nonswitched local telecommunications providers and as the Commission has previously done. The specific waivers requested by the Company are consistent with those listed in HB 1779. In the attached Memorandum, labeled Appendix A, the Staff recommends the Commission grant the waivers.

7. The Company is currently compliant in obligations relating to Commission assessment, Missouri Universal Service Fund, Relay Missouri, and the submission of an annual report.

WHEREFORE, the Staff recommends that the Commission grant the Company the waivers requested in its Petition and either approve its accompanying tariff revisions or allow them to go into effect by operation of law.

Respectfully submitted,



Colleen M. Dale
Senior Counsel
Missouri Bar No. 31624
Attorney for the Staff of the
Missouri Public Service Commission
P. O. Box 360
Jefferson City, MO 65102
(573) 751-4255 (Telephone)
cully.dale@psc.mo.gov

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 18th day of August, 2009.



MEMORANDUM

To: Missouri Public Service Commission Official Case File
Case No. XO-2010-0040 File No. YX-2010-0057
Company Name: Windstream Communications, Inc.

From: Sara Buyak
Telecommunications Department

William Voight 8/13/09
Utility Operations Division/Date

Subject: Staff Recommendation to Approve Windstream Communications, Inc.'s
Request for Waivers.

Date: August 12, 2009

On July 28, 2009, Windstream Communications, Inc. (Windstream) filed a Petition For Waiver of Commission Rules and Statutes and tariff sheet, PSC Mo. No. 1, 1st Revised Page 7, to exempt Windstream from certain statutory requirements and Commission rules. The requested waivers and a brief description of each are as follows:

Commission Rules (4CSR 240 -)	Brief Description
3.550(4) and (5)(A)	Held order records, Quality of service reports.
32.060	Engineering and maintenance
32.070	Quality of Service
32.080	Service objectives and surveillance levels
33.040 with the exception of subsection (4)	Billing and payment standards
33.045	Clear identification and placement of charges on bills
33.080(1)	Toll-free number for billing disputes
33.130, sections (1), (4) and (5)	Operator service billing requirements

Missouri Statutes	Brief description of Commission's authority
392.300	Transfer of property and ownership of stock

Windstream requests the Commission grant the waivers pursuant to Sections 392.185, 392.361.5, and 392.420, RSMo. The Telecommunications Department Staff (Staff) wishes to note that the waivers are the same as those previously granted by the Commission to other carriers such as Case No. XE-2009-0308.

Under section 392.420, the Commission may approve these waivers "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."

The Staff recommends because the requested waivers of the above-listed statutory and Commission rule provisions are consistent with the other provisions of sections 392.361 to 392.520 and the purposes of Chapter 392, that the Commission approve the request at its earliest convenience, and permit the tariff sheet to go into effect by operation of law.

The Staff is unaware of any other matter that may affect the matters in this case.

☒ The Company is not delinquent in filing an annual report, USF, Relay, and paying the PSC assessment.

☐ The Company is delinquent: (☐ No annual report ☐ No USF ☐ No Relay

☐ Unpaid PSC assessment. Amount owed:)

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Windstream Communications, Inc.)

AFFIDAVIT OF Sara Buyak

STATE OF MISSOURI)
) ss:
COUNTY OF COLE)

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


SARA BUYAK

Subscribed and affirmed before me this 12th day of August 2009.


NOTARY PUBLIC

CARLA K. SCHNIEDERS
Notary Public - Notary Seal
State of Missouri
Commissioned for Cole County
My Commission Expires: August 25, 2012
Commission Number: 08533187