

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

In the Matter of the Cancellation of the Certificate )  
of Service Authority of Davidson Telecom, LLC to )  
Provide Intrastate Interexchange and Nonswitched ) **File No. XD-2013-0264**  
Local Exchange Telecommunications Services in the )  
State of Missouri )

In the Matter of the Cancellation of the Certificate of )  
Service Authority of Davidson Telecom, LLC to )  
Provide Basic Local Telecommunications Services in ) **File No. CD-2013-0266**  
the State of Missouri )

**STIPULATION AND SETTLEMENT AGREEMENT**

**COME NOW** the Staff (“Staff”) of the Missouri Public Service Commission (“Commission”) and Davidson Telecom, LLC (Davidson) by and through their respective undersigned counsel, and stipulate and agree as follows in settlement of the captioned cases:

*Background*

1. On November 8, 2012, Staff filed a *Motion to Cancel Certificate of Service Authority* in each of the captioned matters (the “Motions”) seeking cancelation of Davidson’s certificates of service authority to provide intrastate interexchange, nonswitched local exchange and basic local telecommunications services on grounds that the Company failed to submit annual reports and Missouri Universal Service Fund (MoUSF) net jurisdictional revenue reports, and remit MoUSF assessments as required by law and regulation of this Commission.

2. On November 19, 2012, Davidson objected to the Motions and requested the Commission to set a procedural schedule and evidentiary hearing for each matter. On November 20, 2012, the Commission issued its *Order Setting Prehearing Conference* directing a prehearing conference on December 11, 2012.

3. On December 11, 2012, the parties appeared at the prehearing conference and subsequently have actively engaged in discussions directed toward a stipulated resolution of these matters.

4. Staff and Davidson desire to settle the issues raised in the Motions by entering into this Stipulation and Settlement Agreement (“Agreement”). This Agreement is in the public interest because it will provide funds to the Missouri school fund, eliminates the need for evidentiary hearings, leads to a broader resolution of issues and provides a reasonable and just solution and remedy to resolve the matters raised in the Motions.

*The Agreement*

5. Staff’s Motions assert, and Davidson for purposes of this Agreement will not contest, that in violation of Commission rules and regulations and applicable statutes the Company is delinquent or deficient in: a) the filing of its 2010 and 2011 Annual Reports; b) the submission of the MoUSF 2012 Net Jurisdictional Revenue Report; and c) the monthly MoUSF assessment remittances for September 2011, February 2012, July 2012, August 2012, September 2012, and October 2012.

6. Staff additionally asserts, and Davidson for purposes of this Agreement will not contest, that in violation of Commission rules and regulation and applicable statutes the Company is delinquent or deficient in the monthly Deaf Relay assessment remittances for May through December 2008, all of calendar year 2010, and all of calendar year 2012.

7. Within fifteen days of the filing of this Agreement, Davidson shall:

- a. File in the Commission’s Electronic Filing & Information System (EFIS) Davidson’s Annual Reports for calendar years 2010 and 2011;

- b. Submit to the MoUSF Administrator Davidson's MoUSF 2012 Net Jurisdictional Revenue Report; and
- c. Submit to the MoUSF Administrator Davidson's monthly MoUSF assessment remittances for September 2011, February 2012, July 2012, August 2012, September 2012, and October 2012, November 2012, and December 2012, January 2013 and February 2013.
- d. Submit payment to the MoUSF Administrator for penalty amounts as determined by the Administrator pursuant to Rule 4 CSR 240-31.070 (5) for the delinquent amounts cited in subparagraph 7(c) above.
- e. Submit payment to the Commission's Budget and Fiscal Services Department for Relay Missouri Surcharges collected during May 2008 through December 2008, all of calendar year 2010, all of calendar year 2012, January 2013 and February 2013.
- f. Submit payment amount to the Commission's Budget and Fiscal Services Department for penalty amounts as determined pursuant to Rule 4 CSR 240-33.170 (4)(B) for the delinquent amounts cited in subparagraph 7 (e) above.

Staff shall notify Davidson in writing of any deficiencies in the reports or remittances submitted pursuant to this paragraph. Davidson shall cure any deficiency within thirty days of receiving notice thereof.

8. Within 15 days of Commission approval of this Agreement, Davidson shall remit a payment of Ten Thousand Dollars (\$10,000.00) to the St. Louis Public Schools Foundation (the Foundation), 801 North 11th Street, Third Floor, St. Louis, Missouri, for the sole purpose of settlement of the Motions. Davidson agrees that it will not make this payment the subject of any

advertising or promotion and will remit the payment to the Foundation on condition of anonymity. Upon delivery of the payment, Davidson shall obtain a certificate of receipt thereof from the Foundation. Davidson shall subsequently serve the certificate of receipt on the Staff as proof of payment.

9. During the pendency of the Motions, Davidson has developed and shared with Staff a plan (Compliance Plan) by which to eliminate any delay in the preparation and proper filing of its Annual Reports, Mo USF Net Jurisdictional Revenue Report(s) and monthly assessment remittances. A description of the Compliance Plan is attached as Exhibit A. Davidson shall update EFIS as appropriate to reflect the Company contact for the Commission's annual and periodic reporting requirements. Staff believes that this plan is a reasonable response to the problems identified in the Motions and if the plan is effectively implemented Staff believes that Davidson will come into compliance with the reporting requirements identified in the Motions.

10. If Davidson successfully implements its Compliance Plan, provides to Staff the monthly and other reports or remittances, as required by this Agreement, and otherwise successfully performs its agreements, duties and responsibilities as set forth in this Agreement, Staff agrees to withdraw the Motions twelve months after the Commission's order approving this Agreement and will not refile the Motions or seek penalties on the basis of any of the facts and circumstances alleged in the Motions.

11. In the event that Davidson fails to comply with the terms and conditions of this Agreement, Staff reserves the right to pursue or refile the Motions or a complaint and in addition to the cancelation of Davidson's certificates, seek authority to file a penalty action.

12. Davidson has agreed to each and every term and provision of this Agreement: a) as a compromise to avoid expense and to terminate all controversy concerning the Motions; and b) in consideration of Staff's agreement to withdraw the Motions as provided for herein, and to forbear from filing a complaint. This agreement shall not be construed as an admission by Davidson of liability, which Davidson denies, for violations of the rules of the Commission or applicable state laws.

13. This Stipulation and Settlement Agreement has resulted from extensive negotiations among the signatories and the terms hereof are interdependent. In the event the Commission does not adopt this Stipulation and Settlement Agreement in total, then this Stipulation and Settlement Agreement shall be void and no signatory shall be bound by any of the agreements or provisions hereof. The Stipulations herein are specific to the resolution of this proceeding and are made without prejudice to the rights of the signatories to take other positions in other proceedings.

14. In the event the Commission accepts the specific terms of this Stipulation and Settlement Agreement, the parties and participants waive, with respect to the issues resolved herein: their respective rights pursuant to Section 536.080.1, RSMo, to present testimony, to cross-examine witnesses, and to present oral argument or written briefs; their respective rights to the reading of the transcript by the Commission pursuant to Section 536.080.2, RSMo; and their respective rights to seek rehearing pursuant to Section 386.500, RSMo; and to seek judicial review pursuant to Section 386.510, RSMo. The parties agree to cooperate with the Staff and with each other in presenting this Stipulation and Settlement Agreement for approval to the Commission and shall take no action, direct or indirect, in opposition to the request for approval of the Stipulation and Settlement Agreement.

15. The Staff may file suggestions or a memorandum in support of this Stipulation and Settlement Agreement and the other parties shall have the right to file responsive suggestions or prepared testimony.

16. The Staff shall also have the right to provide, at any agenda meeting at which this Stipulation and Settlement Agreement is noticed to be considered by the Commission, whatever oral explanation the Commission requests, provided that the Staff shall, to the extent reasonably practicable, provide the other parties and participants with advance notice of when the Staff shall respond to the Commission's request for such explanation once such explanation is requested from the Staff. Staff's oral explanation shall be subject to public disclosure, except to the extent it refers to matters that are privileged or protected from disclosure.

**WHEREFORE**, the signatories respectfully request the Commission to issue its Order approving the terms of this Stipulation and Settlement Agreement.

Respectfully submitted,

**/s/ Jennifer Hernandez**  
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ATTORNEY FOR DAVIDSON TELECOM, LLC

**CERTIFICATE OF SERVICE**

I hereby certify that a copy of the foregoing has been electronically mailed to all counsel of record this 4<sup>th</sup> day of March, 2013.

**/s/ Jennifer Hernandez**

# EXHIBIT A

## COMPLIANCE PLAN SUMMARY

During the term of the Stipulation and Settlement Agreement, and for the indefinite future, Davidson Telecom LLC (Davidson) will dedicate one of its employees to monitor Davidson's compliance with the Missouri Public Service Commission's annual and other periodic reporting requirements. The employee assigned is:

Sara Rubens  
Director of Client Services  
Davidson Telecom, LLC  
P.O Box 2342  
Davidson, NC. 28036  
[SRubens@DavidsonTelecom.com](mailto:SRubens@DavidsonTelecom.com)  
1-866-374-7802

Ms. Rubens will coordinate all filings with Newman, Comley & Ruth P.C., Davidson's Missouri regulatory counsel, and staff assigned by the law firm for this purpose.