

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

In the Matter of the Application of NPG)
Digital Phone, Inc. to Withdraw and Have)
Cancelled Its Certificate of Service Authority) Case No. LD-2009-0120

STAFF RECOMMENDATION

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

1. On September 30, 2008, NPG Digital Phone, Inc. (“NPG”) filed this application, docketed as Case No. LD-2009-0120, requesting the Commission to cancel its certificate of service authority and accompanying tariffs.

2. Also, on September 30, NPG filed a second application, docketed as Case No. DA-2009-0119, seeking registration to offer and provide interconnected voice over Internet protocol service.

3. H.B. 1779 amended RSMo Chapter 386, Public Service Commission, and Chapter 392, Telephone and Telegraph Companies, in several ways relevant to this application. H.B. 1779 added a new Section 386.020 (23) which defines “interconnected voice over Internet protocol service” as service that:

- (a) Enables real-time, two-way voice communions;
- (b) Requires a broadband connection from the user’s location;
- (c) Requires Internet protocol-compatible customer premises equipment; and
- (d) Permits users generally to receive calls that originate on the public switched telephone network and to terminate calls to the public switched telephone network.

H.B. 1779 amended the definition of “telecommunications service” to exclude interconnected voice over Internet protocol service. *See* Section 386.020 (53), now renumbered as (54). And H.B. 1779 added a new Section 392.550 forbidding an entity to offer or provide interconnected

voice over Internet protocol service as defined in section 386.020 without first having obtained a registration from the Commission allowing it to do so.

4. Paragraph 4 of NPG's verified application states:

Pursuant to H.B. 1779, Applicant is no longer providing "telecommunications service" as defined in RSMo. 386.020(54) because Applicant is providing "interconnected voice over Internet protocol service" as defined in RSMo. 386.020(23).

5. The Commission has the authority to cancel a telecommunications corporation's certificate pursuant to Section 392.410.5 RSMo (Supp. 2007), which provides:

Any certificate of service authority may be altered or modified by the commission after notice and hearing, upon its own motion or upon application of the person or company affected.

However, the Commission need not hold a hearing, if, after proper notice and opportunity to intervene, no party request such a hearing. *State ex rel. Rex Deffenderfer Enterprises, Inc. v. Public Service Commission*, 776 S.W. 2d 494 (Mo. App. 1989).

6. In the attached Memorandum, labeled Appendix A, the Staff states that because the company is providing only interconnected voice over Internet protocol service, cancellation of its certificate of service authority and accompanying tariff is not detrimental to the public interest.

WHEREFORE, the Staff recommends that the Commission issue an order to cancel NPG's certificate of service authority to provide basic local, nonswitched local, and interexchange telecommunications services and its accompanying tariff, MO PSC No. 1, effective on the date that NPG's interconnected voice over Internet protocol service registration becomes effective.

Respectfully submitted,

/s/ William K. Haas

William K. Haas

Deputy General Counsel

Missouri Bar No. 28701

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Missouri Public Service Commission

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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 10th day of October 2008.

/s/ William K. Haas

MEMORANDUM

To: Missouri Public Service Commission Official Case File
Case No. LD-2009-0120
NPG Digital Phone, Inc.

From: Lisa Mahaney
Telecommunications Department

William Voight 10/9/08
Utility Operations Division/Date

William K. Haas 10/9/08
General Counsel's Office/Date

Subject: Staff Recommendation to Cancel Certificate of Service Authority and Tariff

Date: 10/9/08

On September 30, 2008, NPG Digital Phone, Inc., (NPG), a competitive telecommunications company, filed its pleading for the Withdrawal and Cancellation of Certificate of Service Authority.

NPG was granted a certificate of service authority to provide basic local, nonswitched local, and interexchange telecommunications service in Case No. CA-2007-0149.

According to NPG's request to cancel its certificate, the company is no longer providing "telecommunications service" as defined in RSMo 386.020(54) because it is providing "interconnected voice over Internet protocol service" (VOIP) as defined in RSMo 386.020(23). Applicant applied for VOIP registration in Case No. DA-2009-0119. Because the company is providing only VOIP service, cancellation of its certificate of service authority and accompanying tariff is not detrimental to the public interest. The Staff has no objection to the request for cancellation and recommends that the Commission issue an order to cancel NPG's certificate of service authority to provide basic local, nonswitched local, and interexchange telecommunications service and accompanying tariff, MO PSC No. 1, Original Title Sheet through Original Sheet No. 40. The Staff recommends that the order canceling NPG's certificate and tariff be made effective on the date that NPG's VOIP registration becomes effective. The Staff is unaware of any other filing which affects or which would be affected by this proposal.

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

☐ The Company is delinquent. Staff recommends the Commission grant the requested relief/action on the condition the applicant corrects the delinquency. The applicant should be instructed to make the appropriate filing in this case after it has corrected the delinquency.

(☐ No annual report ☐ Unpaid PSC assessment. ☐ Unpaid MoUSF
☐ Unpaid Relay Missouri Amount owed:)

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OF THE STATE OF MISSOURI**

In the Matter of the Application of NPG)
Digital Phone, Inc. to Withdraw and Have)
Cancelled Its Certificate of Service)
Authority)

Case No. LD-2009-0120

AFFIDAVIT OF LISA MAHANEY

STATE OF MISSOURI)
) ss:
COUNTY OF COLE)

Lisa Mahaney, 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 memorandum, and that the facts therein are true and correct to the best of her knowledge and belief.



LISA MAHANEY

Subscribed and affirmed before me this 9th day of October 2008.



SUSAN L. SUNDERMEYER
My Commission Expires
September 21, 2010
Callaway County
Commission #06942086



NOTARY PUBLIC