

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

In the Matter of the Application of)
)
POWERCOMM BROADBAND LLC,)
d/b/a NewDawn Fiber, for Certificate of)
Service Authority to)
Provide Basic Local Telecommunications)
Services and Registration to Provide)
Interconnected Voice over Internet)
Protocol Telecommunications Service in)
Missouri)

Case No. TC-2018-0281

**MOTION FOR PERMISSION TO FILE
ANSWER TO AMENDED STAFF COMPLAINT
AFTER EXPIRATION OF DEADLINE**

COMES NOW POWERCOMM BROADBAND, LLC, d/b/a NEWDAWN FIBER, ("Company") pursuant to 4 CSR 240-2.050(3)(B), and states as follows its Motion for Permission to File Answer To Amended Staff Complaint After Expiration of Deadline:

1. The Applicant's legal name is Powercomm Broadband, LLC, it does business under the d/b/a of "NewDawn Fiber," it is a Missouri limited liability company duly registered to do business in Missouri. A copy of Applicant's Certificate of Good Standing from the Missouri Secretary of State's Office is attached as Exhibit A and a copy of its Registration of Fictitious Name with the State of Missouri is attached as Exhibit B. Applicant's mailing address, electronic mail address and telephone number are:

Powercomm Broadband, LLC
529 St. Joseph Ave.,
Excelsior Springs, MO, 64024
Telephone: 816-205-4450

Email: kennis@welcometofast.com.

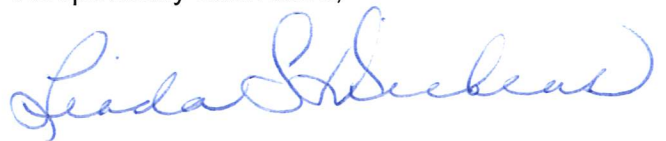
2. Since 2016, Applicant has been engaged in the business of providing high speed internet services in and around the town of Excelsior Springs, Missouri pursuant to a timely-obtained a Certificate from this Commission granting it authority to engage.
3. Until March, 31 2018 Applicant also provided telephone services in that area, unaware that its consultant charged with the responsibility of obtaining the appropriate certificate did not do so.
4. On or about April 10, 2018 the Commission's Staff initiated this action, seeking an Order that Applicant file the needed Application, and that penalties for noncompliance be considered. (Applicant's recently filed Amended Application is pending in Case No. TA-2018-0300.)
5. Also on April 10, the Commission issued its Notice of Contested Case and Order Directing Filing (hereafter "Order"), directing the Company to file its answer to the Amended Complaint no later than May 10, 2018. The Order was duly served on the registered agent for the Company, after which it was duly transmitted to the undersigned as counsel for the Company.
6. The undersigned mis-calendared the May 10, 2018 deadline. The mis-calendared deadline was not discovered until today due to Counsel, a sole practitioner, being on several pre-planned vacations for an out-of-state family wedding and multiple out-of-state college graduations during May, followed by the sudden acute illness of Counsel's adult daughter which required Counsel's presence in Washington DC until three days ago.

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7. The proposed Answer is attached as Exhibit C.
8. 4 CSR 240-2.050(3)(B) authorizes the Commission to permit an act to be done where the failure to act was the result of excusable neglect or for other good cause shown.
9. No hearing has been set in this matter and Counsel is unaware of any prejudice caused by the missed deadline.
10. The mis-calendared deadline and the delayed discovery thereof under the circumstances constitute excusable neglect or "good cause" for authorizing the filing of the Answer at this time.

WHEREFORE, POWERCOMM BROADBAND LLC, d/b/a "NewDawn Fiber," by and through counsel, respectfully prays the Commission issue its order permitting the late filing of the Answer, pursuant to 4 CSR 240-2.050(3)(B).

Respectfully submitted,



Linda S. Dickens
Missouri Bar #31331
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Suite 190
Overland Park, KS 66210
(913) 486-9908
Fax: (913)-562-1165
Linda@DickensLawKC.com

COUNSEL FOR POWERCOMM
BROADBAND LLC

d/b/a "NEWDAWN FIBER"

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the above and foregoing document has been served electronically on the PSC Staff Counsel's office (at staffcounsel@psc.mo.gov) and on the Office of the Public Counsel (at opc@ded.mo.gov) on this 13th day of June, 2018, to each of the political subdivisions listed above.

STATE OF MISSOURI



John R. Ashcroft
Secretary of State

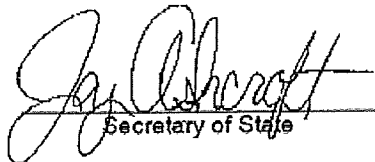
CORPORATION DIVISION
CERTIFICATE OF GOOD STANDING

I, JOHN R. ASHCROFT, Secretary of State of the STATE OF MISSOURI, do hereby certify that the records in my office and in my care and custody reveal that

PowerComm Broadband, LLC
LC1394285

was created under the laws of this State on the 16th day of April, 2014, and is active, having fully complied with all requirements of this office.

IN TESTIMONY WHEREOF, I hereunto set my hand and cause to be affixed the GREAT SEAL of the State of Missouri. Done at the City of Jefferson, this 17th day of May, 2018.


Secretary of State



Certification Number: CERT-05172018-0109

EXHIBIT

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A



State of Missouri

Jason Kander, Secretary of State

Corporations Division
PO Box 778 / 600 W. Main St., Rm. 322
Jefferson City, MO 65102

X001232473
Date Filed: 11/6/2015
Expiration Date: 11/6/2020
Jason Kander
Missouri Secretary of State

Registration of Fictitious Name

(Submit with filing fee of \$7.00)
(Must be typed or printed)

This information is for the use of the public and gives no protection to the name being registered. There is no provision in this Chapter to keep another person or business entity from adopting and using the same name. The fictitious name registration expires 5 years from the filing date. (Chapter 417, RSMo)

Please check one box:

☒ New Registration ☐ Renewal ☐ Amendment ☐ Correction
Charter number *Charter number* *Charter number*

The undersigned is doing business under the following name and at the following address:

Business name to be registered: NewDawn Fiber

Business Address: 529 St. Joseph Avenue. PO Box 178

(PO Box may only be used in addition to a physical street address)

City, State and Zip Code: Excelsior Springs, MO 64024

Owner Information:

If a business entity is an owner, indicate business name and percentage owned. If all parties are jointly and severally liable, percentage of ownership need not be listed. Please attach a separate page for more than three owners. The parties having an interest in the business, and the percentage they own are:

Name of Owners, Individual or Business Entity	Charter # Required If Business Entity	Street and Number	City and State	Zip Code	If Listed, Percentage of Ownership Must Equal 100%
PowerComm Broadband, LLC	LC1394285	15585 Lovers Ln	Excelsior Springs, MO	64024	100.00

All owners must affirm by signing below

In Affirmation thereof, the facts stated above are true and correct:

(The undersigned understands that false statements made in this filing are subject to the penalties of a false declaration under Section 575.060 RSMo)

PowerComm Broadband, LLC - Bryon Jeffers	POWERCOMM BROADBAND, LLC - BRYON JEFFERS	11/06/2015
<i>Owner's Signature or Authorized Signature of Business Entity</i>	<i>Printed Name</i>	<i>Date</i>

Name and address to return filed document:

Name: Calan McConkey

Address: Email: calan.mcconkey@gmail.com

City, State, and Zip Code: _____

EXHIBIT

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

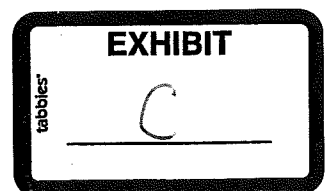
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Services and Registration to Provide)
Interconnected Voice over Internet)
Protocol Telecommunications Service in)
Missouri)

Case No. TC-2018-0300

PROPOSED ANSWER TO AMENDED STAFF COMPLAINT

COMES NOW POWERCOMM BROADBAND, LLC, d/b/a NEWDAWN FIBER, ("Company") pursuant to 4 CSR 240-2.070(9) and (10), and for its proposed Answer to the Amended Staff Complaint filed in the above-captioned matter, states as follows:

1. The Company admits the entirety of Averment No. 1.
2. The Company admits the entirety of Averment No. 2.
3. The Company admits the entirety of Averment No. 3.
4. The Company admits the entirety of Averment No. 4.
5. The Company admits the entirety of Averment No. 5.
6. The Company admits the entirety of Averment No. 6.
7. The Company admits the entirety of Averment No. 7.
8. The Company admits the entirety of Averment No. 8.
9. The Company admits the entirety of Averment No. 9.
10. The Company admits the entirety of Averment No. 10.



11. The Company has no personal knowledge of the truth or falsity of the matters alleged in Averment No. 11; however, the Company states that it has no reason to doubt that same are true as indeed an outage of service occurred due to unexpected difficulties encountered in portaging customers to new service providers.
12. The Company admits the entirety of Averment No. 12.
13. The Company admits the entirety of Averment No. 13.
14. The Company has no personal knowledge of the truth or falsity of whether Staff searched its records, but the Company has no reason to doubt such because it is true that no certificate of convenience and necessity for telecommunications services had been granted to the Company; therefore this part of Averment 14 is admitted.
15. The Company admits the entirety of Averment No. 15 and the appropriateness of Staff's action given that the Company had no certificate.
16. The Company admits that by virtue of Averment 16, the staff asks the Commission to order its General Counsel to seek penalties against the Company per 4 CSR 240-28.020(1).

DEFENSES/MITIGATING CIRCUMSTANCES

17. Powercomm respectfully states that it charged a qualified consultant with the responsibility of obtaining the Certificate of Authority for it to provide phone services, and reasonably believed the consultant had followed through as it/he had previously done in obtaining a Certificate of Authority for Powercomm's

high speed internet services, but Powercomm only recently learned that the consultant did not obtain the certificate.

18. Powercomm had no intent to operate without the appropriate certification from the Commission.

19. Powercomm has attempted in good faith to quickly bring itself into compliance with Missouri law on this issue, and has attempted in good faith to cooperate with the Commission's Staff in this matter and respecting pending complaint TC-2018-0300.

WHEREFORE, POWERCOMM BROADBAND LLC, d/b/a "NewDawn Fiber," prays that the Commission find that Powercomm filed an appropriate application for a certificate of convenience and necessity, and that the Commission not seek penalties against Powercomm due to the absence of willfulness in the noncompliance, Powercomm's haste in efforts to remedy its noncompliance, and Powercomm's good faith cooperation with Staff in this matter and in TA-2018-0300.

Respectfully submitted,



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(913) 486-9908
Fax: (913)-562-1165
Linda@DickensLawKC.com

COUNSEL FOR POWERCOMM
BROADBAND LLC
d/b/a "NEWDAWN FIBER"

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