

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

Staff of the Public Service Commission)	
of the State of Missouri,)	
	Complainant,	
v.)	Case No. TC-2009-_____
)	
Global Touch Telecom, Inc.,)	
	Respondent.	
)	

**STAFF’S COMPLAINT AGAINST
GLOBAL TOUCH TELECOM, INC.**

COMES NOW the Staff of the Missouri Public Service Commission through the office of the General Counsel, pursuant to section 386.390.1 RSMo 2000¹ and Commission Rule 4 CSR 240-2.070, and for its complaint against Global Touch Telecom, Inc., states:

1. Section 386.390.1 RSMo provides that a “[c]omplaint may be made by the commission of its own motion, or by...any...person...by petition or complaint in writing, setting forth any act or thing done or omitted to be done by any corporation, person or public utility..., in violation, or claimed to be in violation, of any provision of law, or of any rule or order or decision of the commission [.]”

2. Commission Rule 4 CSR 240-2.070(1) provides that the “commission staff through the general counsel” may file a complaint.

3. Global Touch Telecom, Inc. (Global Touch) is a Delaware corporation. Global Touch’s registered agent in Delaware is National Registered Agents, Inc., 160 Greentree Drive, Suite 101, Dover, DE 19904.

4. Global Touch’s business address is 11845 W. Olympic Blvd., Suite 600, Los Angeles, CA 90064.

¹ All statutory citations are to RSMo 2000, unless otherwise noted.

5. Global Touch's registered agent in California is Gregory Welch, 11845 W. Olympic Blvd., Suite 600, Los Angeles, CA 90064.

6. Gregory Welch is Global Touch's Chief Executive Officer.

7. Global Touch has not applied to the Missouri Secretary of state for authority to transact business in Missouri.

8. Global Touch is a telecommunications company as defined by section 386.020(51) RSMo Supp. 2007, and is a telephone corporation as that term is used in the statutes.

9. Global Touch is offering and providing, or has been offering and providing, interexchange telecommunications service to approximately 200 customers in Missouri.

10. Section 392.410.2 RSMo Supp. 2007 provides:

No telecommunications company offering or providing, or seeking to offer or provide, any interexchange telecommunications service shall do so until it has applied for and received a certificate of interexchange service authority pursuant to the provisions of subsection 1 of this section. No telecommunications company offering or providing, or seeking to offer or provide, any local exchange telecommunications service shall do so until it has applied for and received a certificate of local exchange service authority pursuant to the provisions of section 392.420.

11. Global Touch has neither applied for nor received a certificate of interexchange service authority.

12. Section 392.248.1 RSMo directs the Commission to adopt rules governing the operations of the state universal service fund. Those rules are set forth at 4 CSR 240-31.

13. Commission Rule 4 CSR 240-31.065 directs applicable carriers to bill retail customers a "Missouri Universal Service Fund" surcharge and to remit the funds to the Fund Administrator. Commission Rule 4 CSR 240-31.010(1) generally defines applicable carrier as certificated telecommunications companies.

14. Global Touch has never remitted funds to the Fund Administrator.

15. Section 386.370 RSMo directs telephone corporations to file with the Commission, on or before March 31 of each year, a statement under oath showing its gross intrastate operating revenues for the preceding calendar year and further directs telephone corporations to pay an assessment based on said revenues.

16. Global Touch has never filed a statement of intrastate operating revenues or paid an assessment.

17. The Staff has not contacted Global Touch regarding these violations.

18. Section 392.360 RSMo provides:

Every telecommunications company, and all officers, agents and employees of any telecommunications company shall obey, observe and comply with every order, direction or requirement made by the commission, under authority of this chapter, so long as the same shall be and remain in force. Any telecommunications company which shall violate any provision of sections 392.190 to 392.530, or which fails, omits or neglects to obey, observe or comply with any order or decision or any direction or requirement of the commission, shall forfeit to the state of Missouri not to exceed the sum of five thousand dollars for each and every offense. Every violation of any such order or decision or direction or requirement, or of said sections, shall be a separate and distinct offense, and, in case of a continuing violation, every day's continuance thereof shall be and be deemed to be a separate and distinct offense.

19. Section 386.600 RSMo provides:

An action to recover a penalty or a forfeiture under this chapter or to enforce the powers of the commission under this or any other law may be brought in any circuit court in this state in the name of the state of Missouri and shall be commenced and prosecuted to final judgment by the general counsel to the commission. No filing or docket fee shall be required of the general counsel. In any such action all penalties and forfeitures incurred up to the time of commencing the same may be sued for and recovered therein, and the commencement of an action to recover a penalty or forfeiture shall not be, or be held to be, a waiver of the right to recover any other penalty or forfeiture; if the defendant in such action shall prove that during any portion of the time for which it is sought to recover penalties or forfeitures for a violation of an order or decision of the commission the defendant was actually and in good faith prosecuting a suit to review such order or decision in the manner as provided in

this chapter, the court shall remit the penalties or forfeitures incurred during the pendency of such proceeding. All moneys recovered as a penalty or forfeiture shall be paid to the public school fund of the state. Any such action may be compromised or discontinued on application of the commission upon such terms as the court shall approve and order.

20. The Missouri courts have imposed a duty upon the Public Service Commission to first determine matters within its jurisdiction before proceeding to those courts. As a result, “[t]he courts have ruled that the [Commission] cannot act only on the information of its staff to authorize the filing of a penalty action in circuit court; it can authorize a penalty action only after a contested hearing.” *State ex rel Sure-way Transp., Inc. v. Division of Transp., Dept. of Economic Development, State of Mo.*, 836 S.W. 2d 23, 27 (Mo. App. W.D. 1992).

WHEREFORE, the Staff requests that the Commission:

- (a) find that Global Touch has offered and provided interexchange telecommunications without having applied for and received a certificate of service authority and that its acts and omissions constitute violations of Section 392.410.2 RSMo,
- (b) find that Global Touch has failed to collect and remit the Missouri Universal Service Fund surcharge and that these failures constitute violations of Commission Rule 4 CSR 240-31.065,
- (c) find that Global Touch has failed to report its instate operating revenues and to pay an assessment and that these failures constitute violations of section 386.370 RSMo; and
- (d) authorize the General Counsel of the Commission to bring an action in Circuit Court to recover from Global Touch Telecom, Inc., the maximum statutory forfeiture allowed by section 392.360 RSMo for each separate, distinct, and continuing violation.

Respectfully submitted,

/s/ William K. Haas

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CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing has been mailed, hand-delivered, or transmitted by facsimile or electronically mailed to all counsel of record shown below this 2nd day of July 2008.

/s/ William K. Haas

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