

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

The Office of the Public Counsel,)	
)	
Complainant,)	
)	
v.)	Case No. TC-2008-0346
)	
Winstar Communications, L.L.C.,)	
)	
Respondent.)	

STAFF'S REPORT ON WINSTAR COMMUNICATIONS L.L.C.'S CUSTOMER BASE

COMES NOW the Staff of the Missouri Public Service Commission (Staff) and respectfully submits to the Missouri Public Service Commission (Commission) Staff's Report On Winstar Communications L.L.C.'s Customer Base. For such Report, Staff respectfully states as follows:

Procedural History

1. On April 18, 2008, The Office of the Public Counsel (OPC) filed a Complaint against Winstar Communications L.L.C (Winstar).
2. On April 23, 2008, the Commission issued its Notice Of Complaint And Order Directing Staff Investigation. The Commission's Order directs Staff to investigate the contested issues set out in the pleading and file a report of its investigation by June 22, 2008.
3. On May 20, 2008, Counsel for Staff filed its Suggestion Of Bankruptcy And Partial Motion To Dismiss Due To Bankruptcy Stay, indicating that on march 19, 2008, Winstar filed for Chapter 11 Bankruptcy protection in the United States Bankruptcy Court for the Eastern District of Michigan.
4. On May 20, 2008, OPC filed its Voluntary Dismissal Count III (Prayer C) And Count IV (Prayer D), dismissing the request for Winstar to show cause why it did not comply

with the Judgment By Default entered by the St. Louis County Circuit Court, and an order directing the general counsel to seek penalties for each day's continuance.

5. On May 23, 2008, Counsel for Staff received return mail of the Commission's Notice Of Complaint And Order Directing Staff Investigation, which is addressed to Winstar Communications, L.L.C., Legal Department, P.O. Box 7153, McLean, VA 22106.

6. On June 10, 2008, the Commission issued its Order Directing Filing, ordering Staff to file, no later than July 4, 2008, "a report setting out the status of Winstar Communications, L.L.C's customer base."

7. On June 16, 2008, Counsel for Staff filed a Motion For Notice Of Complaint And Extension Of Time To File Staff's Report Of Investigation.

8. The June 16, 2008 Motion requests the Commission issue a New Notice of Complaint to effectuate service on Winstar and relief to file the report, based on the contested issue investigation, thirty (30) days after Winstar files an answer.

9. The June 16, 2008 Motion did not request relief from the separate July 4, 2008 report deadline.

10. On June 23, 2008, the Commission issued its Order Granting Motion, allowing Staff to file its investigation on the contested issues thirty (30) days after Winstar files an answer.

11. Additionally, on June 23, 2008, the Commission issued a new Notice Of Complaint And Order Directing Staff Investigation.

Staff's Report

12. Staff's Memorandum and Affidavit is attached to this pleading as Appendix A.

13. Staff began an investigation of Winstar's customer base on May 5, 2008.

14. On May 5, 2008, Staff sent Ms. Mac McIntyre, Regulatory Compliance Manager for Winstar, seven (7) data requests.

15. To date, Staff has not received a response to the May 5, 2008 data requests.

16. Counsel for Staff has made numerous attempts, by email and telephone, to contact Ms. McIntyre and Kirkland Dudley, Chief Executive Officer for Winstar.

17. On May 23, 2008, Counsel for Staff sent three (3) data requests to Mr. Leo Bub, AT&T Missouri's General Attorney. While not a party to the case, AT&T Missouri agreed to answer the data requests.

18. On May 29, 2008, Counsel for Staff sent three (3) data requests to Winstar's bankruptcy counsel.

19. On June 3, 2008, Counsel for Staff sent a letter to ensure Winstar's bankruptcy counsel's receipt of the data requests and to state that 4 CSR 240-2.090(2) provides twenty (20) days for response.

20. The June 3, 2008 correspondence also emphasized Winstar's filing obligations with the Commission pursuant to 4 CSR 240-3.565.

21. To date, Counsel for Staff has not received a response to the May 29, 2008 data request.

22. Counsel has made numerous attempts by telephone to contact Winstar's bankruptcy counsel.

23. On June 13, 2008, Counsel for Staff received AT&T Missouri's responses to the May 23, 2008 data requests.

24. On June 16, 2008, Staff sent follow-up data requests to AT&T Missouri, based on their previous responses.

25. AT&T Missouri's responses are attached to this Report as Highly Confidential Appendix B.

26. It is Staff's understanding and belief that Winstar's customer base is limited to a single customer located in the Saint Louis telephone exchange.

WHEREFORE, Staff respectfully submits its Report On Winstar Communications L.L.C.'s Customer Base.

Respectfully submitted,

/s/ Jennifer Hernandez

Jennifer Hernandez

Legal Counsel

Missouri Bar No. 59814

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CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing have been mailed, hand-delivered, transmitted by facsimile or electronic mail to all counsel of record this 7th day of July, 2008.

/s/ Jennifer Hernandez

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

The Office of the Public Counsel,)
Complainant, v. Winstar)
Communications, LLC, Respondent)

Case No. TC-2008-0346

AFFIDAVIT OF WILLIAM L. VOIGHT

STATE OF MISSOURI)
) ss
COUNTY OF COLE)

William L. Voight, employee of the Missouri Public Service Commission, being of lawful age and after being duly sworn, states that he has participated in preparing the accompanying Staff Memorandum, and that the facts therein are true and correct to the best of his knowledge and belief.



William L. Voight

Subscribed and sworn to before me this 7th day of July, 2008.


Notary Public

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

MEMORANDUM

To: Missouri Public Service Commission Official Case File
Case No. TC-2008-0346

From: William Voight
Telecommunications Department

Subject: Staff Response to Order Directing Filing

Date: July 7, 2008

On April 18, 2008 the Office of Public Counsel filed a complaint against Winstar Communications L.L.C (Winstar). Public Counsel asks the Commission to issue a Show Cause order in which, among other matters, Winstar would be required to explain why its certificate of service should not be revoked and terminated. The Public Counsel also requested the Commission to establish a procedural schedule, and to set this matter for Hearing.

On June 10th the Commission ordered the Telecommunications Department Staff (Staff) to file a report no later than July 4th setting out the status of Winstar Communications L.L.C.'s customer base. This memorandum is in response to the Commission's order.

Winstar is delinquent in filing its 2007 MoPSC Annual Report, and attempts by the staff to contact Winstar about this and other delinquencies have been unsuccessful. Moreover, Winstar has refused or neglected to acknowledge 10 data requests sent by the Staff on May 25th in order that the Staff might respond to the Commission's June 10th Order.

According to its 2006 Annual Report, Winstar had 2,981 business access lines in Missouri as of December, 2006 . In an effort to supplement Winstar's 2006 annual report data, the Staff sent data requests to AT&T Missouri requesting information on Winstar's use of AT&T's underlying facilities. Based upon AT&T's response, it is the Staff's understanding that Winstar's lines are limited to a single Winstar customer located in the Saint Louis telephone exchange.

Staff thus submits its report on Winstar's customer base.

APPENDIX B

**HAS BEEN DEEMED HIGHLY
CONFIDENTIAL IN ITS ENTIRETY**