# BEFORE THE PUBLIC SERVICE COMMISSION OF THE STATE OF MISSOURI

In the Matter of Tariff No/ 3 of	)	
Time Warner Cable Information Services	)	Case No. LT-2006-0162
(Missouri) LLC d/b/a Time Warner	)	

## **APPLICATION TO INTERVENE**

COMES NOW the Small Telephone Company Group (STCG)<sup>1</sup> pursuant to Commission Rule 4 CSR 240-2.075 and for its Application to Intervene, states to the Missouri Public Service Commission (Commission) as follows:

- 1. On September 23, 2005, Time Warner Cable (Time Warner) filed tariff P.S.C. Mo. No. 3 to replace P.S.C. Nos. 1 and 2. Staff filed its motion to suspend the tariff on October 13, 2005, and the Missouri Independent Telephone Company Group (MITG) filed an Application to Intervene and Oppose the Tariff on November 2, 2005.
- 2. For the purposes of this case, the STCG consists of the companies listed in Attachment A. The member companies are small incumbent local exchange carriers (ILECs) that provide local and exchange access service in rural areas of the state of Missouri. The STCG's interest in this case is different from that of the general public and may be adversely affected by a final order arising from this case.

<sup>&</sup>lt;sup>1</sup> See Attachment A.

3. Correspondence, communications, orders and decisions in this matter should be addressed to:

W.R. England, III
Brian T. McCartney
Brydon, Swearengen, & England P.C.
312 E. Capitol Avenue
P.O. Box 456
Jefferson City, MO 65102-0456
573/635-7166 (tel.)
573/634-7431 (fax)
trip@brydonlaw.com
bmccartney@brydonlaw.com

- 4. The STCG participated in Case No. LA-2004-0133 that addressed Time Warner's application for a Missouri certificate of service authority. The STCG's interests in that case included: (1) the regulatory treatment of voice over internet protocol (VOIP) telecommunications services in Missouri, (2) issues related to the recording and reporting of interexchange traffic; and (3) intercompany compensation.
- 5. Staff's pleadings in the instant case allege that Time Warner is acting inconsistently with the commitments Time Warner made in its certificate case. Staff also alleges that Time Warner seeks to avail itself of the "benefits" of the Federal Communications Commission's *Vonage* decision without the associated detriments. Staff states, "Time Warner wants the benefits of keeping its basic local certificate without the supposed detriment of tariffing basic local rates." It is not clear that Time Warner is the same type of entity as Vonage or offers Vonage-type services, and Staff alleges that "Time Warner's services do not have basic characteristics similar to Vonage's." Also, if Time

<sup>2</sup> Staff's Response, filed Nov. 4, 2005, p. 4.

<sup>3</sup> *Id*.

Warner is indeed similar to Vonage, then it is unclear why Time Warner is not seeking to abandon or relinquish its Missouri certificate altogether. This matter deserves further examination by the Commission and interested parties.

- 6. The STCG's expertise and perspectives related to providing telecommunications services in Missouri will aid the Commission in resolving the issues in this case. Consequently, the STCG's intervention and participation will serve the public interest.
- 7. The STCG has reviewed Time Warner Cable's tariff filing and the subsequent pleadings by Staff, Time Warner Cable, and the MITG. Based on the information available at this time, the STCG opposes Time Warner Cable's tariff filing.
- 8. The STCG has reviewed the procedural schedule issued by the Commission on November 14, 2005 and will abide by that schedule.

WHEREFORE, the STCG respectfully requests that the Commission issue an Order granting this application to intervene in the above-captioned proceeding.

Respectfully submitted,

## /s/ Brian T. McCartney

W.R. England, III Mo. #23975
Brian T. McCartney Mo. #47788
BRYDON, SWEARENGEN & ENGLAND P.C.
312 East Capitol Avenue, P.O. Box 456
Jefferson City, MO 65102-0456
trip@brydonlaw.com
bmccartney@brydonlaw.com
(573) 635-7166
(573) 634-7431 (FAX)

Attorneys for the STCG

### CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the above and foregoing document was sent by U.S. Mail, postage prepaid, or hand-delivered on this 15<sup>th</sup> day of November, 2005, to the following parties:

General Counsel Missouri Public Service Commission P.O. Box 360 Jefferson City, Missouri 65102 Michael F. Dandino Office of the Public Counsel P.O. Box 7800 Jefferson City, Missouri 65102

Paul S. DeFord Lathrop and Gage L.C. 2345 Grand Boulevard, Suite 2800 Kansas City, Missouri 64108-2612 pdeford@lathropgage.com

Craig Johnson
Andereck, Evans, Milne, Peace & Johnson, L.L.C.
P.O. Box 1438
Jefferson City, Missouri 65102-1438
<a href="mailto:craig@csjohnsonlaw.com">craig@csjohnsonlaw.com</a>

/s/ Brian T. McCartney
Brian T. McCartney

#### **ATTACHMENT A**

**BPS Telephone Company** Citizens Telephone Company Craw-Kan Telephone Cooperative, Inc. Ellington Telephone Company Fidelity Telephone Company Goodman Telephone Company, Inc. Granby Telephone Company Grand River Mutual Telephone Corporation Green Hills Telephone Corp. Holway Telephone Company Iamo Telephone Company Kingdom Telephone Company KLM Telephone Company Lathrop Telephone Company McDonald County Telephone Company Mark Twain Rural Telephone Company Miller Telephone Company New Florence Telephone Company New London Telephone Company Orchard Farm Telephone Company Oregon Farmers Mutual Telephone Company Ozark Telephone Company Peace Valley Telephone Company Seneca Telephone Company Steelville Telephone Exchange, Inc. Stoutland Telephone Company