

# BEFORE THE PUBLIC SERVICE COMMISSION OF THE STATE OF MISSOURI

In the Matter of Broadwing Communications, )  
LLC's Request an Extension to file its ) **File No. TE-2010-0231**  
2009 Annual Report )

## NOTICE OF DEFICIENCY

Issue Date: February 11, 2010

Effective Date: February 11, 2010

On February 10, 2010, the Missouri Public Service Commission received a letter asking the Commission to extend the due date for Broadwing Communications, LLC's 2009 annual report. The letter requests a 60-day extension of the filing date from April 15, 2010, to June 15, 2010. The letter is signed by Ed Baumgardner, who is not identified as an attorney licensed to practice law in Missouri or any other state, but only as Broadwing's Tax Manager.

Commission Rule 4 CSR 240-3.540(1) requires all telecommunication utilities to "submit an annual report to the commission on or before April 15 of each year."

Commission Rule 4 CSR 240-3.540(7) states:

A telecommunications company that is unable to meet the submission date established in section (1) of this rule may request an extension of greater than thirty (30) days for submitting its annual report by:

- (A) Filing a pleading, in compliance with the requirements of Chapter 2 of 4 CSR 240, which states the reason for and the length of the extension being requested, with the commission prior to April 15; and
- (B) Certifying that a copy of the pleading was sent to all parties of record in pending cases before the commission where the utility's activities are the primary focus of the proceedings.

Although the letter states the reason for and the length of the extension being requested, the letter filed by Mr. Baumgardner is not a pleading as required by 4 CSR 240-3.540(7)(A). In addition, the letter filed by Mr. Baumgardner does not contain the certification required by 4 CSR 240-3.540(7)(B).

Pursuant to 4 CSR 240-2.040(5), pleadings filed with the Commission must be signed by at least one attorney of record authorized to practice law in Missouri unless the entity signing the pleading is a natural person acting solely on his or her own behalf and representing only him or herself. Broadwing's letter is signed by Mr. Baumgardner, who does not identify himself as an attorney licensed to practice in Missouri and is obviously acting on behalf of the corporation rather than as a natural person or as the individual owner of Broadwing.

In addition, Broadwing has failed to meet the requirements of 4 CSR 240-2.080(18), which states that "the party filing a pleading...shall serve every other party, including the general counsel and the public counsel, a copy of the pleading[.]" Commission Rule 4 CSR 240-2.080(19) further states that "[e]very pleading...shall include a certificate of service," which "shall be adequate proof of service." Mr. Baumgardner's submission does not comply with either of these rules.

Broadwing's filing is deficient and the Commission will take no further action on Broadwing's request for a 60-day extension of the due date for its 2009 annual report until

the deficiencies are corrected. Any future filings regarding this matter may be filed in this case, File No. TE-2010-0231.

**BY THE COMMISSION**

A handwritten signature in black ink, appearing to read 'S. Reed', is positioned above the printed name and title.

Steven C. Reed  
Secretary

( S E A L )

Dated at Jefferson City, Missouri,  
on this 11th day of February, 2010.

Woodruff, Chief Regulatory Law Judge