

**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.)	

STATUS REPORT OF BANKRUPTCY CASE

COMES NOW Counsel for the Staff of the Missouri Public Service Commission (Staff), and respectfully requests the Missouri Public Service Commission (Commission) to take notice that Winstar Communications, L.L.C., has converted its bankruptcy case to a Chapter 7 liquidation proceeding. For this Report, Counsel respectfully states the following:

1. On August 20, 2008, Counsel for Staff filed its Response to the Commission’s August 13, 2008 Order Directing Filing. The Order directed Counsel to set out its position with regard to canceling Winstar’s certificate of service authority to provide basic local telecommunications services. Counsel’s response indicated that on July 14, 2008, Winstar converted its Chapter 13 proceeding to a Chapter 7 liquidation proceeding. To date, the case remains open in the United States Bankruptcy Court, Eastern District of Michigan, as a Chapter 7 liquidation.
2. The United States Supreme Court has explained, “[w]hereas the aim of a Chapter 7 liquidation is the prompt closure and distribution of the debtor's estate, Chapter 11 provides for reorganization with the aim of rehabilitating the debtor and avoiding

forfeitures by creditors.” *Pioneer Inv. Serv. Co. v. Brunswick Assoc. Ltd. P’ship*, 507 U.S. 380, 389 (1993).

3. As part of the Chapter 7 proceeding, Winstar will no longer continue its business affairs and is liquidating all of its assets. Therefore, the Commission must address the Staff’s pleading regarding the transfer of Winstar’s customer base to another carrier.
4. On July 7, 2008, Counsel filed Staff’s Report on Winstar Communications L.L.C.’s Customer Base. The Report outlined the attempts at communication that have been made to Winstar and its bankruptcy counsel. They are as follows:
 - a. On May 5, 2008, Staff sent data requests to Mac McIntyre, Regulatory Compliance Manager for Winstar.
 - b. On May 23, 2008, Counsel for Staff received return mail of the Commission’s April 23, 2008 Notice Of Complaint And Order Directing Staff Investigation. The same day, Counsel for Staff requested the Commission’s Data Center update Winstar’s service list to include James R. Harris, bankruptcy counsel for Winstar.
 - c. On May 29, 2008, Counsel for Staff sent Mr. Harris, and Mr. Howard M. Borin, also bankruptcy counsel for Winstar, three data requests by email.
 - d. On June 3, 2008, Counsel for Staff sent a letter to Mr. Borin to confirm receipt of the electronic data requests, and to notify him of the Commission’s rules regarding data requests and informational filings to be submitted by utilities filing for bankruptcy protection.
 - e. On June 20, 2008, Counsel for Staff attempted to contact Mr. Harris and Mr. Borin by telephone, and left voice messages for both.

- f. Again, on June 24, 2008, Counsel for Staff attempted to contact Mr. Harris and Mr. Borin by telephone, and left voice messages for both.
 - g. On June 24, 2008, Counsel for Staff attempted to contact Ms. McIntyre by telephone, and left a voice message.
 - h. On June 26, 2008, Counsel for Staff attempted to contact Ms. McIntyre twice by telephone, leaving voice messages each time.
 - i. On July 1, 2008, Counsel for Staff emailed Kirkland Dudley, Chief Executive Officer of Winstar, and Ms. McIntyre, seeking a response to Staff's May 5, 2008 data requests.
 - j. Also, on July 1, 2008, Counsel for Staff attempted to call Mr. Dudley and Ms. McIntyre. Staff was unable to leave a message for Mr. Dudley, but a voice message was left for Ms. McIntyre.
5. Counsel for Staff has not received a response for any communication attempt listed above.

WHEREFORE, Counsel for Staff respectfully submits this Status Report.

Respectfully submitted,

/s/ Jennifer Hernandez

Jennifer Hernandez

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Certificate of Service

I hereby certify that copies of the foregoing have been mailed, emailed, sent by facsimile or hand-delivered to all counsel of record this 23rd day of September 2008.

/s/ Dawn M. Carafeno