

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

The Staff of the Missouri)	
Public Service Commission,)	
)	
Complainant,)	
v.)	File No. <u>XC-2009-0424</u>
)	
NOW Intermedia, Inc.,)	
)	
Respondent.)	

STAFF'S RESPONSE TO ORDER DIRECTING FILING

COMES NOW the Staff of the Missouri Public Service Commission (Staff), by and through counsel, and in response to the Commission's Order Directing Filing, states the following:

1. NOW Intermedia, Inc. is a "telecommunications company" and "public utility" as defined in Section 386.020 and is subject to the jurisdiction of the Missouri Public Service Commission (the Commission) pursuant to Section 386.250.
2. On May 27, 2009, the Staff of the Commission filed a complaint against NOW Intermedia, Inc. because the company failed to file its 2007 and 2008 annual reports.
3. On June 29, 2009, in response to Staff's complaint, the company filed a pleading admitting its failure but requesting that the Commission accept the company's late-filed reports.
4. On August 18, 2009, the Commission ordered Staff to file a pleading informing the Commission of whether NOW has satisfactorily filed its 2007 and 2008 reports.

5. The Company's 2007 and 2008 annual reports contain deficiencies. Attached hereto as Appendix A is an email sent to the Company on June 30, 2009, by Staff notifying the Company of the specific items that need to be corrected.

6. Rule 4 CSR 240-3.540 (4) states that a utility company that receives a notice of deficiency for the information provided in the annual report shall respond to that notice within 20 days, or the utility company is subject to a penalty of \$100 for each day that it is late in filing its response to the deficiency.

7. The Company did not respond within 20 days as required under 4 CSR 240-3.540 (4). A past due notice was sent to the Company on July 27, 2009. A copy of the past due notice is attached hereto as Appendix B.

8. Under the present circumstances, Staff still seeks authority for its General Counsel to bring a penalty action against the Company in the circuit court as provided in Section 386.600 RSMo for the statutory penalties set forth in Section 392.210.1 RSMo.

WHEREFORE, the Staff respectfully submits its response to the Commission's Order Directing Filing and renews its request to pursue penalties against the Company in circuit court.

Respectfully submitted,

/s/ Samuel D. Ritchie
Samuel D. Ritchie
Legal Counsel
Missouri Bar No. 61167

Attorney for the Staff of the
Missouri Public Service Commission
P. O. Box 360
Jefferson City, MO 65102
(573) 751-4140 (Telephone)
(573) 751-9285 (Fax)
samuel.ritchie@psc.mo.gov

Certificate of Service

I hereby certify that copies of the foregoing have been mailed, hand-delivered, transmitted by facsimile or electronically mailed to all counsel of record this 31st day of August, 2009.

/s/ Samuel D. Ritchie

Ferguson, Lisa

From: Ferguson, Lisa
Sent: Tuesday, June 30, 2009 2:45 PM
To: 'gill@g2cinc.com'
Subject: NOW Intermedia, Inc_IXC_2008 Missouri Public Service Commission Annual Report_Deficiency Email

Thank you for submitting your 2008 Annual Report to the Missouri Public Service Commission. As a result of my review, I have identified the following items that need to be corrected:

1. The **2007** Annual Report still needs to be filed with the Commission. A 2008 annual report form will need to be used but with the correct year "2007" on the cover page and all additional pages. Also, on this report, information and data about the Company's line counts, revenues, and other pertinent information pertaining to **2007** needs included. There also needs to be a cover letter filed with the 2007 report that clearly states that the report being submitted is the 2007 report.
2. In addition, please note below for the following deficiencies on 2008's report, that can be fixed on the 2007 report as well.
3. On the **2008** Annual Report, the verification page is incorrect. The name of the Company affiant is in the wrong place with that line left blank and in place of the name of the Company affiant there should be the title of the Company affiant.
4. Your response to page 1, question 2a, was incorrect. The latest effective date is **08/15/2003** instead of 08/08/2003 as submitted. Please include this information on any future submissions.
5. Your response to page 1, question 2a, was incorrect. The latest case number is **XA-2003-0495** instead of YX-2003-2205 as submitted. Please include this information on any future submissions.

A response for these items is required in order to show your report as complete and remove it from deficiency status.

You **must resubmit** the annual report with the appropriate changes and the reference number below for it to be properly entered into the system.

Your prompt attention to resolving this matter is appreciated. The Commission's rule 4 CSR 240-3.540 (4) states that a utility company which receives a notice of deficiency for the information provided in the annual report shall respond to that notice within **20 days**, or the utility company is subject to a **penalty of \$100** for each day that it is late in filing its response to the deficiency.

The completed document/revision should be submitted electronically under EFIS (accessible from the Commission's Web page <http://www.psc.mo.gov/>) or mailed to:

Data Center
Missouri Public Service Commission
200 Madison Street, Suite 100, Jefferson City, MO 65101
(P.O. Box 360, Jefferson City, MO 65102-0360)

When contacting the Commission concerning your report, please reference the following identification number: **BMAR-2009-1930 for the 2008 report.**

Should you have any questions or need assistance in this process, please contact me.

A COMPANY RESPONSE TO THE ABOVE DEFICIENCIES IS REQUIRED.

Sincerely,

Lisa Ferguson

Lisa Ferguson, Utility Regulatory Auditor

Missouri Public Service Commission, St. Louis Office
9900 Page Avenue, Overland MO 63132
(314) 877-2778 Ext. 229

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Ferguson, Lisa

From: Ferguson, Lisa
Sent: Monday, July 27, 2009 10:49 AM
To: 'gill@g2cinc.com'
Cc: Hanneken, Lisa*; Wandel, Joan; 'Robinson, Rosemary'; Senn, Nikki; Schnieders, Carla; Hernandez, Jennifer
Subject: NOW Intermedia, Inc_IXC_2008 Missouri Public Service Commission Annual Report_20 Day Notice

This email is to notify you that the Missouri Public Service Commission has not received your revised annual report as requested in the previous deficiency email sent to you on 07/01/09, therefore your response is considered **PAST DUE**.

As stated in that email, the Commission's rule 4 CSR 240-3.540 (4) states that a utility company which receives a notice of deficiency for the information provided in the annual report shall respond to that notice within **20 days**, or the utility company is subject to a **penalty of \$100 for each day** that it is late in filing its response to the deficiency.

I have tried to contact you regarding this deadline, but have not yet received your filed response. If you are in the process of sending the revision, have already done so or need assistance in the matter, please contact me so that I can notate the information in your file to prevent further action.

You must respond **immediately**, in order to prevent your file from being forwarded to our General Counsel's office.

When contacting the Commission concerning your report, please reference the following identification number: **BMAR-2009-1930**.

A COMPANY RESPONSE TO THE ABOVE DEFICIENCIES IS REQUIRED.

Sincerely,

Lisa Ferguson

Lisa Ferguson, Utility Regulatory Auditor

Missouri Public Service Commission, St. Louis Office
9900 Page Avenue, Overland MO 63132
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