

BEFORE THE PUBLIC SERVICE COMMISSION OF THE STATE OF MISSOURI

In the Matter of the Petition for Waiver of)
Commission Rules and Statutes on behalf)
of Holway Long Distance Company)

File No. XE-2009-0425

Tariff No. YX-2009-0836

AMENDED ORDER GRANTING WAIVER OF STATUTES AND REGULATIONS AND APPROVING REVISED TARIFF

Issue Date: June 15, 2009

Effective Date: June 30, 2009

The Missouri Public Service Commission is issuing an amended order granting the petition for waiver of statutes and regulations filed by Holway Long Distance Company (“the company”).

The company filed the petition on May 27, 2009, with an affidavit and a revised tariff sheet effective June 30, 2009. The petition also included a motion for expedited treatment (“the motion”), seeking a decision effective June 30, 2009. On June 1, 2009, the Commission granted the motion and ordered the Commission’s staff (“Staff”) to file its recommendation on the petition in an expedited fashion. Accordingly, Staff filed a verified recommendation in favor of the petition on June 10, 2009. Because all parties agree with the petition, no law requires a hearing before deciding the petition, and the Commission convened no hearing and bases its findings on the verified filings.¹

The company holds certificates of service authority (“certificates”) to provide local exchange telecommunications services limited to providing dedicated, non-switched local exchange private line services, and interexchange telecommunications services in Missouri under competitive classification. The company’s certificates already include waivers of certain provisions of law, and the petition seeks further waivers as follows:

¹ *State ex rel. Rex Deffenderfer Ent., Inc. v. Public Serv. Com’n*, 776 S.W.2d 494, 496 (Mo. App., W.D. 1989).

<i>Statutes (sections in the 2000 Revised Statutes of Missouri)</i>	<i>Topic</i>	<i>Current</i>	<i>Sought</i>
392.210.2	Uniform system of accounts	x	
392.240.1	Rates, rentals, service, connections	x	
392.270	Valuation of property (ratemaking)	x	
392.280	Depreciation accounts	x	
392.290	Issuance of securities	x	
392.300 ²	Acquisition of stock		x
392.310	Stock and debt issuance	x	
392.320	Stock dividend payment	x	
392.330	Securities, debts and notes	x	
392.340	Reorganization(s)	x	
<i>Regulations (4 CSR 240)</i>	<i>Topic</i>	<i>Current</i>	<i>Sought</i>
3.550(4) and (5)(A)	Records and Reports		x
10.020, RSMo	Depreciation Fund Income	x	
30.040, RSMo	Uniform System of Accounts	x	
32.060	Engineering, Maintenance		x
32.070	Quality of Service		x
32.080	Service Levels		x
33.040(1)-(3) and (5)-(10)	Billing and Payment		x
33.045	Charge on Bills		x
33.080(1)	Billing		x
33.130(1), (4) and (5)	Operator Service		x

The company is not delinquent in filing an annual report, remitting its annual assessment to the Commission, and payments to the Universal Service Fund and Relay Missouri.

The Commission may grant the petition as follows:

The commission is authorized, in connection with the . . . modification of a certificate of interexchange or local exchange service authority . . . to entertain a petition to suspend or modify the application of its rules or the application of any statutory provision contained in sections 392.200 to 392.340 if such waiver or modification is otherwise consistent with the other provisions of sections 392.361 to 392.520 and the purposes of this chapter.[³]

² In the original order's ordered paragraphs, the Commission recited a waiver of this section only as to subsection 2, which was a clerical error. The Commission retains jurisdiction over the petition because the time for rehearing has not passed and no person has instituted judicial review. **Woodman v. Director of Revenue**, 8 S.W.3d 154, 156 (Mo. App., W.D. 1999). Therefore, the Commission will issue an amended order to read as intended with regard to the waiver of § 392.300.

³ Section 392.420 RSMo Supp. 2008.

The parties' affidavits state, and the Commission concludes, that the waivers sought are consistent with the other provisions of sections 392.361 to 392.520 and the purposes of chapter 392, RSMo. The Commission finds that waiving the statutes and Commission rules set out in the ordered paragraph below is reasonable and not detrimental to the public interest.

Therefore, the Commission will grant the waivers and approve the company's tariff to become effective on June 30, 2009.

THE COMMISSION ORDERS THAT:

1. The petition for waiver of statutes and regulations filed by Holway Long Distance Company is granted.

2. Application of the following statutes and regulations shall be waived:

Statutes

- 392.210.2 - uniform system of accounts
- 392.240.1 - rates-rentals-service & physical connections
- 392.270 - valuation of property (ratemaking)
- 392.280 - depreciation accounts
- 392.290 - issuance of securities
- 392.300 - acquisition of stock
- 392.310 - stock and debt issuance
- 392.320 - stock dividend payment
- 392.330 - issuance of securities, debts and notes
- 392.340 - reorganization(s)

Commission Rules

- | | | |
|--------------------------------------|---|-----------------------------|
| 4 CSR 240-3.550(4) and (5)(A) | - | Records and Reports |
| 4 CSR 240-10.020 | - | Depreciation Fund Income |
| 4 CSR 240-30.040 | - | Uniform System of Accounts |
| 4 CSR 240-32.060 | - | Engineering and Maintenance |
| 4 CSR 240-32.070 | - | Quality of Service |
| 4 CSR 240-32.080 | - | Service Levels |
| 4 CSR 240-33.040(1)-(3) and (5)-(10) | - | Billing and Payment |
| 4 CSR 240-33.045 | - | Charge on Bills |
| 4 CSR 240-33.080(1) | - | Billing |
| 4 CSR 240-33.130(1), (4) and (5) | - | Operator Service |

3. The tariff issued by Holway Long Distance Company on May 27, 2009, and assigned tariff tracking no. number YX-2009-0836 is approved to become effective on June 30, 2009. The tariff approved is:

PSC Mo. No. 1
1st Revised Sheet 2 canceling Original Sheet 2

4. This order shall become effective on June 30, 2009.

5. This file shall close on July 1, 2009.

BY THE COMMISSION

A handwritten signature in black ink, appearing to read 'Colleen M. Dale', is written over a horizontal line.

Colleen M. Dale
Secretary

(S E A L)

Daniel Jordan, Regulatory Law Judge,
by delegation of authority under
Section 386.240.

Dated at Jefferson City, Missouri,
on this 15th day of June, 2009.