

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

In the Matter of the Name Change of	)	
OPEX Communications, Inc.	)	Case No. XN-2011-0074
d/b/a TCI Long Distance	)	Tariff No. YX-2011-0125

STAFF RECOMMENDATION TO REJECT TARIFF ADOPTION NOTICE

COMES NOW the Staff of the Missouri Public Service Commission (“Staff”), through the undersigned counsel, and hereby respectfully files its recommendation and states as follows:

1. On September 14, 2010, OPEX Communications, Inc. filed a tariff adoption notice, to become effective on October 14, 2010, that would permit it to operate under the name TCI Long Distance as well as OPEX Communications, Inc. The Commission Ordered the Staff to file its recommendation in the matter on or before October 7, 2010, which was extended, on the Staff’s request, to November 5, 2010.

2. As noted in the Staff’s Request for Extension of Time, regulated telecommunications companies have not been permitted to operate under two names in Missouri, unless the company received a second certificate for the second name. At the time of its Request, the Staff was unable to determine why that requirement exists. The Staff did not want to perpetuate a meaningless requirement, nor did it want to deviate from the practice without understanding the ramifications of that change.

3. The Staff has now met and reviewed past decisions and the reasons for the requirement. Of paramount concern is that customers know which company serves them, what tariff provisions apply and to whom they should direct complaints or inquiries. Discussions of how that information can be made readily available to customers if a company operates under two names reveals that the Commission’s filing system, EFIS, cannot accommodate multiple names under a single certification without broad changes to EFIS programming.

4. In Case No. TA-94-51, in which the Commission issued an Order Cancelling Certificate under Duplicate Fictitious Name, and Case No. TO-96-381, in which the Commission issued an Order Rejecting Tariffs that purported to adopt multiple fictitious names, the Commission found that allowing companies to operate under multiple names without additional certificates was contrary to the public interest because it created customer confusion, is administratively difficult and because the application process puts other companies on notice of the adoption of another operating name. Although the “rule of thumb” under which the Staff operates is that a company cannot operate under “multiple D/B/As,” a fuller and more accurate statement is that a company cannot operate in Missouri under multiple names unless it receives a certificate of service authority for each name under which it wants to operate.

5. The Staff is keenly aware that this requirement continues to impose costs to regulated companies and place time constraints on companies that may be inconvenient to the company’s business plans. The Staff wants to alert companies that are already certificated that they may incorporate by reference all of the documentation that was submitted in its initial application, it may simply file a concurrence page to concur in the company’s existing approved tariff(s) and it may request expedited treatment. The only original documents that need to be filed would be a cover pleading asking for the additional certification, the tariff concurrence page and the documentation from the Missouri Secretary of State demonstrating registration of the additional name.

6. Finally, the Staff wishes to clarify that OPEX, the company that submitted the name addition request in the instant proceeding, withdrew a previous filing and refiled it exactly as instructed. Although the Staff recommends that the Commission reject the tariff adoption

notice in this case, the Staff is grateful for the opportunity to thoroughly vet the issue internally to ensure that requirement remained valid before enforcing it.

WHEREFORE, the Staff recommends that the Commission reject the tariff filing on the basis that it will not allow a telecommunications company to operate under more than one name per certificate of service authority.

Respectfully submitted,



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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 5th day of November, 2010.

