

**BEFORE THE STATE CORPORATION COMMISSION** STATE CORPORATION COMMISSION  
**OF THE STATE OF KANSAS**

JUN 26 2006

In the Matter of Sage Telecom, Inc. Filing )  
Tariff Revisions Adding a Public Switched )  
Network Recovery Charge, Adding More )  
Plan Minutes to Specified Plans, and )  
Making Rate Changes. )

Docket No. 06-SAGT-1031-TAR

 Docket  
Room

**STAFF'S MOTION TO STRIKE CURB'S JUNE 15, 2006 RESPONSE**

COMES NOW, the staff of the State Corporation Commission of the State of Kansas ("Staff" and "Commission" respectively) and moves the Commission for an order rejecting Curb's June 15, 2006 pleading filed in response to Sage's June 9, 2006 reply. In support of its motion, Staff alleges and states as follows:

1. On March 23, 2006, Sage Telecom Inc. (Sage) filed revised tariff pages adding a public switched network recovery charge, adding more minutes to certain calling plans and making rate changes. The tariff price changes were accepted as filed with an effective date of April 1, 2006, as requested by Sage.
2. On March 28, 2006, CURB filed its Complaint, Petition to Intervene, and Motion to Defer the Effective Date of Proposed Public Switched Network Recovery Charge and Suspend Proceeding (Complaint). CURB requested permission to intervene with respect to Sage's proposed public switched network recovery charge, arguing that the charge may adversely affect residential and small commercial ratepayers. Complaint, ¶ 4.
3. On May 1, 2006, the Commission issued an order denying CURB's intervention and request for suspension. The Commission stated that the issue raised by CURB regarding the network recovery charge should be addressed on a generic basis in the Billing Practice Standards docket, Docket No. 06-GIMT-187-GIT.

4. On May 16, 2006, CURB filed its Petition for Reconsideration of the May 1, 2006 Order. Sage responded on May 25, 2006.

5. On June 2, 2006, Staff filed a response to CURB's Petition. Staff agreed with the Commission that the issues raised by CURB should be addressed in the generic proceeding. Staff stated that it would not oppose reconsidering the Commission's order so that the parties could investigate the propriety of Sage's filing and gather information about why Sage withdrew a similar filing in Missouri when faced with the likelihood of a hearing on the merits of the Public Switched Network Recovery Charge.

6. On June 9, 2006, Sage filed a pleading in which it responded to Staff's response. Sage provided background information on why the charge was necessary and explained the reason for withdrawing a similar charge proposed in Missouri. Sage also provided information on the notice it gives to customers about the charge.

7. On June 15, 2006, the Commission issued its order denying CURB's Petition for Reconsideration. The Commission stated that discreet charges, such as the one at issue here, need to be investigated in the generic Billing Practice Standards docket. The Commission concluded that it would be inappropriate to single Sage out for separate treatment in this docket.

8. On June 15, 2006, but after the Commission's order was filed, CURB filed a response to Sage's June 12, 2006 reply. CURB states that Sage provided new evidence that was not included as part of Sage's original response filed on May 25, 2006. CURB addressed the new evidence in the filing and said that it would have responded to Sage's May 25, 2006 filing if the evidence had been presented at that time.

9. June 15, 2006, the date on which the Commission issued its Order Denying Petition for Reconsideration, was thirty calendar days after CURB filed its petition seeking reconsideration

of the Commission's first order. The Commission only has thirty days to file an order addressing a petition for reconsideration. K.S.A. 66-118b and K.S.A. 2005 Supp. 77-529(b).

10. It is nearly impossible to give proper consideration to a responsive pleading filed on the date a Commission's order is due because of the process required to prepare an order agreeable to the Commission, obtain signatures, and get the order filed. Additionally, in this case CURB's June 15, 2006 pleading was filed after the Commission had issued its order; making it impossible to have it considered by the Commission. The Commission has issued its final order; therefore, there is no procedural mechanism to consider CURB's pleading. Staff requests that rather than leave the pleading on the docket, the Commission strike the pleading as untimely.

WHEREFORE, Staff respectfully requests the Commission strike CURB's June 15, 2006 pleading as untimely or for other relief the Commission deems necessary.

Respectfully submitted,




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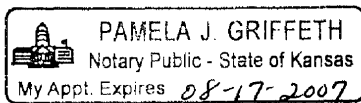
STATE OF KANSAS                    )  
  ) ss.  
COUNTY OF SHAWNEE            )

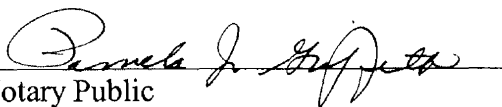
**VERIFICATION**

Bret Lawson, being duly sworn upon his oath deposes and says that he is Assistant General Counsel for the Kansas Corporation Commission of the State of Kansas; that he has read and is familiar with the foregoing Staff's Motion To Strike Curb's June 15, 2006 Response and believes that the statements therein are true to the best of his knowledge, information and belief.

  
Bret Lawson

SUBSCRIBED AND SWORN to before me this 26<sup>th</sup> day of June, 2006.



  
Notary Public

My Appointment Expires: August 17, 2007

**CERTIFICATE OF SERVICE**

06-SAGT-1031-TAR

I, the undersigned, hereby certify that a true and correct copy of the above and foregoing Staff's Motion To Strike CURB's June 15, 2006 Response was placed in the United States mail, postage prepaid, or hand-delivered this 27th day of June, 2006, to the following:

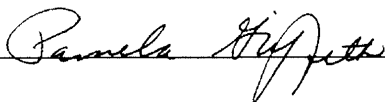
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