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MEMORANDUM

Missouri Public
Service Commission

TO: Missouri Public Service Commission Official Case File
Case No. TM-2000-48
Comm South Companies, Inc. and Topp Telecom, Inc.

FROM: Philip M. Garcia, Telecommunications Department

Wes Headman 10-7-99
Utility Operations Division/Date

Wm K Hoas 10/7/99
General Counsel Office/Date

SUBJECT: Staff's Recommendation to Approve Proposed Purchase of Stock

DATE: October 5, 1999

On July 23, Comm South Companies, Inc. (Comm South) and Topp Telecom, Inc., (Topp) (jointly referred to herein as the "Applicants"), filed a joint application requesting Commission approval of the purchase by Topp Telecom, Inc. of all the outstanding common stock of Comm South Companies, Inc.

Comm South Companies, Inc. received a certificate of service authority to provide Intrastate Telecommunications Services in Missouri effective October 21, 1997 in Case No. TA-97-203. Comm South Companies Inc. is a privately-held Texas corporation.

The proposed transaction would result in Topp acquiring all of the outstanding common stock of Comm South. As a result of the transaction, Comm South would become a wholly-owned subsidiary of Topp. Applicants state that the proposed transaction would be transparent to Missouri customers as Comm South would continue to operate in Missouri with its current name, and would also continue to provide the same services under its approved Missouri tariff. Applicants state that the transaction furthermore would have no impact on the tax revenues of any political subdivision in Missouri as neither company has any structures, facilities or equipment located in the state.

Based upon the Commission's decision in Re CFL, L.L.C., Case No. TM-99-336, the Telecommunications Department Staff (Staff) asserts that the Commission lacks jurisdiction over the Application. In Case TM-99-336, the selling parent company, the telecommunications company, and the purchasing parent company requested Commission approval of the purchasing parent company's acquisition of all the telecommunications company's stock from the selling parent company. The telecommunications company, although certificated to provide telecommunications service in Missouri, was a Nebraska corporation. In its Order Dismissing Case, the Commission held that Section 392.300.2 RSMo 1994 applies only to the purchase of the stock of Missouri corporations. Comm South, the Missouri regulated telecommunications company whose stock is to be acquired in the proposed transaction, is not a Missouri corporation.

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If the Commission does not dismiss the Application because it determines that it has jurisdiction over the Application, the Staff has no objections to its approval.

Staff has reviewed the application and recommends that the Commission approve the proposed purchase by Topp Telecom, Inc. of all outstanding common stock of Comm South Companies, Inc.

cc: Director - Utility Operations Division
Director - Research & Public Affairs Division
Director - Utility Services Division
General Counsel
Manager - Telecommunications Department
Office of the Public Counsel
James Fischer – Attorney for Applicants