

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

In the Matter of the Application of Tennessee)	
Telephone Service, LLC d/b/a Freedom)	
Communications USA, LLC for a Certificate)	
of Service Authority to Provide Resold and)	
Facilities-Based/UNE Basic Local)	Case No. LA-2010-0103
Telecommunications Services in Portions of)	
the State of Missouri and to Classify Said		
Services and the Company as Competitive		

AMENDED STAFF RECOMMENDATION

COMES NOW the Staff of the Missouri Public Service Commission and for its *Amended Recommendation* states:

1. On September 28, 2009, Tennessee Telephone Service, LLC d/b/a Freedom Communications USA, LLC (Applicant) filed an Application with the Commission seeking authority to provide resold and facilities-based/UNE basic local telecommunication services in portions of the State of Missouri and to classify the Applicant as competitive.

2. On October 19, 2009, the Missouri Public Service Commission (Commission) issued an Order *Directing Staff Status Report* by October 26, 2009.

3. On November 17, 2009, Staff filed a *Motion of Extension of Time* to file its recommendation. The Commission granted an extension until December 2, 2009.

4. On December 2, 2009, Staff filed a *Second Motion for Extension of Time* to file its recommendation by January 15, 2010. The Commission granted Staff's request.

5. On January 12, 2010, the Applicant filed a *Motion for Waiver of Filing Evidence of Financial Services*.

6. On January 15, 2010, Staff filed a *Recommendation* requesting that the Commission deny the Applicant's request for failing to meet the statutory requirement for technical expertise. *See* Section 392.455 RSMo (2000).

7. On January 21, 2010, the Company filed a *Second Supplement to the Application* providing the appropriate technical expertise as required by Section 392.455 RSMo (2000).

8. In the attached Memorandum, labeled Appendix A, the Staff amends its recommendation, requesting that the Missouri Public Service Commission grant Applicant a certificate to provide resold and facilities-based/UNE basic local telecommunication services in portions of the State of Missouri and to classify the Applicant as competitive.

9. The Commission shall grant an application for a certificate of telecommunications service authority upon a finding that the grant of authority is in the public interest. §§ 392.430, 392.440, and 392.470 RSMo. (2000).

10. Staff also recommends that the Commission classify the Applicant and the services it proposes to offer in its Application as competitive. The Commission may classify a telecommunications provider or its services as competitive if the Commission determines it is subject to sufficient competition to justify a lesser degree of regulation. §392.361.4 RSMo (Supp. 2009).

11. Staff further recommends that the Commission grant the waivers listed in the *Motion for Waiver of Filing Evidence of Financial Services*. The Commission may waive the application of its rules and certain statutes if the Commission determines that waiver is consistent with the purposes of Chapter 392. §§ 392.185 (2000), 392.361.5 (Supp. 2009) and 392.420 (Supp. 2009).

12. The Applicant did not submit a tariff with the Application. Staff notes that the Commission's rule at 4 CSR 240-3.510(1)(c) states that the Applicant cannot lawfully provide service until tariffs are effective.

WHEREFORE, Staff respectfully submits its *Amended Recommendation* to the Commission and request that the Commission grant the Applicant's request seeking authority to provide resold and facilities-based/UNE basic local telecommunication services in portions of the State of Missouri and to classify the Applicant as competitive; and grant the standard waivers listed in the Commission's Notice of Application.

Respectfully submitted,

/s/ Jaime N. Ott
Jaime N. Ott
Assistant General Counsel
Missouri Bar No. 60949

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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 22nd day of January 2010.

/s/ Jaime N. Ott

MEMORANDUM

To: Missouri Public Service Commission Official Case File
Case No: LA-2010-0103
Applicant: Tennessee Telephone Service, LLC d/b/a
Freedom Communications USA, LLC

From: Lisa Mahaney
Telecommunications Department
William Voight 1/22/10
Utility Operations Division/Date

Subject: Staff Recommendation for Approval of Certificate

Date: 1/22/10
Filing Deadline:

The Telecommunications Department Staff (Staff) recommends the applicant be granted the following certificate(s), as indicated below, to be effective on the same date the tariff becomes effective:

☒ certificate to provide basic local exchange telecommunications services in the following service areas.

- ☒ All of AT&T Missouri
- ☒ All of CenturyLink
- ☒ All of Spectra
- ☐ Statewide
- ☐ Other _____ (please describe)

☐ certificate to provide interexchange telecommunications services.

☒ certificate to provide local exchange telecommunications services.*

*local exchange authority should be restricted to dedicated, private line services.

Staff recommends the applicant and its services receive competitive classification. Staff further recommends a Commission order granting certification state that pursuant to Section 392.410 RSMo, unless exercised within a period of one year from the issuance thereof, authority conferred by a certificate of service authority shall be null and void. In addition, Staff recommends approval of the waivers listed in the Notice.

Granting a certificate to provide basic local exchange telecommunications services should be based on the following two conditions:

1. The applicant's originating and terminating access rates shall not exceed the access rates of the incumbent local exchange company against whom the applicant is competing pursuant to Sections 392.361.6 and 392.370 RSMo.
2. If the directly competing ILEC, in whose service area the applicant is operating, decreases its originating and/or terminating access service rates, the applicant shall file an appropriate tariff amendment to reduce its originating and/or terminating access rates in the directly competing ILEC's service area

within 30 days of the directly competing ILEC's reduction of its originating and/or terminating access rates in order to maintain the cap.

☐ No objection to tariff taking effect (Insert MO PSC number.) Effective Date: The Staff states that the tariff meets the requirements of all applicable statutes, specifically, one or more of the following: Sections 392.200(8), (12); 392.455(3), (4); and 392.500(2) RSMo. In addition, the tariff filing does not conflict with the following Commission rules: 4 CSR 240-3.545 (4), (6), (7), (8 C,G,H), (9), (15), (16), (19); 4 CSR 240-31.065(1), (2), (3); 4 CSR 240-32.150(5), 32.160(1), (2), 32.190; 4 CSR 240-33.040(4), 33.045(2), 33.050(4) and 33.070(2).

☒ Tariff was not submitted with application. Pursuant to 4 CSR 240-3.510(1)(C), the applicant cannot lawfully provide service until tariffs are effective.

Additional Comments:

On January 22, 2010, the applicant supplemented the Application with information on individuals with technical credentials and the Staff finds the revised information to be acceptable.

☒ The Company is not delinquent in filing an annual report, paying the PSC assessment, MoUSF, and Relay Missouri.

☐ The Company is delinquent. Staff recommends the Commission grant the requested relief/action on the condition the applicant corrects the delinquency. The applicant should be instructed to make the appropriate filing in this case after it has corrected the delinquency.

(☐ No annual report ☐ Unpaid PSC assessment. Amount owed:
☐ Unpaid MoUSF ☐ Unpaid Relay Missouri)

Review Items for IXC, Non-switched Local and CLEC Certificate Applications (as required by 4 CSR 240-2.060):

- ☒ Proper Secretary of State authorization
- ☒ Statement of character of business performed.
- ☒ Statement declaring no pending action or final unsatisfied judgments
- ☒ Statement declaring no overdue annual reports/assessment fees
- ☒ Application includes an affidavit.
- ☒ The applicant is requesting waivers of rules or statutes previously granted to a competitively classified company

(as required by 392.430/.440):

- ☒ Application shows that grant of authority is in the public interest.

Additional Review Items for CLEC Applications (as required by 392.455):

- ☒ Possesses sufficient technical and managerial resources and abilities.
- ☒ Applicant has provided an affidavit attesting that the company possesses sufficient financial resources.
- ☒ Statement that the applicant will satisfy the minimum standards established by the commission.
- ☒ Identifies geographic area (no smaller than an exchange).
- ☒ Statement that applicant will give equitable access to all Missourians.

Tariff Review Items (applicable for all competitively classified companies):

- ☐ The tariff meets Staff's review for compliance with rules for competitive company tariff filings.

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Portions of the State of Missouri and to)
Classify Said Services and the Company as)
Competitive)

Case No. LA-2010-0103

AFFIDAVIT OF LISA MAHANEY

STATE OF MISSOURI)
) ss:
COUNTY OF COLE)

Lisa Mahaney, employee of the Missouri Public Service Commission, being of lawful age and after being duly sworn, states that she has participated in preparing the accompanying memorandum, and that the facts therein are true and correct to the best of her knowledge and belief.



LISA MAHANEY

Subscribed and affirmed before me this 22nd day of January 2010.



SUSAN L. SUNDERMEYER
My Commission Expires
September 21, 2010
Callaway County
Commission #06942088



NOTARY PUBLIC