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BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI

In the Matter of the Annual Report of
TCG St. Louis, Inc.

)
) Case No. TO-99-482

ORDER GRANTING CONFIDENTIAL TREATMENT AND LATE FILING

Pursuant to 4 CSR 240-10.080, "[a]ll public utilities subject to the jurisdiction of the Missouri Public Service Commission shall file an annual report with the commission on or before April 15 of each year."

On April 22, 1999, TCG St. Louis, Inc. (TCG), filed a document entitled Motion to Accept Proprietary Annual Report. The document requested that the Commission accept TCG's interexchange telecommunications company annual report for 1998 as a proprietary document. TCG stated that the annual report contains sensitive information that TCG considers confidential. TCG also stated that it has taken all appropriate precautions to protect against the disclosure and that its ability to effectively compete in the Missouri market may be compromised if the annual report is publicly available.

The document cited no statutory provision or other authority which would allow the Commission to grant confidential treatment to such reports. 4 CSR 240-2.060(1)(D) states: "All applications . . . shall include . . . [r]eference to the statutory provision or other authority under which relief is requested." The Commission consequently issued its

Order Requiring Correction on May 4, 1999, requiring that TCG state under which statute, rule or other authority it was filing.

The Commission also required TCG to set forth a factual basis, and not just a conclusory recitation, explaining why the release of nonpublic information would be harmful to it. 4 CSR 240-10.080(7) Annual Report Filing Requirements states:

Where a utility subject to this rule considers the information requested on the annual report form to be confidential, it must make a written request to the executive secretary to file that information under seal and state good cause for maintaining the information under seal....

Finally, the Commission also required that TCG state whether the information it seeks to make confidential is available in any other form in any other public place (e.g., the Internet, public libraries, reports previously published, filings with other regulatory agencies, etc.). TCG was given until May 14, 1999 to file a corrected application or be subject to denial of the relief it requests.

On May 14, 1999, TCG filed its Request to the Executive Secretary to file Annual Report Under Seal which cured the deficiencies of its first application.

TCG stated that it was filing under Commission Rule 4 CSR 240-10.080 for the Commission enter its order allowing it to file its annual report, granting confidential treatment to those portions identified as confidential.

TCG also stated that the information sought to be protected from public disclosure contained sensitive information TCG considers confidential. TCG stated that public disclosure of the annual report

would be competitively harmful to TCG. TCG stated that it is a competitive local exchange company and is providing competitive telecommunications services in the Southwestern Bell Telephone Company exchanges in the Saint Louis area. TCG stated that since it is operating in a single market in Missouri, the disclosure of the annual report would provide TCG's competitors with confidential market specific data. TCG stated that the public disclosure of the annual report information at a state specific level would allow TCG's competitors to determine the extent of TCG's business operations. TCG stated that the annual report could be used by competitors to determine the extent of TCG's network facilities, operating expenses, revenues, customer base, and other competitively sensitive information to the detriment of TCG. TCG stated that none of the information sought to be protected is available in any other public form.

On August 19, 1999, the Staff of the Commission filed a recommendation that TCG's request be granted insofar as statement of cash flows, balance sheet, and income statement are concerned. Staff also recommended that the Commission grant TCG's request for confidential treatment of the financial statements contained in its 1998 annual report. Staff further recommended, in light of recent Commission practice in similar cases, that TCG be required to file, within ten (10) days of the effective date of this order, a public version of its annual report: (a) that blacks out or otherwise obscures the confidential information on its financial statements; (b) that identifies each affected page with the words, "Confidential Information Omitted"; and (c)

to which has been attached a copy of said order approving confidential treatment.

Upon review of TCG's motion, the Commission finds that there is good cause shown for the request to protect confidential information, that is, TCG's statement of cash flows, balance sheet, income statement, and financial statements; and that the request substantially complies with the above-cited rule. Therefore, confidential treatment for those portions identified as confidential of the annual report filed by TCG for 1998 should be granted. The Commission also finds that there is good cause to extend the filing date of the annual report for TCG since it made a good-faith attempt to file on time. Therefore, an order allowing TCG to file out of time should also be granted.

IT IS THEREFORE ORDERED:

1. That the request for confidential treatment of TCG St. Louis, Inc.'s statement of cash flows, balance sheet, income statement, and financial statements, filed in its annual report is granted, that such information shall be filed under seal, and that such information shall be maintained under seal.

2. That TCG St. Louis, Inc., be required to file, within ten (10) days of the effective date of this order, a public version of its annual report: (a) that blacks out or otherwise obscures the confidential information on its financial statements; (b) that identifies each affected page with the words, "Confidential Information Omitted"; and (c) to which has been attached a copy of this order.

3. That TCG St. Louis, Inc., shall be allowed to file its annual report out of time.

4. That this order shall become effective on September 17, 1999.

5. That this case shall remain open until TCG St. Louis, Inc., has complied with this order.

BY THE COMMISSION



Dale Hardy Roberts
Secretary/Chief Regulatory Law Judge

(S E A L)

Bill Hopkins, Senior Regulatory Law Judge,
by delegation of authority pursuant to
4 CSR 240-2.120(1), (November 30, 1995)
and Section 386.240, RSMo 1994.

Dated at Jefferson City, Missouri,
on this 7th day of September, 1999.

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U.S. HOUSE OF REPRESENTATIVES
PUBLIC SERVICE COMMISSION