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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-99-481

ORDER GRANTING MOTION FOR RECONSIDERATION

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 alternative basic local exchange carrier annual report for 1998 as a proprietary document.

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 in part: "All applications . . . shall include . . . reference 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: (1) under which statute, rule or other authority it was filing; (2) a factual basis, and not just a conclusory recitation, explaining why the release of nonpublic information would be harmful to it; and (3) whether the information it seeks to make confidential is available in any other form in any other public place.

TCG was given until May 14, 1999, to file a corrected application or be subject to denial of the relief it requests. TCG failed to obey

the Commission's order in that it did not file a corrected application. On May 25, 1999, the Commission entered its Order *Denying Relief* which was to become effective on June 14, 1999.

On June 3, 1999, TCG filed both its *Request to the Executive Secretary to File Annual Report Under Seal*, which corrected its original application, and its *Application for Rehearing and Motion for Reconsideration and Suggestions in Support Thereof*¹ (reconsideration motion). 4 CSR 240-2.160(3) states in part: "The commission shall . . . reconsider the order if in its judgment there is sufficient reason to do so." In its reconsideration motion, TCG stated that simultaneous to this case, it had an almost identical proceeding in Case No. TO-99-482, in which TCG requested that its interexchange telecommunications company annual report be kept confidential. TCG timely responded to the Commission's Order *Requiring Correction* in that case. However, TCG stated, due to the similarities of that case and this case, TCG inadvertently did not respond in this case. The Commission finds that there is sufficient reason to favorably reconsider its Order *Denying Relief* issued on May 25, 1999 in this case and will reverse that order.

¹ While it may not be totally clear, rule 4 CSR 240-2.160 has been interpreted by Commission practice: the term "motion for rehearing" to mean a motion made after a final contested order where a hearing has been held and "motion for reconsideration" to mean a motion to deliberate again an order issued other than an order issued after a hearing which disposes of all contested issues. Since there was no hearing in this case, TCG's filing will be considered a motion for reconsideration.

IT IS THEREFORE ORDERED:

1. That the Commission's *Order Denying Relief* issued on May 25, 1999 is reversed.

2. That the Staff of the Missouri Public Service Commission shall be given until no later than 3:00 PM on July 16, 1999, to file its recommendation on TCG Saint Louis' *Request to the Executive Secretary to File Annual Report Under Seal* which was filed on June 3, 1999.

3. That this order shall become effective June 28, 1999.

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 16th day of June, 1999.

RECEIVED

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COMMISSION COUNSEL
PUBLIC SERVICE COMMISSION