

BEFORE THE PUBLIC SERVICE COMMISSION

OF THE STATE OF MISSOURI

In Re: Application of GE Capital-ResCom, L.P., for
certificate of service authority to provide shared
tenant services.

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) Case No. TA-95-125
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)

REPORT AND ORDER

Issue Date: October 27, 1995

Effective Date: November 6, 1995

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OF THE STATE OF MISSOURI

In Re: Application of GE Capital-ResCom,)
L.P., for certificate of service authority)
to provide shared tenant services.)

Case No. TA-95-125

APPEARANCES

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Michael F. Dandino, Senior Public Counsel, Office of the Public Counsel, Post Office Box 7800, Jefferson City, Missouri 65102, for the Office of the Public Counsel and the public.

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ADMINISTRATIVE

LAW JUDGE: **Dale Hardy Roberts, Deputy Chief.**

REPORT AND ORDER

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Procedural History

On October 13, 1994, GE Capital-ResCom, L.P. (GE or Applicant) filed an application with the Missouri Public Service Commission (Commission) seeking authority to provide shared tenant services (STS) pursuant to Section 392.520, RSMo. 1994. The Applicant filed eleven separate, but similar, applications, each one of which requests a waiver from the "single building or less" requirement. All eleven applications were filed in a single docket and subsequently have been treated as a single application because of the similarity of the eleven locations and the fact that both the Applicant and the legal issue are identical for all eleven applications and locations.

On October 21, 1994, the Commission issued an Order And Notice in this docket in which it provided general notice to the public of the application and provided specific notice to Southwestern Bell Telephone Company (SWBT) and GTE Midwest Incorporated (GTE), both of which are the local exchange companies (LECs) which provide service in the areas affected by the application. Within that order the Commission also established a deadline for application for intervention in this docket. Thereafter, applications for intervention were requested and granted to both SWBT and GTE. The Mid-Missouri Group and the

Small Telephone Company Group (STG) were both granted participation without intervention. Prehearing conferences were held in this matter on January 17, 1995, and again on May 19, 1995.

On February 2, 1995, the Commission issued its Order Establishing Procedural Schedule And Scheduling Hearing in which it established a specific schedule for the prefiling of testimony, the filing of the hearing memorandum, and for the evidentiary hearing. On May 22, 1995, a hearing memorandum was filed which set out the position of the active parties to this docket. In light of their position as participants without intervention, the Mid-Missouri Group and STG were not signatories to the hearing memorandum. The issues in this case remained unresolved throughout the prehearing conferences and other negotiations and, as a result, this application was presented as a contested matter to the Commission and an evidentiary hearing was held on May 30 and 31, 1995.

Findings of Fact

The Missouri Public Service Commission, having considered all of the competent and substantial evidence upon the whole record, makes the following findings of fact.

GE seeks a certificate of service authority pursuant to Section 392.520, RSMo. 1994, to provide STS at eleven (11) apartment complexes each of which is comprised of more than a single building. Included in the application is a request for a waiver of the Commission's "single building or less" requirement established in 1986 in In re: Permanent Tariffs for Shared Tenant Services, 29 Mo. P.S.C. (N.S.) 373 (TO-86-53) (hereafter 29 Mo. P.S.C. (N.S.) 373). There is no statutory prohibition on the residential use of STS and no specific waiver was, therefore, requested or required.

Ten (10) of the eleven (11) apartment complexes are located in territory served by SWBT and one (1) complex is located in GTE territory. GE proposes to provide STS at each of these eleven locations but does not intend, or request authority, to connect or interconnect these eleven locations to each other. Calls from one apartment complex to another would still be handled by the LEC(s). The residents of each apartment complex would constitute a stand alone STS location and a separate and individual user group.

The Commission finds that GE has been providing STS service in the state of California since 1986, primarily within GTE exchanges. GE is a certificated provider of STS service in the states of California, Washington, Illinois, Minnesota, New York, Maryland, Virginia, Massachusetts, Pennsylvania, Texas, Arizona and Colorado. GE has stated that it has STS applications now pending in five (5) other states.

The specific properties for which GE requests STS authority are depicted in eleven maps. One map for each location was attached to the Application. These maps and the testimony show that each individual apartment complex sits on a single block of land which, in some cases, contains a limited number of public thoroughfares. The maps reflect that these complexes contain between fifteen (15) and ninety-five (95) individual buildings including clubhouses, maintenance buildings, etc. The number of individual apartments in these locations range from approximately three hundred and thirty (330) to approximately six hundred and ninety (690). The total number of apartments for all eleven (11) complexes combined is approximately forty-four hundred (4400).

Before beginning installation of services at an STS property, GE sends a project manager and an account manager to oversee that process. GE has provided the Commission with a copy of its sales brochure/contract which contains

an entry captioned "unconditional guarantee." These documents are attached hereto as Attachment "A." This guarantee states:

If at any time, for any reason, you are not satisfied that you are saving money and enjoying more service with a GE Capital-ResCom telephone system, GE Capital-ResCom will switch you over to the local phone company's standard residential service at no cost to you.

In 29 Mo. P.S.C. (N.S.) 373 the Commission established twelve requirements for STS arrangements. The requirements for STS as set out in that case are:

1. The LEC will retain its provider of last resort obligation for all STS locations.
2. STS may only be provided to tenant premises which are located in an entire single building or less, unless a waiver of this condition is granted by this Commission. The definition of a single building is as approved in the interim tariffs in Case No. TC-84-233.
3. A LEC shall only provide one point of demarcation to an STS location regardless of the number of PBXs connected at the STS location.
4. The STS location shall consist of all tenant premises where STS is provided by the STS provider which meet the conditions of paragraph 2.
5. STS providers shall pay the flat trunk PBX access rate for access to the LEC system.
6. The STS conditions in this order shall apply to service to all non-transient tenants as described in this order.
7. Customer owned coin telephones shall access the local exchange telephone network through a separate access line under separate tariffs.
8. STS providers will comply with the filing requirements listed in this order and those which may additionally be ordered by the Commission.
9. The STS provider shall utilize a PBX which is registered with the Federal Communications Commission and riser cable and other facilities must conform to the specifications of the LEC.

10. STS providers shall provide the LEC 180 days notice that the STS provider will be providing service in a newly constructed building. If the 180 day notice is not provided, the STS provider shall be responsible for the incremental cost of any facilities in excess of the facilities requested by the STS provider which the LEC constructed in anticipation of providing service directly to the tenants of the new building. The STS provider will also provide the LEC the size and location of the STS tenants.
11. The STS provider shall contract with the LEC to allow the LEC the right-of-use to STS riser cable and other facilities necessary to provide service to any tenant at an STS location which requests service from the LEC.
12. STS providers who establish an STS arrangement in an existing building shall give notice to the LEC of the location of the STS tenants at the time of connection to the LEC network.

Within that same case the Commission established that a waiver of the "single building or less" requirement would be allowed if such a waiver is not detrimental to the public interest. In In re Research Medical Center, TA-92-113, et al., (hereafter Research or TA-92-113) the Commission further established three components as its standard for consideration of multi-building waivers. These components included: (1) that all buildings are located on either a continuous tract of land or upon adjacent and abutting tracts of land only separated by a public thoroughfare; (2) that all buildings and land must be subject to the same common ownership interest; and (3) that all buildings and land should be located in the same wire center. Each of GE's eleven (11) applications has met these requirements.

A) "SINGLE BUILDING OR LESS"

The Commission finds the proposed STS will be offered to a discrete group of customers, to wit, only the tenants of each apartment complex in question. The STS will not be offered to any customer who is not a tenant of the complex in question and the STS will not be offered to the public at large. The

Commission finds the boundaries of each of the respective eleven (11) apartment complexes are definite and easily discernible.

The Commission finds that the single building restriction is not embedded in the statutes. SWBT argued that the Commission is without power to grant a waiver to Commission standards and this is incorrect. The Commission is not bound by precedent or collateral estoppel and, indeed, can revise the guidelines as the technology and the public interest evolves. See, *State ex rel. GTE North v. Missouri Public Service Commission*, 835 S.W.2d 356, 371 (1992).

The Commission finds the buildings in each respective complex are located on either a continuous single tract of land or upon adjacent and abutting tracts of land separated only by public thoroughfares. The Commission finds that all buildings and all land in each complex are subject to the same common ownership interest and that all buildings within a complex are located within the same wire center. Therefore, the Commission finds that this application meets the twelve (12) standards established in TO-86-53 but for the single building or less requirement. This application also meets the three (3) standards established for a "single building or less" waiver. The standard for approval of a waiver to the "single building or less" standard is that it be "not detrimental to the public interest."

B) RESIDENTIAL STS

SWBT and GTE argued that the residential use of STS technology is inappropriate and inconsistent with statutory authority or prior Commission holdings. The Commission has never established such a policy nor is such an argument supported by state statute. The Commission has previously found no justification to distinguish STS at condominiums and cooperative locations. 29 Mo. P.S.C. (N.S.) 373, 393. The Commission finds the statute(s) are silent

as to the residential use of STS and the Commission specifically finds nothing in the statute(s) to distinguish or carve out a particular exception for, or against, apartment complexes.

Based upon these findings a discussion regarding residential use would appear to be irrelevant. However, the Commission finds it necessary to correct certain arguments placed upon the record which are factually in error.

The Commission has approved residential use of STS technology in four different applications over the past five (5) years. (See, Orchard House Partnership, Case No. TA-90-17, In re Grand Living Association, Case No. TA-92-189, In re QCC, TA-95-68, [hereafter QCC] and Research cited supra.) GTE's brief argues that the Commission has never approved a waiver of the single building rule in a residential situation. In TA-92-113 the Commission approved an application which included five (5) buildings dedicated to residential use. The application reflected two (2) buildings labeled as "staff apartments," one (1) building labeled "student nurses residence" and approximately eight (8) buildings labeled "student village." Subsequent testimony in that case suggested that some of those buildings were undergoing a transition into office buildings but at the time of the hearing it was clear that at least five (5) separate buildings retained a purely residential function.

SWBT's Witness Wolfe testified that in the QCC case the residential use of STS was only for a college dormitory and therefore was excluded by Section 386.020(44)(D). That argument is simply incorrect. The Commission did not grant such an exclusion in QCC. First, the Commission finds the QCC Application was submitted by a private corporation and not by an educational institution. The records reflect that QCC is privately owned and privately operated as a commercial (residential) apartment complex. Second, the Commission finds upon

a review of the statute that the term dormitory is not included in the provision cited. Third, the Commission finds that the word "dormitory" cannot technically refer to an apartment building but properly refers only to a building which does not include cooking facilities and in which transient tenants share common bathrooms and common sleeping bays. This definition is both from the common use and from legal practice. See Merriam Webster's Collegiate Dictionary, Tenth Edition ©1993 and also Words and Phrases, West Pub. ©1965, 1994.

In conclusion, the Commission finds that a decision in this case does not turn on the residential nature of the location(s).

C) REVENUE RELATED ISSUES

The Commission finds its previous holdings apply to this docket in that if, in the course of a LEC rate case, the Commission is shown that the network integrity or the cost of service for other ratepayers has been affected by STS, the Commission can reconsider its pricing decisions. 29 Mo. P.S.C. (N.S.) 373, 388. The Commission finds that this provision ensures appropriate opportunity to seek relief if such relief becomes necessary.

The Commission has considered the provisions of §392.520 which state that:

2. The commission shall establish the rates or charges and terms of connection for access by such services to the local exchange network. In so doing, the commission shall consider the network integrity of the principal provider of local exchange service and the impact of private shared tenant services on the cost to provide, and rates or charges, for local exchange service. If the commission finds, upon notice and investigation, that tenants in private shared tenant services locations have no alternative access to a local exchange telecommunications company providing basic local telecommunications service, it may require the private shared tenant services provider to make alternative facilities available on reasonable terms and conditions at reasonable prices.

Based upon this, the Commission finds that its requirement to "establish the rates or charges or terms of connection . . ." requires the Commission to "consider the network integrity of the principal provider of local exchange service and the impact of private shared tenant services on the cost to provide, and rates or charges, for local exchange service." In other words, the integrity and impact issue must be considered in establishing the rates or charges and terms of connection. But these issues are not the test for the underlying question of whether an STS application should be approved or whether a multi-building waiver should be granted. The test as to whether an STS is in the public interest has been set out by this Commission as the twelve (12) requirements established by the Commission in 29 Mo. P.S.C. (N.S.) 373. The multi-building issue is only subjected to the lesser "not detrimental to the public interest" standard and has most recently been set out by the three (3) standards issued in Research.

The testimony of SWBT's witness Tebeau discussed the potential financial impact in Exhibit 14HC. Inasmuch as this was filed as a highly confidential exhibit little was said regarding this testimony in the hearing and little can be repeated here. The allegation of potential loss as presented here is only conjecture and, assuming *arguendo* that it would occur, must be weighed against SWBT's Missouri jurisdictional revenues which, according to uncontroverted testimony were one billion, nine million, three hundred and twelve thousand nine hundred and sixty-four dollars (\$1,009,312,964) for the year 1993.

The overall failure or inability of the parties to clearly address the revenue issue affirms the wisdom of the statutory procedure whereby these issues go to the rates to be charged under the STS tariff and the revenue requirement to be established in a rate case. The LEC may lose some amount of

revenue with each customer who switches to the STS provider. It is equally clear that the LEC will gain new revenues not only from the sale of PBX trunks, Direct Inward Dialing (DID) numbers, and Interexchange carrier (IXC) digital access facilities to GE but may also experience an actual cost savings by virtue of avoiding debt collection or bad debts on the part of some individual customers and also by virtue of no longer bearing the burden of maintenance for these individual customers. The Commission finds that the speculation of lost revenue, as set out by SWBT in Exhibit 14HC, does not adequately account for all revenue issues. If the providers of basic local service believe the Commission should deny the application(s) of GE based upon revenue issues then they must bear the burden of persuasion on those issues.

SWBT and GTE have failed to clearly establish that the migration of customers to STS will result in a reduction of net revenues to the LEC. Similarly, GE has failed to clearly establish that the removal of customers, the removal of the cost for their level of support and maintenance, and the revenue flow as a result of the STS services to be sold to the STS provider will create an increase in net revenues for the LEC. The Commission finds that the grant or denial of this STS certificate does not turn on the issue of revenue and the grant or denial of a waiver to the "single building or less requirement" is even less susceptible to these revenue arguments. The Commission finds that the final issue of impact to LEC revenue, if any occurs, may properly be addressed in a rate case pursuant to In re Permanent tariffs for Shared Tenant Services, 29 Mo. PSC (N.S.) 373, 388. See also 392.520.2 RSMo. 1994.

TA-92-113, et al., included cases TA-92-107, TA-92-108, TA-92-109, TA-92-110, TA-92-111, TA-92-112 and TA-92-113. The number of lines involved at the TA-92-113 location alone was approximately 3300. This was but one of seven

locations within that combined docket. The largest location, by number of lines in this application, is approximately six hundred and ninety (690) lines. The obvious comparison of the thirty-three hundred (3300) lines in the aforementioned single location to which SWBT made no objection in 1993 and the six-hundred and ninety (690) line (largest) location here is noteworthy.

The evidence in this docket suggests that it involved far fewer lines than Case No. TA-92-113, et al. SWBT argued, in Case No. TA-92-113 et al., that it had no reason to oppose the stipulation in that case which would allow the provision of STS because there was " . . . **no serious manifestation of damage to revenues or impact on rates.**" (Emphasis added.) GE has raised the issue that the rate charged for single line business service is greater than that charged for single line residential service. Thus, the logical assumption would be that the loss of business lines would have a greater impact upon revenue than the loss of residential lines. Yet, again, SWBT raised no opposition to seven locations involving a number of business lines, for which one location alone contained in excess of thirty-three hundred (3300) lines. Nor has SWBT shown from those existing STS locations actual revenue loss to the LEC even though these are some rather large STS locations. The Commission may only deduce from the lack of evidence on this issue that no such revenue loss may be substantiated.

SWBT has also argued in this case that the issue of stranded investment is an almost insurmountable issue. However, SWBT's argument fails to address the fact that investment in the cable on the apartment complex property is the only investment which can be stranded. The Commission finds that inside wiring has been "expensed" inasmuch as the inside wiring is no longer embedded in the rate base. The cable in the street or other public right of way could be utilized to supply service to customers positioned further along the route. This

response to SWBT's argument was specifically raised by GE and the Commission finds this argument persuasive. If the cable plant were dedicated all the way back to the central office, then the ports and network cable would be stranded. However, the Commission does not find this to be the case and the testimony from the transcript is supportive of this finding.

D) ADDITIONAL ISSUES

Various parties have argued that the LECs will be at a distinct competitive disadvantage should this application and waiver be approved. The Commission finds that when a customer changes to the STS provider that customer currently would be required to relinquish its current telephone number and accept the assignment of a new number. The Commission is aware of the importance which this industry attaches to number continuity and the proposition that there are those customers who would not readily give up an established number which is known to business associates, family and friends. In addition, changing service from the LEC to the STS provider would result in the loss of one's ability to subscribe to, or use, certain functions such as "Caller ID," ISDN and expanded calling plans. Also, this STS provider will face entrenched, incumbent, well-recognized providers. The Commission finds that these distinctions, among others, substantially equalize any disparity which might otherwise exist between the LEC and the STS provider.

The Commission finds the issue of demarcation, although discussed in the presentation of this case, is not an issue presented for adjudication. The Commission finds that the parties are bound by the LECs' STS tariffs. Should an issue of demarcation or any other issue constitute a disagreement between the parties, those issues may be addressed by separate and subsequent arbitration or adjudication. Additionally, the Commission finds that, in spite of the concerns

raised in this case regarding the demarcation issue, SWBT currently deals with twenty-one (21) active STS locations within the state of Missouri and has made no showing that demarcation has been a problem in any of those locations.

Similarly, GE has operated STS within GTE exchanges in California since 1986. If there were any evidence of service problems with GE as a STS provider, or with significant customer complaints or with the demarcation issue GTE would surely have raised those issues based upon its substantial experience with this specific STS provider. GTE made no such showing. Nor has GTE used its experience of almost a decade with this particular STS provider to adduce evidence of GTE's revenue losses caused by the migration of customers to the STS provider. From the lack of evidence present in the record the Commission may only deduce that no such revenue loss has occurred.

E) OVERALL FINDINGS

The Commission finds STS applicants do not provide basic local telecommunications service and should not be subjected to traditional regulation such as the certificate of public convenience and necessity. That approach is characterized by high barriers for entry and exit and a high level of regulatory oversight. Rather, the Missouri legislature instituted a new category of regulation for STS providers in H.B. 360 known as Certificate Of Service Authority For STS, which is characterized by low barriers to entry and exit. See §392.520, RSMO. 1994.

The Commission finds the specific service GE proposes is shared tenant service and not basic local service as that service is defined by statute. GE does not propose to provide service outside the premises of the apartment complex(es) in question. GE has testified that the STS is not the provider of basic local service and the Commission finds that it is only the LEC which

controls both origination and termination of calls throughout the entire Local Access and Transport Area (LATA). GE does not perform these functions and the LEC is the only provider of basic local service.

The Commission finds that it has previously authorized STS in multi-building settings and has done so in some cases which have residential uses. These residential uses include retirement homes, low income housing, private apartments adjoining a university campus (in a single building) and multiple residential buildings in a hospital complex.

The Commission finds that approving the application is in the public interest. The Commission finds that GE has the technical experience and expertise as well as the financial wherewithal to provide STS. The Commission finds that GE's promise of an "unconditional guarantee" offers appropriate protection to the customer and the Commission will require this guarantee as a condition to GE's provision of service. The Commission finds that granting a waiver to the Commission's single building or less standard is not detrimental to the public interest.

The Commission recently announced in Case No. TO-95-396 that the public's interest is, in part, to further the orderly and controlled or gradual progression toward a competitive marketplace for telecommunications customers and the Commission views shared tenant services in that context. STS, as authorized by state statute, provides customers with a choice between the LEC and the STS provider for the customer's access to the local exchange. The Office of the Public Counsel (OPC) has stated its support of developments which allow consumers more choice over marketplace conditions. Although the provision of STS does not, in itself, constitute local competition, the Commission finds that the

implementation of STS is an appropriate step toward a competitive environment and is sanctioned by state law.

OPC has stated that the "General Assembly did not create (STS) as a substitute for the local exchange company, but as a means for small and medium business owners, such as apartment complex owners, to have access to advanced technology and to provide telephone consumers with choices for service and prices." The Commission finds that the STS application within this docket provides just the type of choice referred to by OPC and is therefore in the public interest.

GTE has argued there is no need or public interest in spreading STS any further and that the same issues raised in this proceeding will be more fully considered in the docket covering local competition (Case No. TO-95-396). Within that case the Commission issued an order on June 9, 1995, establishing the docket and inviting any participant who wished to do so to file its entry of appearance and to simultaneously file "... proposals for issues to be addressed in this docket." GTE is a participant in that docket as are SWBT, Mid-Missouri Group, STG, GE Capital-ResCom and others. These parties had filed their respective requests for issues to be considered by July 27, 1995, nearly eight (8) months after these same parties had intervened in this case. Neither GTE nor any other participant in the local competition docket has raised shared tenant services as an issue of concern even though they were free to do so and had actual knowledge of GE's application.

The Commission finds the annual reporting requirements previously established for all shared tenant service providers at 29 Mo. P.S.C. (N.S.) 373, 394, as set out in attachment "B" hereto, is appropriate for this STS provider and GE shall be ordered to comply with those reporting requirements.

F) PROSPECTIVE REEVALUATION OF "DISCRETE PRIVATE PREMISES"

SWBT has emphasized that the legislature intentionally restricted STS to discrete private premises. The legislature, just as wisely, left the definition of that which would constitute discrete private premises to the expertise of the Missouri Public Service Commission.

The Commission finds that it developed its single building standard prior to the enactment of statutory sections which now provide that the Commission shall grant STS certificates upon meritorious application to serve "discrete private premises." The single building criterion was imported into the new statutory process by incorporating it into the administrative definition of "discrete private premises." The obvious disparity between the two (2) standards was acknowledged and addressed by adoption of the waiver process.

The Commission finds that the restriction limiting STS service to only a "single building or less", except upon grant of a waiver, has failed to prove useful. No requested waiver ever has been denied. Absent the restriction, the Commission would remain bound to consider the multi-building character of an STS application to the extent of that factor's relevance in weighing the public interest.

The Commission finds that, at this stage, there is no remaining value in this cumbersome and questionable formulation that christens a multi-building property a discrete private premise if the application serves the public interest but somehow denies that characterization if it does not produce the right result. Accordingly, the Commission's evaluation of the "discrete private premises" requirement is hereby revised for the consideration of future STS applications.

The Commission finds that the standards which it adopted in Case No. TA-92-113 are sufficient for purposes of determining, in this case, compliance

with the statutory provision "discrete private premises".

Conclusions of Law

The Missouri Public Service Commission has arrived at the following conclusions of law.

The Commission has jurisdiction over the application for STS pursuant to 386.250 and 392.520, RSMo. 1994. Upon a grant of authority from the Commission the Applicant would become a public utility subject to Commission jurisdiction pursuant to the provisions of Chapters 386 and 392, RSMo. 1994. Section 392.520 provides that the Commission may approve such application upon a showing by the applicant and a finding by the Commission, after notice and hearing, that the grant of authority is in the public interest. The Commission concludes that it may grant a waiver of the single building or less requirement so long as the granting of that waiver is not detrimental to the public interest. Similarly, the Commission concludes that it has jurisdiction over the provision of private shared tenant services subsequent to the granting of a certificate and shall establish the rates or charges and terms of connection for access by such services to the local exchange network pursuant to Section 393.520, RSMo. 1994.

The Commission concludes that "basic local telecommunications service" is two-way switched voice within a local calling scope as determined by the Commission, but does not include the offering or provision of basic local telecommunications service at private shared tenant service locations. Section 386.020(3), RSMo. 1994 (emphasis added). The Commission concludes STS is the sale of access to basic local telecommunications service but STS does not constitute the provision of basic local telecommunications service.

The Commission concludes that because STS providers do not provide "basic local telecommunications service pursuant to Section 392.520 RSMo. 1994,

the Commission has specifically refrained from requiring STS applicants to obtain a certificate of public convenience and necessity under Section 392.440, RSMo. 1994, Re Investigation of the Provision of Local Exchange Telephone Services by Entities Other than Certified Telephone Corporations, 27 Mo. P.S.C. (N.S.) 602, 613.

The Missouri General Assembly has authorized the provision of STS within Missouri under the supervision and minimum regulation of the Commission pursuant to Sections 386.020(30) and 392.520, RSMo. 1994

"Private shared tenant services" includes the provision of telecommunications and information management services and equipment within a user group located in discrete private premises as authorized by the Commission. These services may be offered by a commercial shared services provider or by a user association, through privately owned customer premises equipment and associated data processing and information management services, and includes the provision of connections to the facilities of local exchange telecommunications companies and to interexchange telecommunications companies as defined in 386.020(30), RSMo. 1994.

The Commission set twelve (12) standards for providing STS in Re Permanent Tariffs for Shared Tenant Services, 29 Mo. P.S.C. (N.S.) 373. The Commission has concluded that the application in this case has met those requirements but for the single building or less limitation. Within the same case the Commission stated that it would consider granting waivers to the single building limitation if such a waiver would not be detrimental to the public interest and would otherwise be consistent with Commission policy and with the statutory requirements thus constituting "discrete private premises".

The Commission has previously concluded that only a single building or less constituted a "discrete private premise" unless the applicant sought and received a waiver of the single building or less standard showing such waiver to be "not detrimental to the public interest." Re Permanent Tariffs for Shared Tenant Services , 29 Mo. P.S.C. (N.S.) 373, 384.

The Commission concludes that the statutory provisions are silent as to residential versus nonresidential use just as they are nonspecific as to the meaning of "discrete private premises".

The Commission concludes that promoting the availability of choice of telecommunications service is within the Commission's legislative mandate pursuant to 392.530, RSMo. 1994. By statute, the provisions of this chapter shall be construed to:

- (1) Promote universally available and widely affordable telecommunications Services;
- (2) Maintain and advance the efficiency and availability of telecommunications services;
- (3) Promote diversity in the supply of telecommunications services and products throughout the state of Missouri;
- (4) Ensure that customers pay only reasonable charges for telecommunications service;
- (5) Permit flexible regulation of competitive telecommunications companies and competitive telecommunications services; and
- (6) Allow full and fair competition to function as a substitute for regulation when consistent with the protection of ratepayers and otherwise consistent with the public interest.

The Commission concludes that the General Assembly authorized shared tenant services with the full knowledge and appreciation of the consequences of that legislation. The General Assembly provided that STS would be subjected to a lesser degree of regulation than the LEC.

Based upon the evidence presented, the Commission concludes the proposed service is in the public interest. The Commission concludes that the

Applicant is qualified, both technically and financially, to undertake this project and that it will promote the public interest. The Commission concludes that the Certificate of Service Authority for Shared Tenant Services should be granted herein.

The Applicant has met the procedural requirements of the Commission in terms of providing the documentation required by 4 CSR 240-2.060.

Based upon all of the competent and substantial evidence on the record, the Commission concludes that granting the application is in the public interest and that granting the waiver of the single building or less requirement is not detrimental to the public interest.

On a purely prospective basis the Commission concludes that the single building or less requirement is no longer the appropriate standard by which "discrete private premises" may be judged. Rather, the Commission concludes that the requirements are: (1) that all buildings are located on either a continuous tract of land or upon adjacent and abutting tracts of land only separated by a public thoroughfare; (2) that all buildings and land must be subject to common ownership interest or associated ownership interests; and (3) that all buildings and land should be located in the same wire center.

IT IS THEREFORE ORDERED:

1. That the Commission hereby grants a Certificate of Service Authority to provide Shared Tenant Services to GE Capital-ResCom, L.P., authorizing it to provide shared tenant services as set out in the eleven applications within this docket.

2. That the certificate granted herein applies only to the buildings and locations described in the application(s). It does not extend to any other building(s) or to any other geographic location(s) and GE

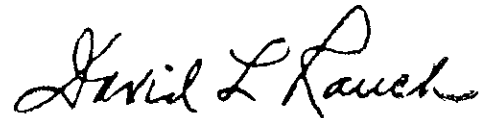
Capital-ResCom, L.P., shall not connect or interconnect these locations to each other.

3. That GE Capital-ResCom, L.P., shall comply with the annual reporting requirements previously established for all shared tenant service providers as set out at 29 Mo. P.S.C. (N.S.) 373, 394, as set out in attachment "A" hereto.

4. That GE Capital-ResCom, L.P., as a condition of receiving and maintaining its Certificate of Service Authority to Provide Shared Tenant Service(s) in Missouri shall maintain its unconditional guarantee as set out to the Commission stating: *"If at any time, for any reason, you are not satisfied that you are saving money and enjoying more service with a GE Capital-ResCom telephone system, GE Capital-ResCom will switch you over to the local phone company's standard residential service at no cost to you."*

5. That this Report And Order shall become effective on November 6th, 1995.

BY THE COMMISSION



David L. Rauch
Executive Secretary

(S E A L)

McClure, Kincheloe and Drainer, CC.,
Concur; and certify compliance with the
provisions of Section 536.080, RSMo 1994.
Mueller, Chm., and Crumpton, C., Absent.

Dated at Jefferson City, Missouri,
on this 27th day of October, 1995.



GE Capital-ResCom. The Smartest Connection you'll ever make.

Savings. Features. And Service. You get them all when you join the thousands of smart, satisfied apartment residents who've discovered the most modern, reliable and complete package of telephone calling services available today. And because we're a member of the GE family of companies, you know we have a reputation of putting our customers first.



The GE Capital-ResCom Unconditional Guarantee

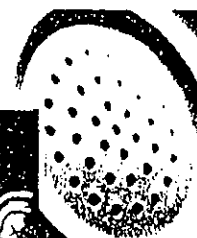
If at any time, for any reason, you are not satisfied that you are saving money and enjoying more service with the GE Capital-ResCom Telephone System, GE Capital-ResCom will switch you over to the local phone company's standard residential service at no cost to you.



GE Capital-ResCom

5757 West Century Boulevard, Suite 400
Los Angeles, California 90045
1-800-RESCOM3
(1-800-737-2663)

**Now you
can have it all,
every time
you call.**



**Introducing the phone
service just for apartment
residents.**



Connect with savings of up to 20%.

Saving money is always smart. And now you can save up to 20% every month on your toll and long-distance charges.

- A Guaranteed Discount On All Calls Outside Your FREE Calling Area
- FREE Local Calls*
- FREE Private and Unlisted Phone Number
- FREE Maintenance to the Telephone System
- FREE Telephone Calling Card
- No Deposit

*Features and savings may vary depending on your local carrier.

Connect with FREE features that serve you best.

GE Capital-ResCom knows that the smartest way to earn your business is to offer you a phone system that meets your needs and beats the competition. That's why our easy-to-use system includes all these features.

- Voice Mail
- Call Waiting
- Call Forwarding
- Last Number Recall
- Restricted Dialing on 976 and 900 numbers
- 6-Way Conference Calling
- Call Holding
- Personal Speed Dialing
- Wake-up Service
- Multiple Lines Available
- FREE Private and Unlisted Number

Connect with service that sets a higher standard.

We built our service features the smart way, around your busy lifestyle and what works best for you. That's why we offer customer friendly service features like these.

- Personalized service. A GE Capital-ResCom representative can help you with all your telephone needs, so unlike the phone company, there's no need to waste time switching back and forth between departments. Just call us toll-free at 1-800-RESCOM3.
- Never again wait at home for a technician to initiate your phone service.
- You can receive your new phone number prior to moving in, as part of "one stop" shopping for your new apartment.
- Immediate dial-tone, upon move-in, including weekends.
- Easy to read bill, showing actual savings.
- An unconditional guarantee (see back page).
- Pay your phone bill by credit card or check.

Whether you're changing over or just moving in, **GE Capital-ResCom is the answer.**

Our customers love our service.



Connect with Experience.

As one of the first companies to install private residential telephone systems in the United States, GE Capital-ResCom, a member of the GE family of companies, currently operates the largest system of its kind and is the most experienced company operating today.

To order today, call 1-800-RESCOM3
(1-800-737-2663).

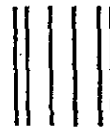
GE Capital-ResCom



800-110-4008

Yes, it's easy.
Plus, we'll connect your service the day
you move in. Even weekends. And you'll
receive savings of up to 20% on your
monthly telephone service. Call

"You can
give me a
new phone
number
today?"



NO POSTAGE
NECESSARY
IF MAILED
IN THE
UNITED STATES

BUSINESS REPLY MAIL

FIRST CLASS PERMIT NO. 72906 LOS ANGELES, CA 90045

POSTAGE WILL BE PAID BY ADDRESSEE

GE CAPITAL-RESCOM

5757 W CENTURY BLVD STE 400
LOS ANGELES CA 90099-9104



Savings.

Right away our new telephone system will save you up to 20%* off your phone bill each month on toll and long distance calls.

Features.

Here are some of the great custom-calling features you'll automatically get FREE with GE Capital-ResCom service:

- Voice mail
- Call waiting
- Wake-up service
- Call forwarding
- 6-way conference calling
- Last number redial
- Speed dialing
- Restricted dialing for 976 & 900 numbers
- Call holding
- Multiple lines available
- Private and unlisted phone number
- Calling cards available
- System maintenance service (no charges)
- Unlimited local calls*
- 90 day referral and post cards for change of address and phone number
- A guaranteed discount** on all calls outside your free calling area

Service.

GE Capital-ResCom is the oldest, largest, and most reliable independent provider of apartment residential communication services.

No more waiting for a service technician and GE Capital-ResCom has a toll free 800 number.

An Unconditional Guarantee—satisfaction promised or free instant switch back to your local phone company.

* Features and savings may vary by specific calling area.

** Except 900 numbers, collect calls and "operator assisted" calls.

What Have I Been Missing?

CALL 800-410-4008

To Start Saving Immediately.

OR

☐ Send me more information about the savings, features, and service that GE Capital-ResCom has to offer.

☐ Sign me up! Please have a GE Capital-ResCom Customer Service Representative call me.

Name

Address Apartment No.

City, State, Zip code

Work phone Home phone



This coupon goes a long way.

We'd like to thank you for having made The Smart Connection to GE Capital-ResCom. So we're giving you this FREE \$5 Long-Distance Coupon.

Please be our guest and use this coupon to save \$5.00 off your phone bill. Simply deduct \$5.00 from the total shown on your monthly statement. Return the coupon along with your payment for the balance. Thanks for being one of our customers.

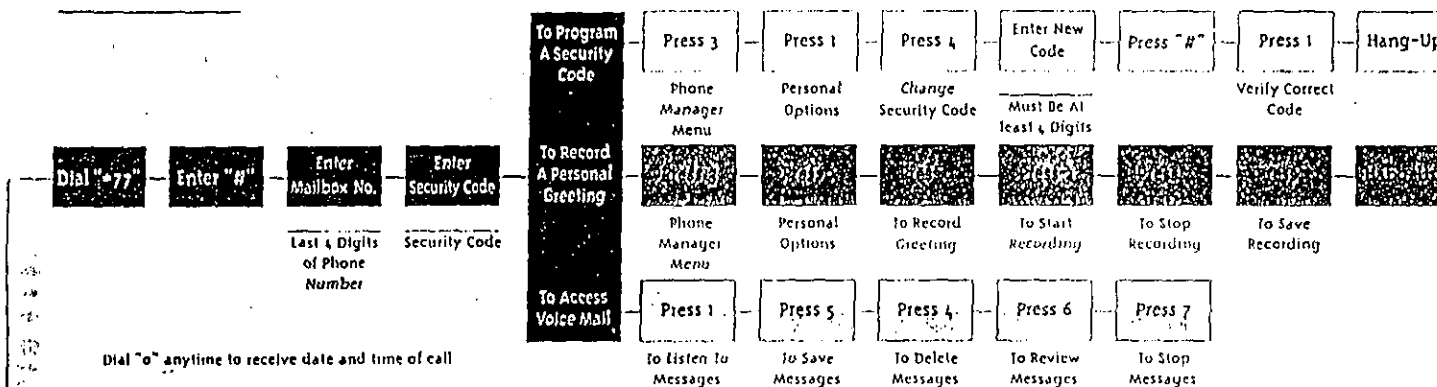
Valid through December 31, 1995



GE Capital-ResCom



GE Capital - ResCom

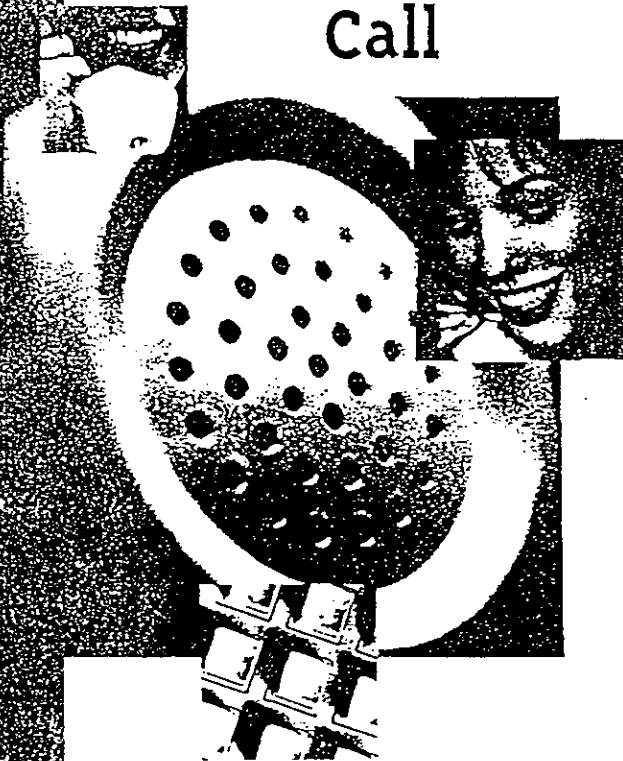


Dial "0" anytime to receive date and time of call

The **voice mail** system will accept multiple messages, each up to 5 minutes in length. Messages can be stored for a maximum of 30 days.

Since there is a finite capacity for message storage in the voice mail system, please promptly discard any unwanted messages after listening to them.

Service Call



Date _____

Time _____

In response to your request for service we...

_____ have completed your service request.

_____ were unable to complete your service request at this time. We will return at

Date _____

Time _____

If you have any questions, please call
your GE Capital-ResCom Representative.
Thank You.

1-800-RESCOM2



GE Capital-ResCom



**You May Be
the Winner!**



GE Capital-ResCom

BULLETIN

**GE CAPITAL-RESCOM
ANNOUNCES**

FREE monthly service for a month

Simply paying your bill by the due date will qualify you to win. Winners will be drawn monthly and notified by GE Capital-ResCom representatives.

GOOD LUCK!

7/9/01



GE Capital-ResCom Telephone Service

Save money every month

You benefit by becoming a part of GE Capital-ResCom's national telephone service for thousands of apartment residents just like you. GE Capital-ResCom, a member of the GE family of companies, offers the most modern, reliable and complete package of telephone calling services available today. You'll also enjoy more features included with your monthly service than the local phone company offers.

Look at the benefits

GE Capital-ResCom's easy-to-use system features:

- Call Waiting
- Voice Mail
- Call Forwarding
- 6-Way Conference Calling
- Restricted Dialing of 976 and 900 Numbers
- Free Local Calls*
- Free Private and Unlisted Number
- No Maintenance Charge (repairs to the telephone system are free)
- Wake-Up Service
- Last Number Recall
- Call Hold
- Personal Speed Dialing
- Multiple Lines Available
- Telephone Calling Cards
- A Guaranteed Discount On All Calls Outside Your Free Calling Area

Personalized customer service

A GE Capital-ResCom representative can be reached through a toll-free 800 number. No waiting at home for a technician.

The GE Capital-ResCom

Unconditional Guarantee

If at any time, for any reason, you are not satisfied that you are saving money and enjoying more service with the GE Capital-ResCom Telephone System, GE Capital-ResCom will switch you over to the local phone company's standard residential service at no cost to you.

Let's talk! Call 1-800-RESCOM3 today for more information.
(See other side.)

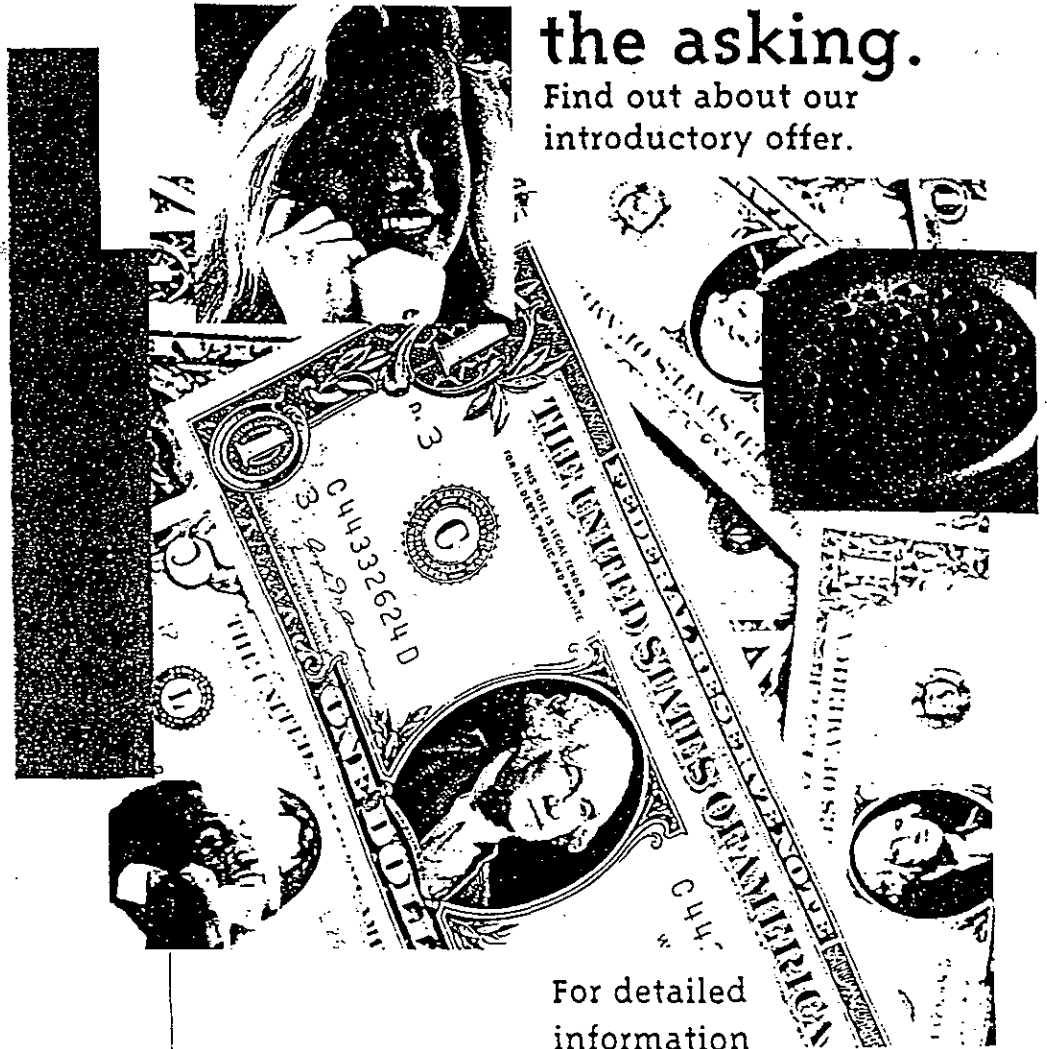
Attachment A
Page 9 of 15

*Features and savings may vary depending on service area.

\$25

**Yours for
the asking.**

Find out about our
introductory offer.



For detailed
information
and your special
introductory
offer, ask for:





Call
1-800-RESCOM3



Be 
our Guest!

Get \$100
in free
calls



GE Capital - ResCom

106_J04



GE Capital - ResCom



Your apartment management and
GE Capital-ResCom invite you to join
your friends and neighbors for a special
event and some friendly talk about a
money-saving new phone service designed
exclusively for apartment residents.

DAY:

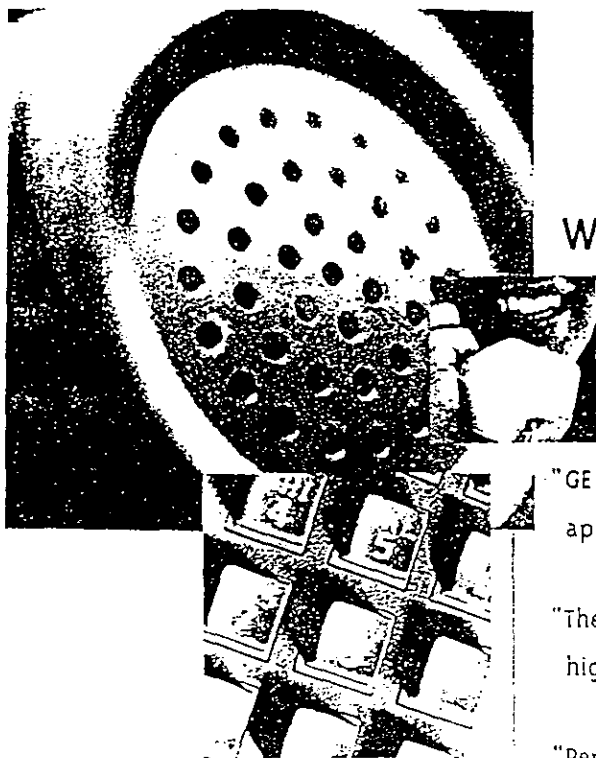
DATE:

TIME:

PLACE:

SPECIAL
EVENT:

Enter the drawing for prizes and a
fabulous tropical vacation.
No purchase necessary.



Words **from the media** on GE Capital-ResCom

"GE Capital-ResCom is offering a private phone service for apartments that could be the hottest amenity since the jacuzzi."

"The apartment of the future will be an information fortress, high-tech, highly amenitized and service oriented."

"Perhaps the most surprising benefit to residents is the ten free, specialized phone features included in basic service, including call-waiting, voice mail, speed dialing, conference calling, automated wake-up calls..."

"A private phone system gives owners the ability to compete beyond luxury shelter and prime location."

"The system provides financial benefits — and convenience — to both owners and residents."

"A private telephone system offers multifamily residents instant access, high quality, free amenities, and significant savings on phone bills."

"As elsewhere, the company offers owners and operators a new revenue source. ResCom gives the owners a percentage of the gross."

"... more buildings are now selling themselves by offering extra services from the personal to the high-tech."

Sources:

The Wall Street Journal

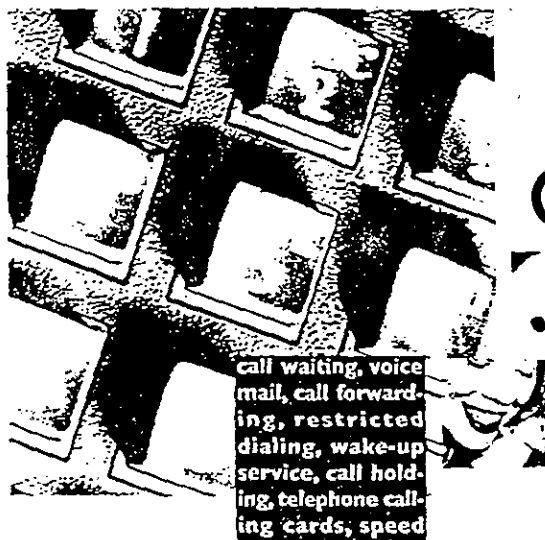
Multi-Housing News

Real Estate Report

The Arizona Daily Star



GE Capital - ResCom



GE Capital-ResCom

Telephone Service

Save money every month

You benefit by becoming a part of GE Capital-ResCom's national telephone service network for thousands of apartment residents just like you. GE Capital-ResCom, a member of the GE family of companies, offers the most modern, reliable and complete package of telephone calling services available today. You'll also enjoy more features included with your monthly service than the local phone company offers.

Look at the benefits

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- Voice Mail
- Call Forwarding
- 6-Way Conference Calling
- Restricted Dialing of 976 and 900 Numbers
- Free Local Calls
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- Wake-Up Service
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Let's talk! Call today for more information.

(See other side.)

*Features and savings may vary depending on your local carrier.

The phone service designed
exclusively for the
convenience of
apartment residents.



GE Capital-ResCom

Attachment A
Page 14 of 15



When you sign up with
GE Capital-ResCom we'll give you
the convenience of...

- New phone number at time of rental
- Up to 20%* discount off toll and long-distance calls
(excludes 900 numbers, collect calls, "operator-
assisted" calls and monthly service charge)
- Working phone line the day of move in
- Discounted connection fee

*Features and savings may vary depending on your local carrier.

Compare the savings in features and monthly service:

Features	Local Telephone Co.	GE Capital- ResCom
Call Waiting		Included
Touch Tone	Included	Included
Unlisted Number (Listing Available Upon Request)		Included
Long Distance Access Fee		Included
Line Maintenance Plan		Included
Monthly Service Fee		
Taxes & Mandated Charges		Included
Subtotal Monthly Charges With One Calling Feature		
Voice Mail		Included
Calling Feature Package (Including features like: Speed Dialing, Conference Calling Call Forwarding, Call Holding)		Included
Wake-up Calls	Not Available	Included
Taxes & Mandated Charges		Included
Total Monthly Charge		
Set-up Charges		
Service Installation		
Feature Installation		Included
Trip Charge (if required)		Included
Taxes & Mandated Charges		Included
Deposits		Included
Total Set-up Fee		
First Month Total		

**For Customer Service, call #88
or 1-800-RESCOM3**

Features and savings may vary by local service area.



GE Capital-ResCom

**Start saving
instantly with
GE Capital-ResCom!**

Attachment "B" Page 1 of 1.
(to TA-95-125: Report And Order)

STS Annual reporting requirements.
29 Mo. P.S.C. (N.S.) 373, 394

1. Address of the STS location(s).
2. Name, address and telephone number of the STS provider.
3. Name of the building owner or owners or management.
4. Date when the LEC began furnishing service to the STS provider at the location(s).
5. Description of the STS technology used (i.e., type of switch, partitioned, digital or analog, etc.).
6. Number of tenants served at location(s).
7. What types of services the STS provider is making available to its tenants (i.e., security, data, voice-grade telephone service, etc.).
8. Whether there have been any STS-related complaints from the tenants. If so, specify nature of complaint, etc.
9. Whether the STS provider interconnects with a discount long distance carrier. If so, describe the nature of the inter-connection facility (e.g., direct trunks to the long distance carrier, etc.), and identify the long distance carrier(s).

If an STS provider considers any of the information to be proprietary, it may file that information under seal.