

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

In the Matter of the Revocation of the)	
Service Authority of Telesphere Networks)	<u>File No. TD-2017-</u>
LTD.)	

MOTION TO REVOKE AUTHORITY

COMES NOW the Staff of the Missouri Public Service Commission (Staff) and moves for the Missouri Public Service Commission (Commission) to revoke the authority to provide Interconnected Voice Over Internet Protocol (iVoIP) services in Missouri of Telesphere Networks LTD (Telesphere) and states as follows:

1. On April 17, 2014, Telesphere filed an application in Case No. DA-2014-0294, to provide iVoIP services in Missouri. On May 8, 2014 the Commission granted Telesphere the authority to provide iVoIP services throughout Missouri.

2. Section 392.550 identifies certain requirements iVoIP providers must meet in order to receive registration. Section 392.550.3(5) specifically imposes certain fees and charges on iVoIP providers and Section 392.550(6) requires an iVoIP provider to remit the annual assessment imposed by the Commission under Section 386.370. Additionally, Section 392.550.3(7) requires an iVoIP provider to submit an annual report to the Commission along with necessary information to calculate assessments. The requirements iVoIP providers must meet are further explained and codified in 4 CSR 240-28.040 (reporting) and 4 CSR 240-28.050 (assessments).

3. Telesphere's application filed in Case No. DA-2014-0294, states the company, "is ready, willing, able, and will comply with all applicable state and federal laws and regulations imposed upon providers of interconnected voice over Internet

protocol services.” The Company filed in conjunction with its application an affidavit agreeing to “remit the annual assessment imposed by the Commission under Section 386.370, RSMo” and “file, either directly or indirectly through an affiliated competitive local exchange carrier, with the Commission an annual report at a time and covering the yearly period fixed by the Commission”.

4. The Commission received a letter from Vonage dated April 26, 2016, stating that Vonage Holding Corp. acquired Telesphere on December 15, 2014. Staff sent a letter July 28, 2016, requesting Telesphere’s 2015 Statement of Revenue. Staff has received no further formal contact from the Company following its letter of April 26, 2016. A brief email exchange in June 2016 failed to resolve the issue. The company has failed to:

- a.) File statements of revenue for 2015 and 2016.
- b.) Submit its assessment payment for 2015.
- c.) Submit annual reports for 2015 and 2016.

5. Due to the Company’s failure to comply with the applicable statutes, rules and orders, Staff moves for the Commission to revoke Telesphere’s authority to provide iVoIP services.

WHEREFORE, Staff respectfully recommends the Commission revoke Telesphere’s authority to provide Interconnected Voice Over Internet Protocol services in Missouri.

Respectfully submitted,

/s/ Whitney Payne

Whitney Payne

Legal Counsel

Missouri Bar No. 64078

Attorney for the Staff of the

Missouri Public Service Commission

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Jefferson City, MO 65102

(573) 751-8706 (Telephone)

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whitney.payne@psc.mo.gov

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing was served by electronic mail, or First Class United States Postal Mail, postage prepaid, on this 27th day of April, 2017, to all counsel of record.

/s/ Whitney Payne



April 26, 2016

Via Email

Helen Davis
Missouri Public Service Commission
Budget & Fiscal Services
P.O. Box 360
Jefferson City, MO 65102

Re: Telesphere Networks Ltd.

Dear Ms. Davis,

We are in receipt of your email dated April 25, 2016 in which you state that the 2015 Missouri Public Service Commission 2015 Statement of Revenue is past due. This letter is to inform you that our position is that Telesphere Network, LTD should never have been subject to this tax.

Vonage Holdings Corp acquired Telesphere Network, LTD on December 15, 2014 but by the time a full detailed review of its tax filings occurred in the middle of 2015 the 2014 Statement of Revenue has already been filed. We base our position of non-filing for 2015 on the following.

In 2004, the Federal Communications Commission preempted "traditional {state} telephone company regulations" of Vonage's interconnected Voice over Internet Protocol service. Vonage Holdings Corporation Petition for Declaratory Ruling Concerning an Order of the Minnesota Public Utilities Commission, 19 FCC Rcd. 22404 (2004) ("Vonage Preemption Order"), aff'd sub nom. Minnesota Public Utils. Comm'n v. FCC, 483 F.3d 570 (8th Cir. 2007). Without exception, every federal court to consider the scope of the Vonage Preemption Order has confirmed that the Order preempts traditional state telephone company regulation of Vonage's service, including states' ability to impose and collect regulatory fees on that service. See, e.g. Vonage Holdings Corp v. Minn. Pub. Utils. Comm'n, 290 F. Supp. 2d 993, 1001-02 (D. Minn. 2003), aff'd 394 F. 3d 568, 569 (8th Cir 2004); New Mexico Pub. Regulations Comm'n v. Vonage Holdings Corp., Civ. No. 08-607 WJ/RHS, Magistrate Judge's Proposed Findings and Recommended Disposition (D. N Mex. Nov 12, 2008)

In light of the above rulings we ask that you please remove Telesphere Networks LTD from your list of required filers effective January 1, 2015. We thank you for your time and consideration in this matter. Please do not hesitate to contact me at 732-858-1997 or brian.spencer@vonage.com if you have any additional questions or require additional information.

Best Regards,

A handwritten signature in black ink, appearing to read 'Brian W. Spencer', followed by a long horizontal line.

Brian W. Spencer, CPA
Tax Reporting Manager



Commissioners

DANIEL Y. HALL
Chairman

STEPHEN M. STOLL

WILLIAM P. KENNEY

SCOTT T. RUPP

MAIDA J. COLEMAN

Missouri Public Service Commission

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MORRIS WOODRUFF
Secretary

WESS A. HENDERSON
Director of Administration

NATELLE DIETRICH
Staff Director

July 28, 2016

Telesphere Networks LTD
Attn: Judith A. Riley
PO Box 720128
Oklahoma City, OK 73172-0128

Dear Ms. Riley:

Pursuant to Section 392.210.1, RSMo, Section 393.140(6), RSMo, and the Rules at 4 CSR 240-3.165 (Electric Utilities), 4 CSR 240-3.245 (Gas Utilities), 4 CSR 240-3.335 (Sewer Utilities), 4 CSR 240-3.435 (Steam Heating Utilities), 4 CSR 240-3.540 (Telecommunications Companies), and 4 CSR 240-3.640 (Water Utilities), public utilities are required to submit an annual report to the Missouri Public Service Commission on or before April 15th of each year.

This letter is a notification and warning that the Missouri Public Service Commission has not received from your company its required 2015 Annual Report as of the date of this letter.

If your company does not file its report by August 15, 2016, Staff will file a Complaint with the Commission for the utility's (or receiver, if applicable) failure to submit an Annual Report on time. A utility that does not timely file its annual report is subject to a penalty of one hundred dollars (\$100) and an additional penalty of one hundred dollars (\$100) for each day that it is late in filing its Annual Report.

Questions about the annual report form or its content may be submitted to: Kim Bolin at (573) 751-5026 or by email at kim.bolin@psc.mo.gov. The completed document should be submitted under EFIS (accessible from the Commission's web page: <http://www.psc.mo.gov>) or mailed to:

Manager of the Data Center
Missouri Public Service Commission
200 Madison Street, Suite 100
P.O. Box 360
Jefferson City, MO 65102-0360

Sincerely,

Kevin A. Thompson
Chief Staff Counsel