

MEMORANDUM

To: Missouri Public Service Commission Official Case File
Case No.: **XA-2005-0272** File No.: **YX-2005-0614**
Applicant: **ATX Licensing, Inc.**

From: Arthur P. Kuss
Telecommunications Department
William Voight 03/08/05 /s/ David A. Meyer 3/10/05
Utility Operations Division/Date General Counsel's Office/Date

Subject: Staff Recommendation for Approval of Certificate of Service and Tariff Filing
Date: March 08, 2005 **Filing Deadline:** March 23, 2005

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. Granting the certificate should be based on the following conditions:
 1. The applicant's originating and terminating access rates will be no greater than the lowest Commission approved corresponding access rates in effect for each ILEC within whose service area the applicant seeks authority to provide service, unless authorized by the Commission pursuant to Sections 392.220 and 392.230 RSMo.
 2. The certificate and service classification for switched access service is conditioned on the continued applicability of Section 392.200 RSMo, and the requirement that any increases in switched access services rates above the maximum switched access service rates set forth herein shall be made pursuant to Sections 392.220 and 392.230 RSMo, and not Sections 392.500 and 392.510 RSMo.
 3. 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.
- The Company is not delinquent in filing an annual report or paying the PSC assessment.
- 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: _____

XA-2005-0272

YX-2005-0614

- The Applicant has complied with 4 CSR 3.510(1)(C) by filing a tariff for interexchange service with an effective date not fewer than 45 days from the issue date. The applicant cannot lawfully provide service until tariffs are effective.
- Certificate to provide Interexchange telecommunications services.
- Certificate to provide local exchange telecommunications services.*
*Local exchange authority should be restricted to dedicated, private line services.
- No objection to tariff for MO P.S.C. Tariff Effective
Interexchange service taking effect: No. 1 Date: March 31, 2005

Staff recommends the applicant and its services receive competitive classification. In addition, Staff recommends approval of the waivers listed in the Notice.

- There is an attachment to this recommendation.

Notes:

1. The ATX Licensing, Inc. (ATX) Application has included a request for waiver of 4 CSR 240-30.010(2)(C) (Posting of Tariffs), which is no longer on the list of standard waivers in applications for Interexchange certification due to the recent revisions of PSC regulations. 4 CSR 240-30.010(2)(C) has been superseded by 4 CSR 240-3.545(2). The ATX Application has stated that ATX will comply with current PSC waiver policies.
2. ATX is an active respondent in a pending civil action in Pennsylvania concerning customer service provided by a related company as noted in its Application at para. 12.
3. The ATX Application has stated that ATX has been erroneously providing resold Interexchange service in Missouri. Its instant Application is proposed as *nunc pro tunc* to rectify this situation.

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 (Exception: see above).
- Statement declaring no overdue annual reports or 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 RSMo 392.430/.440):

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

Additional Review Items for CLEC Certificate Applications: N/A

(As required by RSMo 392.455):

- Possesses sufficient technical, financial and managerial resources and abilities.
- Identifies geographic area (no smaller than an exchange).
- Statement that applicant will offer basic local service as a separate and distinct service.
- Statement that applicant will give equitable access to all Missourians.

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

- Properly formatted:
(Company name, PSC MO No., Page #, Page revision #, proposed effective date).
- Identifies competitive classification.
- Identifies waivers granted.
- ICB pricing, if proposed, limited for private line, special access or Centrex-like services [RSMo 392.200(8)].
- Proposed rates do not establish geographic deaveraged rates (if not checked, explain in attachment) [RSMo 392.200(4)].
- If an alternative operator service provider (receives more than 40% of revenues from traffic aggregators) operator service rates do not exceed: Person-to-Person (\$12.50), Station-to-Station/Calling Card (\$7.50) [RSMo 392.515(1)].

Tariff Review Items (applicable only for CLECs): N/A

- Interconnection agreement approved (if not checked, explain in attachment).
- Tariff clearly indicates areas offering local service [RSMo 392.455(3)]. Tariff identifies by exchange the areas where it offers basic local telecommunications service.
- Tariff offers local service as a separate and distinct service [RSMo 392.455(4)].
- Switched access rates capped at ILEC's rates.