

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

In the Matter of the Application of Primus)
Telecommunications, Inc. and Least Cost) Case No. XM-2008-0186
Routing, Inc. for Approval of an Internal)
Reorganization)

STAFF RECOMMENDATION

COMES NOW the Staff (“Staff”) of the Missouri Public Service Commission (“Commission”) and respectfully states as follows:

1. On December 4, 2007, Primus Telecommunications, Inc. (“PTI”) and Least Cost Routing, Inc. (“LCR,” together, the “Applicants”) filed with the Commission a joint application for approval of an internal reorganization. According to the Application, under the proposed reorganization, LCR will be merged “with and into PTI, with PTI surviving.” Since LCR would no longer exist after the merger, LCR is also seeking cancellation of its certificate at that time.¹ The Applicants propose that “PTI will maintain a tariff that duplicates the service offerings, rates, terms and conditions as filed in the current LCR tariff.” Further, pursuant to 4 CSR 240-3.525(2)(D), the Applicants assert that the transaction is not detrimental to the public interest, and indeed, that it will serve the public interest by allowing the combined businesses to achieve greater operational and cost efficiencies.

2. Also on December 4, the Applicants filed a motion for expedited treatment of the Application in order to enable them to consummate the proposed transaction no

¹ The Application contains a footnote with the following language: “PTI intends to assume the fictitious name “Least Cost Routing” principally for legacy LCR customers, and accordingly requests Commission approval, to the extent necessary, to utilize the name when assumed.” Although the Application does not include such a request in the prayer, the quoted language should in any event be ignored for purposes of this case. Commission approval of such a request would require the filing of an application for a certificate of service authority.

later than December 31, 2007. The Applicants assert that such expedited approval will benefit both the Applicants and their customers, with no offsetting negative effects.

3. On December 5, 2007, the Commission issued an order that, in pertinent part, set an intervention deadline of December 17, 2007 and directed the Staff to file, by December 14, 2007, either its recommendation or an indication of when it expects to file its recommendation. On December 14, the Staff filed a pleading stating that it planned to file its recommendation on December 18, 2007, the day after the Commission-ordered intervention deadline in this proceeding.

4. On December 12, 2007, PTI filed an Adoption Notice and Revised Title Page to the existing tariff No. 1 of LCR. The stated purpose of the filing was to establish Primus' Tariff MO P.S.C. No. 3 for the provision of service to only those customers that are served by LCR at the time the internal reorganization is approved by the Commission. Accompanying the filing was Applicants' Motion To Expedite Treatment Of Tariff Filing, requesting Commission approval of the tariff, to be effective on or before December 31, 2007 rather than on the filed 30-day effective date of January 11, 2008.

5. Subsection 1 of 392.300 RSMo generally provides that no telecommunications company shall sell, assign, lease, transfer, mortgage or otherwise dispose of or encumber the whole or any part of its franchise, facilities or system, necessary or useful in the performance of its duties to the public, nor by any means, direct or indirect, *merge or consolidate* such line or system, or franchises, or any part thereof, with any other corporation, person or public utility, without having first secured from the Commission an order authorizing it so to do.

6. The standard for approval of a merger is the same as for the sale of assets; *i.e.*, that the transaction will not be detrimental to the public interest. See, *In the Matter of the Application of Computer Network Technology Corporation for Authority to Enter into a Merger and Transfer of Control Transaction with Condor Acquisition, Inc., and McDATA Corporation, and Their Respective Shareholders*, Order Approving Merger And Directing Filing, Case XM-2005-0283 (March 29, 2005) (citing *State ex rel. Fee Fee Trunk Sewer, Inc. v. Litz*, 596 S.W. 2d 466, 468 (Mo. App. E.D. 1980)).

7. In the attached Memorandum (Appendix A), the Staff concludes that the transaction is not detrimental to the public interest, and recommends that the Commission approve Applicants' proposal.

WHEREFORE, for the reasons stated in the attached Memorandum, the Staff recommends that the Commission issue an Order: a) approving the merger of Least Cost Routing, Inc. into Primus Telecommunications, Inc.; b) approving the Adoption Notice and Revised Title Page to the existing tariff of LCR; c) approving the request for expedited treatment such that Primus' Tariff MO P.S.C. No. 3 becomes effective on or before December, 31, 2007; and d) directing PTI to notify the Commission as soon as the transaction is executed so that the Commission may then cancel LCR's certificate of operating authority to provide Interexchange Telecommunications Service.

Respectfully submitted,

/s/ **Dennis L. Frey**

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Certificate of Service

I hereby certify that copies of the foregoing have been mailed, hand-delivered, transmitted by facsimile or electronically mailed to all counsel of record this 18th day of December 2007.

/s/ **Dennis L. Frey**