

BEFORE THE PUBLIC SERVICE COMMISSION OF THE STATE OF MISSOURI

In the Matter of the Application of TNCI Operating)	
Company, LLC for a Certificate of Service Authority to)	<u>File No. TA-2013-0464</u>
Provide Resold and Facilities-Based Basic Local,)	Tariff Nos. Y1-2013-0476,
Interexchange Telecommunications Services in the)	Y1-2013-0477, and
State of Missouri)	Y1-2013-0478

ORDER GRANTING CERTIFICATES TO PROVIDE BASIC LOCAL, NONSWITCHED LOCAL, AND INTEREXCHANGE TELECOMMUNICATIONS SERVICES

Issue Date: May 29, 2013

Effective Date: June 7, 2013

This order grants certificates of service authority to provide basic local, nonswitched local, and interexchange telecommunications services in the state of Missouri, classifies those services and the company as competitive and waives certain statutes and regulations.

On April 23, 2013, TNCI Operating Company, LLC applied for certificates of service authority to provide basic and nonswitched local exchange, as well as interexchange telecommunications services within the state of Missouri, and for competitive classification. With its application, the company also filed proposed tariffs with an effective date of June 7, 2013. The company seeks certification to provide interexchange service throughout the state and is authorized to do business in Missouri by the Missouri Secretary of State.

On April 25, the Commission issued its Notice of Applications, setting May 15 as the deadline for intervention. No applications to intervene were received. On May 20, the Staff of the Commission recommended that the requested certificates, classifications and waivers be granted.

The Commission may grant an application for a certificate of service authority to provide telecommunications service upon a showing that the applicant has met the statutory requirements,¹ and that the grant of authority is in the public interest.² Based on the verified application and Staff's uncontested recommendation, the Commission finds that TNCI satisfies the requirements for certification and that granting such certificates is in the public interest.

TNCI also requests that it and its services be classified as competitive and that the application of certain statutes and regulatory rules be waived. The Commission may classify a telecommunications service as competitive if the Commission determines that the applicant is subject to a sufficient degree of competition to justify a lesser degree of regulation.³ The Commission may only classify a telecommunications carrier as competitive if all of its services are so classified.⁴ The Commission may waive the application of certain statutes and of its rules to a competitive carrier if it determines that such waiver is consistent with the purposes of Chapter 392.⁵

The Commission finds that the intrastate interexchange market is competitive and that the interexchange services TNCI will offer are subject to competition. Also, TNCI will compete with incumbent local exchange carriers, as well as other competitive local exchange carriers in the exchanges in which it provides basic local telecommunications service. The Commission finds that TNCI will be subject to a sufficient level of competition

¹ See Sections 392.450, 392.451 and 392.455, RSMo 2000. All statutory references, unless otherwise specified, are to the Revised Statutes of Missouri (RSMo), revision of 2000.

² Sections 392.430 and 392.440.

³ Section 392.361.2.

⁴ Section 392.361.3.

⁵ See Sections 392.185, 392.361.3 and 392.420.

to justify a lesser degree of regulation. Furthermore, all of the services TNCI will offer are qualified for classification as competitive services.

The Commission may waive certain statutes and administrative rules for competitively classified carriers “if such waiver or modification is otherwise consistent with the other provisions of Section 392.361 to 392.520 and the purposes of this chapter.”⁶ The Commission has developed a standard list of statutes and regulations that it waives for competitive local exchange and interexchange carriers. The Commission finds that the waiver of those statutes and regulations is consistent with the purposes of Chapter 392, and will waive those provisions for TNCI.

The Commission may also require a telecommunications company to comply with any conditions reasonably necessary to protect the public interest. Staff recommends that TNCI’s application be granted subject to certain restrictions regarding switched access rates. These conditions are routinely recommended by Staff and TNCI accepted them in its application. The conditions proposed by Staff are necessary to protect the public interest and will be adopted.

The Commission places TNCI on notice that failure to comply with certain obligations pursuant to law may result in penalties assessed against the company. These obligations include, but are not limited to, the following:

- A) The obligation to file an annual report, as established by Section 392.210, RSMo 2000. Failure to comply with this obligation will make the utility liable for a penalty of \$100 per day for each day that the violation continues. Rule 4 CSR 240-3.540 requires telecommunications utilities to file their annual report on or before April 15 of each year.

⁶ Sections 392.361.5 and 392.420.

- B) The obligation to pay an annual assessment fee established by the Commission, as required by Section 386.370, RSMo 2000.
- C) The obligation to comply with all relevant laws and regulations, as well as orders issued by the Commission. If the company fails to comply it is subject to penalties for noncompliance ranging from \$100 to \$2,000 per day of noncompliance, under Section 386.570, RSMo 2000.
- D) The obligation to keep the Commission informed of its current address and telephone number.

The company is reminded that its officers may not represent it before the Commission. The company must be represented by an attorney licensed to practice law in Missouri.

In addition, Section 392.410.5, RSMo Cum. Supp. 2010, provides that the company's certificate of service authority becomes null and void one year from the date of this order unless the company has exercised its authority under that certificate.

The Commission notes that before providing telecommunications services in Missouri, a party shall possess the following: (1) an interconnection agreement approved by the Commission; and (2) except for wireless providers, a certificate of service authority from the Commission to provide interexchange or basic local telecommunications services.

THE COMMISSION ORDERS THAT:

1. TNCI Operating Company, LLC, is granted a certificate of service authority to provide basic local telecommunications services, subject to the conditions and recommendations contained in the Staff's Memorandum.

2. TNCI Operating Company, LLC, is granted certificates of service authority to provide nonswitched local exchange and interexchange telecommunications services in the state of Missouri.

3. TNCI Operating Company, LLC, and its services are granted competitive classification.

4. TNCI Operating Company, LLC's originating and terminating access rates will be no greater than the lowest Commission-approved corresponding access rates in effect for each incumbent local exchange carrier within whose service area TNCI seeks authority to provide service.

5. If the directly competing incumbent local exchange carrier, in whose service area TNCI Operating Company, LLC is operating, decreases its originating or terminating access service rates, TNCI shall file an appropriate tariff amendment to reduce its originating or terminating access rates in the directly competing incumbent local exchange carrier's service area within 30 days of the directly competing incumbent local exchange carrier's reduction of its originating or terminating access rates in order to maintain the cap.

6. The company will undertake all necessary measures to ensure its contracts with underlying carriers do not contain provisions preventing delivery of traffic to any telephone exchange area of Missouri. Such measures include but are not limited to:

- a) Prevention of call blocking or call gapping based on the cost of traffic termination.
- b) Preventing the alteration or stripping of Calling Party Number identification, and
- c) Ensuring sufficient network capacity exists to process all traffic according to industry accepted practices.

7. Application of the following statutes and Commission rules is waived:

Statutes

- 392.210.2 - uniform system of accounts
- 392.240.1 - rates-rentals-service & physical connections
- 392.270 - valuation of property (ratemaking)
- 392.280 - depreciation accounts
- 392.290 - issuance of securities
- 392.300 - transfer of property and acquisition of stock
- 392.310 - stock and debt issuance
- 392.320 - stock dividend payment
- 392.330 - issuance of securities, debts and notes
- 392.340 - reorganization(s)

Commission Rules

- 4 CSR 240-3.520 – Applications to sell or transfer assets
- 4 CSR 240-3.525 – Applications to merge or consolidate
- 4 CSR 240-3.530 – Applications to issue stocks, obtain loans
- 4 CSR 240-3.535 – Applications to acquire stock
- 4 CSR 240-3.545(8)(C) – Listing of Waivers in Tariff
- 4 CSR 240-3.550 Telco Records and Reports, except (5)(B), (D) and (E)
- 4 CSR 240-3.555 – Residential Customer Inquiries
- 4 CSR 240-3.560 – Procedure for Ceasing Operations
- 4 CSR 240-10.020 – Depreciation Records
- 4 CSR 240-30.020 – Residential Telephone Underground Systems
- 4 CSR 240-30.040 – Uniform System of Accounts
- 4 CSR 240-32.010 – General Provisions
- 4 CSR 240-32.040 – Metering, Inspections and Tests
- 4 CSR 240-32.050 – Customer Services
- 4 CSR 240-32.060 – Engineering and Maintenance
- 4 CSR 240-32.070 – Quality of Service
- 4 CSR 240-32.080 – Service objectives and surveillance levels
- 4 CSR 240-32.090 – Connection of equipment and Inside Wiring
- 4 CSR 240-32.100 – Provision of Basic Local Interexchange Services
- 4 CSR 240-32.130-170 – Prepaid Calling Cards, except 32.140 and 150(1)
- 4 CSR 240-32.180-190 – Caller ID blocking requirements
- 4 CSR 240-33.010 - Service and Billing Practice General Provisions
- 4 CSR 240-33.040 – Billing and Payment Standards
- 4 CSR 240-33.045 – Clear identification and placement of charges on bills
- 4 CSR 240-33.050 – Deposits
- 4 CSR 240-33.060 – Residential Customer Inquiries
- 4 CSR 240-33.070 – Discontinuance of service
- 4 CSR 240-33.080 – Disputes by Residential Customers
- 4 CSR 240-33.090 – Settlement agreements with residential customers
- 4 CSR 240-33.130 – Operator service requirements

- 4 CSR 240-33.140 - Payphone requirements, except (2)
- 4 CSR 240-33.150 – Anti-slamming requirements
- 4 CSR 240-33.160 – Customer Proprietary Network Information

8. The certification granted herein is conditioned upon the company's compliance with the regulatory obligations set out in this order.

9. This order and TNCI Operating Company, LLC's certificates shall become effective on June 7, 2013.

10. TNCI Operating Company, LLC's tariffs, Tariff File Nos. Y1-2013-0464, Y1-2013-0477 and Y1-2013-0478, are approved to become effective on June 7, 2013.

11. This file shall be closed on June 8, 2013.

BY THE COMMISSION



Morris L. Woodruff
Secretary

Kennard L. Jones, Senior Regulatory
Law Judge, by delegation of authority
pursuant to Section 386.240, RSMo 2000.

Dated at Jefferson City, Missouri,
on this 29th day of May, 2013.