

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

In the Matter of the Application of TCG St. Louis to Expand its Certificate of Basic Local Exchange Telecommunications Service Authority to the Jefferson City, Missouri Exchange.	))))) <u>Case No. CA-2008-0320</u> Tariff File No. YC-2008-0606
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STAFF RECOMMENDATION

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

1. On April 4, 2008, TCG St. Louis (“Applicant”) filed with the Missouri Public Service Commission (“Commission”) an Application to expand its certificate of basic local exchange telecommunications service authority to the Jefferson City, Missouri exchange of Embarq Missouri, Inc. d/b/a Embarq (“Embarq”), and for classification of those services and the Applicant as competitive. The Applicant also submitted proposed revised tariff sheets, for P.S.C. Tariff No. 2 (Tariff File No. YC-2008-0606), to reflect the addition of the Jefferson City exchange.¹ The tariff sheets bear a proposed effective date of May 19, 2008.

2. In the attached Memorandum (Appendix A), the Staff recommends that the Missouri Public Service Commission (“Commission”) grant Applicant a certificate to provide basic local telecommunications services in the Jefferson City exchange of Embarq, conditioned upon certain provisions as set out in the Staff Memorandum.

¹ Also included with the filing were additional proposed revised tariff sheets designed to introduce separate rate schedules for local Integrated Services Digital Network (“ISDN”) transmission services and facilities and certain long-distance toll-calling services in which Embarq is the ILEC. The Staff has no objection to these proposed additional tariff revisions being allowed to go into effect.

3. The Commission shall grant an application for a certificate of telecommunications service authority upon a finding that the grant of authority is in the public interest. §§ 392.430 and 392.440 RSMo (2000).

4. The Staff also recommends that the Commission classify the Applicant and the services it proposes to offer in its Application as competitive. The Commission may classify a telecommunications provider or its services as competitive if the Commission determines it is subject to sufficient competition to justify a lesser degree of regulation. §392.361.4. All the services a competitive company provides must be classified as competitive. §392.361.3.

5. The Staff further recommends that the Commission grant the waivers for competitive basic local exchange carriers listed in the Commission's April 10, 2008 Notice Of Applications. The Commission may waive the application of its rules and certain statutes if the Commission determines that waiver is consistent with the purposes of Chapter 392. §§ 392.185, 392.361.5 and 392.420.

6. The Staff has no objection to the Applicant's proposed tariff for basic local exchange telecommunications services taking effect on May 19 2008.

WHEREFORE, Staff recommends that the Commission issue an Order granting TCG St. Louis a certificate to provide basic local exchange telecommunications services in Embark's Jefferson City, Missouri exchange, conditioned upon the provisions described in the Staff Memorandum; granting it the requested competitive classification; granting the standard waivers for competitive basic local exchange carriers listed in the Commission's Notice of Application; stating that the authority conferred by the certificate shall be null and void unless exercised within a period of one year from the issuance thereof; and approving the proposed revised tariff sheets (effective May 19, 2008) for Applicant's P.S.C. Tariff No. 2.

Respectfully submitted,

/s/ **Dennis L. Frey**

Dennis L. Frey

Senior Counsel

Missouri Bar No. 44697

Attorney for the Staff of the
Missouri Public Service Commission
P. O. Box 360

Jefferson City, MO 65102

(573) 751-8700 (Telephone)

(573) 751-9285 (Fax)

denny.frey@psc.mo.gov (E-mail)

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 5th day of May 2008.

/s/ **Dennis L. Frey**

MEMORANDUM

To: Missouri Public Service Commission Official Case File

Case No.: **CA-2008-0320**

File No.: **YC-2008-0606**

Applicant: **TCG St. Louis** (TCG SL)

From: A.P. Kuss
Telecommunications Department

Wm L Voight 04/25/08
Utility Operations Division/Date

Dennis L. Frey 05/05/08
General Counsel's Office/Date

Subject: Staff Recommendation for Approval of Certificate to Provide Service

Date: April 25, 2008

Filing Deadline: N/A

The Telecommunications Department Staff (Staff) recommends the applicant be granted the certificate(s) as indicated below, to be effective on the same date the tariff becomes effective:

- ☒ Certificate to provide basic local exchange telecommunications services in the following service areas:
- ☐ All of Southwestern Bell Telephone, L.P., d/b/a AT&T Missouri (AT&T Mo)
 - ☒ Exchange of Embarq Missouri Inc. d/b/a Embarq (Embarq)
 - ☐ All of CenturyTel of Missouri, LLC (CenturyTel Mo)
 - ☐ All of Spectra Communications Group, LLC d/b/a CenturyTel (Spectra)
 - ☐ Other (please describe):

☐ Certificate to provide Interexchange telecommunications services.

☐ Certificate to provide local exchange telecommunications services.*

*Local exchange authority should be restricted to dedicated, private line services.

Staff recommends the applicant and its services receive competitive classification. Staff further recommends a Commission order granting certification state that pursuant to Section 392.410 RSMo, unless exercised within a period of one year from the issuance thereof, authority conferred by a certificate of service authority shall be null and void. In addition, Staff recommends approval of the waivers listed in the Notice.

Granting the certificate to provide basic local exchange telecommunications services 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.



No objection to tariff taking effect:

PSC No.: P.S.C. Tariff No. 2 Revised Sheets Effective Date: May 19, 2008

The Staff states that the tariff meets the requirements of all applicable statutes, specifically, one or more of the following:

Sections 392.200(8), (12); 392.245; 392.455(3), (4); 392.500(2); and 392.515(1) RSMo.

In addition, the tariff filing does not conflict with the following Commission rules:

4 CSR 240-3.545 (4), (6), (7), (8 C,G,H), (9), (15), (16), (19); 4 CSR 240-31.065(1), (2), (3); 4 CSR 240-32.150(5), 32.160(1), (2), 32.190; 4 CSR 240-33.040(4), 33.045(2), 33.050(4) and 33.070(2).



Tariff was not submitted with Application. Pursuant to 4 CSR 240-3.510(1)(C), the applicant cannot lawfully provide service until tariffs are effective.

Additional Comments:

1. TCG SL is currently serving as a Competitive Local Exchange and Interexchange Carrier (CLEC/IXC) in exchanges in which the underlying Incumbent Local Exchange Carrier (ILEC) is Southwestern Bell Telephone, L.P., d/b/a AT&T Missouri (AT&T Mo).
2. Included with the Application and proposed tariff sheets concerning expanded Basic Local Exchange Service, are additional tariff revisions by which TCG SL proposes to introduce separate rate schedules for local Integrated Services Digital Network (ISDN) transmission services and facilities and certain long-distance toll-calling services in the exchanges in which the ILEC is Embarq.



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: _____

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.
- ☒ 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:*(As required by RSMo 392.455 and/or 4 CSR 240-3.510):*

- ☒ Possesses sufficient technical, financial and managerial resources and abilities.
- ☒ Statement that applicant will satisfy the minimum standards of the commission.
- ☒ 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): N/A

- ☒ The tariff meets Staff's review for compliance with rules for competitive company tariff filings.

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Telecommunications Service Authority to the)
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Case No. **CA-2008-0320**

AFFIDAVIT OF Arthur P. Kuss

STATE OF MISSOURI)
) ss:
COUNTY OF COLE)

Arthur P. Kuss, employee of the Staff of the Missouri Public Service Commission, being of lawful age and after being duly sworn, states that he has participated in the preparation of the accompanying Memorandum, and that the facts therein are true and correct to the best of his knowledge and belief.



Arthur P. Kuss

Subscribed and affirmed before me this 25th day of April, 2008.

I am commissioned as a Notary Public within the County of Callaway, State of Missouri,
and my commission expires on September 21, 2010.



SUSAN L. SUNDERMEYER
My Commission Expires
September 21, 2010
Callaway County
Commission #06942086


NOTARY PUBLIC