

MEMORANDUM

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PUBLIC SERVICE COMMISSION

TO: Missouri Public Service Commission Official Case File
Case No. TA-92-301
Phoenix Network, Inc. d/b/a Office Depot Communications

FROM: Sherri Murphy *SM*
Telecommunications Department

SUBJECT: Staff's Recommendation to Grant Phoenix Network, Inc. d/b/a Office Depot Communications a Certificate of Service Authority to Provide Intrastate InterLATA Telecommunications Services

DATE: November 17, 1992

REVIEWED BY: *Sam Goldwasser* 11/18/92 *Mary Ann [unclear]* 11/19/92
Utility Operations Division/Date General Counsel's Office/Date

On June 9, 1992, Phoenix Network, Inc. d/b/a Office Depot Communications (Office Depot) filed an application for a certificate of service authority to provide intrastate interLATA telecommunications services. Office Depot also requests classification as a competitive telecommunications company.

The Commission granted Phoenix Network, Inc. (Phoenix) a certificate of service authority to provide intrastate interexchange telecommunication services on August 15, 1992. Phoenix now intends to market telecommunication services in Office Depot stores nationwide and requests a second certificate be granted to Phoenix Network, Inc. d/b/a Office Depot Communications. The Commission previously issued two certificates of service authority to the same corporation in Case Nos. TA-91-293 (One Call Communications, Inc.) and TA-91-156 (One Call Communications, Inc. d/b/a Opticom). Legal counsel advised the Telecommunications Department Staff (Staff) that a second certificate can also be granted in this case.

An intervention deadline of July 20, 1992 was set in the issued Order and Notice. On June 30, 1992, the Office of the Public Counsel (OPC) submitted a Motion for Hearing unless Office Depot agreed not to collect payphone surcharges through its billing agreements with local exchange companies. Office Depot filed its response on July 24, 1992 stating that it would not collect payphone surcharges. OPC filed a Notice Withdrawing Motion on July 27, 1992.

The Commission's Order and Notice also required the applicant to: (1) submit information to demonstrate its financial ability; (2) describe the company's proposed services; and (3) demonstrate its willingness to comply with all Commission rules. The Staff has reviewed Office Depot's application and accompanying information. This information includes a financial statement and a draft tariff. In addition, the applicant has indicated that it will comply with all applicable Commission rules. Staff believes that Office Depot has

fulfilled the requirements of the Order and Notice and therefore should be granted a certificate of service authority. However, in contrast to the requested application, Staff recommends that the specific type of certificate be consistent with certificates identified in Missouri statutes. Therefore, Staff recommends that the Commission grant a certificate of service authority to provide interexchange telecommunications services.

A copy of the registration of fictitious name is included with the application. Office Depot stores are retail outlets specializing in office supplies and equipment. Office Depot is proposing to become a non-facilities based long distance carrier in the State of Missouri utilizing AT&T, MCI and Sprint transmission facilities to provide 1+ and telephone calling card services. They will not offer 0+ or 00+ operator assisted services. The Staff believes that Office Depot's service offerings are comparable to the services offered by other competitive interexchange companies in Missouri. Therefore, Staff believes that Office Depot should be granted competitive status.

The Commission's Order and Notice identifies various statutes and Commission rules which could be waived if competitive status is granted to Office Depot. Those statutes and rules are as follows:

392.240(1): Rates-reasonable average return on investment.

392.270: Property valuation.

392.280: Depreciation rates.

392.290 - 392.310 - 392.320 - 392.330: Issuance of stocks and bonds.

392.540: Reorganization.

4 CSR 240-10.020: Income on depreciation fund investments.

4 CSR 240-30.010(2)(C): Posting exchange rates at central offices.

4 CSR 240-30.060(5)(B-O): Minimum filing requirements (rate increases).

4 CSR 240-32.030(1)(B): Exchange boundary maps.

4 CSR 240-32.030(1)(C): Record of access lines.

4 CSR 240-32.030(2): Records kept within state.

4 CSR 240-32.050(3): Information available for inspection at public office.

4 CSR 240-32.050(4): Telephone directories.

4 CSR 240-32.050(5): Intercepting calls after change of number.

4 CSR 240-32.050(6): Concerns telephone number changes resulting from additions or changes in plant.

4 CSR 240-32.070(4): Coin telephones.

4 CSR 240-33.030: Inform customers of lowest priced service.

Staff finds that the Missouri statutes and Commission rules listed above have been previously waived for other telecommunication companies that have received competitive classification. Therefore, Staff recommends Commission approval of the waivers listed in the Commission's Order and Notice.

In summary, Staff recommends that:

- 1) The Commission grant Phoenix Network, Inc. d/b/a Office Depot Communications a certificate of service authority to provide interexchange telecommunications services within Missouri. However, the certificate should become effective on the same date that the applicant's tariff becomes effective.
- 2) The Commission classify Phoenix Network, Inc. d/b/a Office Depot Communications as a competitive telecommunications company.
- 3) The Commission grant Phoenix Network, Inc. d/b/a Office Depot Communications a waiver of the Missouri statutes and Commission rules that were previously addressed in this memorandum.
- 4) The Commission instruct Phoenix Network, Inc. d/b/a Office Depot Communications to formally file a tariff within thirty (30) days of the effective date of its issued Report and Order. If the Commission grants competitive classification status and approves the requested waivers, the company should be instructed to identify such status and any waivers in the company's tariff.

Subsequent to the filing of its tariff, Staff intends to file a memorandum that addresses the company's tariff.

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