



Missouri Public Service Commission

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June 26, 2000

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JUN 26 2000

Missouri Public
Service Commission

Mr. Dale Hardy Roberts
Secretary/Chief Regulatory Law Judge
Missouri Public Service Commission
P. O. Box 360
Jefferson City, MO 65102

RE: Case No. TA-2000-789

Dear Mr. Roberts:

Enclosed for filing in the above-captioned case are an original and eight (8) conformed copies of a STAFF RECOMMENDATION.

This filing has been mailed or hand-delivered this date to all counsel of record.

Thank you for your attention to this matter.

Sincerely yours,

Nathan Williams sig MAP

Nathan Williams
Assistant General Counsel
(573) 751-8702
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NW/lb
Enclosure
cc: Counsel of Record

BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI

FILED³

JUN 26 2000

Missouri Public
Service Commission

In the Matter of the Application of KLM)
Long Distance Company and Fiber Four)
Corporation to grant KLM Long Distance)
Company d/b/a KLM Long Distance a)
Certificate of Service Authority to provide)
Interexchange and Local Exchange)
Telecommunications Service and for)
Authority to Transfer to KLM Long)
Distance Company d/b/a KLM Long)
Distance Assets of Fiber Four Corporation)
Used to Provide Service to Customers of)
Fiber Four Corporation d/b/a KLM Long)
Distance.)

Case No. TA-2000-789

STAFF RECOMMENDATION

COMES NOW the Staff of the Missouri Public Service Commission (Staff) and for its recommendation states:

1. KLM Long Distance Company ("KLMLDC"), a newly incorporated Missouri corporation, and Fiber Four Corporation ("FFC") on May 26, 2000, filed a joint application seeking orders necessary for them to effectuate the transfer of the provisioning of interexchange telecommunications services to the customers of Fiber Four Corporation d/b/a KLM Long Distance ("FFC d/b/a KLMLD") from FFC d/b/a KLMLD to KLM Long Distance Company d/b/a KLM Long Distance ("KLMLDC d/b/a KLMLD"). The Commission issued an Order Directing Notice fixing a June 22, 2000 intervention date. No parties have intervened. The Staff did not receive substitute tariff sheets required for it to make a favorable recommendation until June 23, 2000. The effective date of the tariff filed for KLMLDC d/b/a KLMLD in this case is July 10, 2000.

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2. In this case KLMLDC seeks a certificate of service authority to provide interexchange services under the alias "KLM Long Distance" (KLMLDC d/b/a KLMLD). In addition, jointly with FFC, KLMLDC seeks approval of the transfer to KLMLDC d/b/a KLMLD of the customers of FFC receiving interexchange telecommunications services pursuant to the temporary certificate of service authority this Commission issued to FFC d/b/a KLMLD in Case No. TA-2000-23. KLMLDC and FFC also seek Commission approval of the transfer of assets related to FFC's provisioning of services to customers under its alias "KLM Long Distance." Finally, FFC seeks, contemporaneous with the transfer of customers to KLMLDC d/b/a KLMLD, cancellation of its temporary certificate of service authority issued by the Commission for FFC d/b/a KLMLD in Case No. TA-2000-23.

3. In the attached Memorandum, which is labeled Appendix A, the Staff recommends that the Missouri Public Service Commission ("Commission") grant to KLM Long Distance Company d/b/a KLM Long Distance ("KLMLDC d/b/a KLMLD") a certificate to provide interexchange telecommunications services and dedicated, private line local exchange services. 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. (See §§ 392.430 and 392.440, RSMo 1994).

4. Staff also recommends that the Commission classify the company KLM Long Distance Company d/b/a KLM Long Distance ("KLMLDC d/b/a KLMLD") and its services 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. (See §392.361.2 RSMo 1994). All the services a competitive company provides must be classified as competitive. (See §392.361.3 RSMo 1994).

5. The Staff recommends that the Commission approve for KLMLDC d/b/a KLMLD the waivers listed in the joint application. These waiver citations comport with the waivers now typically listed in Commission Notices of Application for authority to provide interexchange telecommunications services. 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 RSMo. (See §§ 392.361.3 and 392.420 RSMo 1994 and § 392.185 RSMo Supp. 1999).

6. The Staff recommends approval of the tariff filed by KLMLDC d/b/a KLMLD, as substituted. The Commission is to review a tariff to assure the provisions thereof are both lawful and just and reasonable. See §§ 392.190 to 392.530, RSMo., generally and 392.200, RSMo. Supp. 1999, in particular.

7. The Staff recommends that the Commission approve the transfer to KLMLDC of the assets of FFC, including those customers receiving interexchange telecommunications services from FFC d/b/a KLMLD, needed to effectuate the transfer of the provisioning of interexchange telecommunications services to present customers of FFC d/b/a KLMLD to KLMLDC d/b/a KLMLD. The applicants have complied with the requirement of §392.300.1, RSMo. 1996 and 4 CSR 240-2.060(7)(F), that they state the impact on the tax revenues of political subdivisions. The Commission is to approve a transfer of assets from a telecommunications company so long as the transfer is not detrimental to the public interest. See §392.300.1, RSMo. 1996, and 4 CSR 240-2.060(7)(D).

8. In Case No. TA-2000-23 the Commission granted FFC d/b/a KLMLD temporary authority to provide interexchange telecommunications services and dedicated, private line local exchange services. Because the legislature, through §392.410.6, RSMo. 1996, has given the

Commission power to "issue a temporary certificate which shall remain in force not to exceed one year . . . pending the determination of an application for a certificate" and the Commission entered its order granting FFC d/b/a KLMLD a temporary certificate effective August 30, 1999, the temporary certificate issued to FFC d/b/a KLMLD will expire by operation of law on August 29, 2000. The Staff recommends the Commission enter an order, effective contemporaneously with the expiration or earlier Commission cancellation of the temporary certificate of authority to provide interexchange telecommunications services the Commission granted to FFC d/b/a KLMLD in Case No. TA-2000-23, that 1) cancels the tariff the Commission approved for FFC d/b/a KLMLD in Case No. TA-2000-23; 2) grants KLMLDC d/b/a KLMLD a certificate of authority to provide interexchange telecommunications services; 3) classifies the KLMLDC d/b/a KLMLD and its services as competitive and 4) approves the transfer of assets from FFC to KLMLDC. The Commission has the authority to modify or alter a certificate of service authority after proper procedure. See §392.410.5, RSMo. Supp. 1999.

WHEREFORE, the Staff requests the Commission to issue an order that:

- 1) effective contemporaneously with the end, by Order or operation of law, of the temporary certificate of service authority of Fiber Four Corporation d/b/a KLM Long Distance to provide interexchange and dedicated, private line local exchange services authorized in Case No. TA-2000-23, grants KLM Long Distance Company d/b/a KLM Long Distance ("KLMLDC d/b/a KLMLD") a certificate to provide interexchange telecommunications services and dedicated, private line local exchange services;
- 2) classifies the foregoing services and the company, as competitive;
- 3) approves the waivers as listed in the joint application filed in this case;

4) approves the tariff pages KLM Long Distance Company d/b/a KLM Long Distance PSC Mo. No. 1, Original Sheets 1-42 to become effective on the date its certificate becomes effective;

5) effective contemporaneously with the end, by Order or operation of law, of the temporary certificate of service authority of Fiber Four Corporation d/b/a KLM Long Distance to provide interexchange and dedicated, private line local exchange services authorized in Case No. TA-2000-23, approves the transfer to KLMLDC of the assets of FFC, including those customers receiving interexchange telecommunications services from FFC d/b/a KLMLD, needed to effectuate the transfer of the provisioning of interexchange telecommunications services to present customers of FFC d/b/a KLMLD to KLMLDC d/b/a KLMLD; and

6) effective contemporaneously with the end, by Order or operation of law, of the temporary certificate of service authority of Fiber Four Corporation d/b/a KLM Long Distance to provide interexchange and dedicated, private line local exchange services authorized in Case No. TA-2000-23, cancels the tariff approved by the Commission for Fiber Four Corporation d/b/a KLM Long Distance in Case No. TA-2000-23.

Respectfully submitted,

DANA K. JOYCE
General Counsel

Nathan Williams by M.D.P.

Nathan Williams
Assistant General Counsel
Missouri Bar No. 35512

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Certificate of Service

I hereby certify that copies of the foregoing have been mailed or hand-delivered to all counsel of record as shown on the attached service list this 26th day of June 2000.

Man Poston

DH

MEMORANDUM

To: Missouri Public Service Commission Official Case File
 Tariff File No. 200001084 Case No. TA-2000-789
 KLM Long Distance Company
 Fiber Four Corporation

From: Sherri Murphy *SM*
 Telecommunications Department

[Signature] 6/23/00
 Utility Operations Division/Date

[Signature]
 General Counsel's Office/Date

Subject: Staff Recommendation to Approve Joint Application

Date: June 23, 2000

On May 26, 2000, KLM Long Distance Company (KLM-LD) and Fiber Four Corporation (FFC), filed a Joint Application. KLM-LD requests a certificate of service authority to provide interexchange and local exchange telecommunications service, designation of those services and the company as competitive, and a waiver of certain Commission rules and statutes. KLM-LD and FFC request authority to transfer a portion of FFC's assets to KLM-LD and simultaneously cancel Fiber Four Corporation d/b/a KLM Long Distance's (FFC-KLM's) temporary certificate of service authority and tariff which were approved in Case No. TA-2000-23. The temporary certificate was granted to FFC-KLM on August 26, 1999, and is effective for up to one year.

On June 2, 2000, the Commission issued an Order Directing Notice in Case No. TA-2000-789 which established a June 22, 2000 intervention deadline for applications to intervene, requests for a hearing or comments. No parties filed in response to the Commission's Order.

Although KLM-LD requests statewide authority to provide interexchange and local exchange telecommunication service, KLM-LD proposes to provide service initially only to customers in the Deerfield, Rich Hill, Metz and Richards exchanges. KLM-LD has no pending or final judgments or decisions against it from any state or federal agency which involve customer service or rates. KLM-LD requests the same waivers as those ordinarily granted to interexchange and local exchange companies.

Regarding the application for transfer of assets, FFC proposes to transfer a portion of its assets to KLM-LD. These assets include the name "KLM Long Distance," the customers of KLM-LD and the associated billed revenues and receivables. The Asset Purchase

Agreement is attached to the Joint Application as Appendix D. The proposed transfer of assets should have no impact on the tax revenues of the political subdivisions in which the structures, facilities and equipment of the companies are located. According to the Joint Application, KLM-LD will provide service under the same rates, terms and conditions as are currently provided by FFC-KLM. Affected customers will be notified of the transfer of assets by a direct mail notice which is attached to the Joint Application as Appendix C. The notice explains the procedure for customers to use if they want to switch to another carrier.

The Staff recommends that the Commission grant KLM-LD a certificate of service authority to provide interexchange and local exchange telecommunications services and classify the company and its services as competitive.

At the request of the Staff, KLM-LD filed substitute tariff pages on June 23, 2000. The Staff has no objections to the proposed tariff, as amended, and recommends the Commission approve the following tariff pages to become effective July 10, 2000:

KLM Long Distance Company PSC Mo. No. 1
Original Sheets 1-42

Staff also recommends that the Commission approve the proposed transfer of assets and cancel FFC-KLM's temporary certificate of service authority and accompanying tariff simultaneously with the approval of KLM-LD's certificate and tariff.

**Service List for
Case No. TA-2000-789
June 26, 2000**

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