

**STATE OF MISSOURI  
PUBLIC SERVICE COMMISSION  
JEFFERSON CITY  
October 16, 2001**

**CASE NO: TA-2000-359**

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**Enclosed find certified copy of an ORDER in the above-numbered case(s).**

Sincerely,



**Dale Hardy Roberts**  
**Secretary/Chief Regulatory Law Judge**

**Uncertified Copy:**

**STATE OF MISSOURI  
PUBLIC SERVICE COMMISSION**

At a Session of the Public Service  
Commission held at its office in  
Jefferson City on the 16th day of  
October, 2001.

In the Matter of the Application of Trans  
National Telecommunications, Inc. for a  
Certificate of Service Authority to Provide  
Resold Basic Local Telecommunications Service  
in Portions of the State of Missouri and for  
Competitive Classification

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)  
) **Case No. TA-2000-359**  
) **Tariff No. 200001049**  
)  
)

**ORDER CANCELING CERTIFICATE,  
ORDER REJECTING TARIFFS,  
AND ORDER DISMISSING CASE**

This order withdraws the conditional approval of the certificate of the applicant and  
dismisses and closes the case.

On September 21, 2001, the Staff of the Missouri Public Service Commission filed  
its motion to withdraw the conditional approval of the certificate of Trans National  
Telecommunications, Inc. and close the case.

Staff's motion stated the following points:

On December 3, 1999, Trans National applied to the Commission for a  
certificate of service authority to provide basic local and local exchange  
telecommunications services in Missouri. The Commission issued its Order  
Granting Certificate to Provide Basic Local and Exchange Access  
Telecommunications Services on April 20, 2000. In its Order, the

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Commission ordered that the "certificate of service authority shall become effective when Trans National Telecommunications Inc.'s tariff becomes effective."

Trans National submitted a proposed tariff on May 15, 2000. The Staff reviewed the proposed tariff and requested that Trans National make numerous changes to the tariff to comply with Commission rules. Among the problems identified by the Staff were that the proposed tariff lacks a Customer Rights and Responsibilities Statement as well as an explanation of the territories where Trans National intends to offer service. Trans National has not filed a revised tariff reflecting the changes requested by the Staff. Counsel for Trans National filed 15 separate extension requests that have kept this case open up to the day Staff filed its motion. The last Trans National filing extended the effective date of the tariffs to October 1, 2001. For these reasons, the Staff does not recommend approval of the proposed tariff.

Prior to filing its motion to withdraw the conditional certificate and close the case, the Staff contacted counsel for Trans National and requested the revised tariffs and advised Trans National that it was preparing to file its motion. Counsel for Trans National indicated that Trans National had yet to authorize its counsel to file the revised tariff.

Under Section 392.410.6, RSMo 2000,<sup>1</sup> a certificate of service authority will become null and void if the authority granted by the certificate is not exercised within one year from issuance. The statute states: "Unless exercised within a period of one year from the issuance thereof, authority conferred by a certificate of service authority or a certificate of public convenience and necessity shall be null and void." However, as stated above, the Commission's Order granting the certificate of service authority is to become effective when Trans National's tariffs become effective. The language in the Commission's order would appear to indicate that Section 392.410 would not apply since the effectiveness of the certificate of service authority and the one-year time limit for exercising the granted authority is conditioned upon Trans National's tariffs being approved.

The Staff sees little difference between a certificate of service authority that is issued and not exercised within one year, and an instance where a company is conditionally granted a certificate and similarly fails to exercise its authority within one year. Over fifteen months have passed since the Commission granted Trans National its conditional certificate. Accordingly,

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<sup>1</sup> References to Sections of the Revised Statutes of Missouri, unless otherwise specified, are to the revision of the year 2000.

the Staff recommends that the Commission cancel Trans National's conditional certificate and issue an order closing this case.

On September 28, 2001, the Commission suspended the effective date of Trans National's tariffs to November 30, 2001, and also ordered that any party desiring to respond to Staff's motion must do so no later than October 15, 2001. No party responded to Staff's motion and the time for response has elapsed. (The Commission notes that Trans National did send a letter to the Commission, but a letter is not a pleading under the practice and procedure rules. The letter indicated that Trans National did not intend to respond to Staff's pleading.)

The Commission finds that this case may be dismissed under either Subsection (2) or (4) of Commission Rule 4 CSR 240-2.116.

Subsection (2) thereof gives the Commission the authority to dismiss a case if no action is taken in the case for ninety days and if no party requests a continuance. The subsection states that "[c]ases may be dismissed for lack of prosecution if no action has occurred in the case for ninety...days and no party has filed a pleading requesting a continuance beyond that time." The Commission finds that, since Trans National filed this case on December 3, 1999, essentially the only action it has taken is extending the effective date of its tariff. This action does not constitute prosecution of its case.

Subsection (4) of the rule governing dismissals allows the Commission to dismiss any case if it finds good cause and gives notice to the parties. The subsection states that a "case may be dismissed for good cause found by the commission after a minimum of ten...days notice to all parties involved." In this case, more than 25 days elapsed between

the time Staff filed its motion and the issuance of this order. Thus, any party wishing to respond to Staff has had more than ample time to do so.

The Commission finds that good cause for dismissing this case is clearly set forth in Staff's motion because Trans National has not exercised its authority within one year. The Commission finds that it would be reasonable to conclude that the same result should occur in this case as under the facts described in Section 392.410.6. Here the Commission finds that Trans National failed to exercise its authority within a year and this constitutes the good cause for dismissal required to be found under Commission Rule 4 CSR 240-2.116(4).

The Commission will grant Staff's motion, thereby canceling Trans National's conditional certificate and closing the case.

**IT IS THEREFORE ORDERED:**

1. That the conditional certificate approved in the Order Granting Certificate to Provide Basic Local and Exchange Access Telecommunications Services, issued by the Missouri Public Service Commission to Trans National Telecommunications, Inc. on April 20, 2000, is canceled.

2. That the tariffs filed under tariff number 200001049 on May 15, 2000, by Trans National Telecommunications, Inc. are rejected. The tariffs rejected are:

**Mo. P.S.C. No. 1**

**Original Title Page  
Original Pages 1 through 25**

3. That this case is dismissed and may be closed.

4. That this order will become effective on October 26, 2001.

**BY THE COMMISSION**

A handwritten signature in black ink, reading "Dale Hardy Roberts". The signature is written in a cursive, slightly slanted style.

**Dale Hardy Roberts  
Secretary/Chief Regulatory Law Judge**

(S E A L)

Simmons, Ch., Murray, Lumpe and Gaw, CC., concur

Hopkins, Senior Regulatory Law Judge

ALJ/Secretary: Hopkins/Beine  
Date Circulated 10-15 CASE NO. TH 2000-359  
KS  
Simmons, Chair CM-35  
Murray, Commissioner 12.05  
Lumpe, Commissioner 7/11  
Gaw, Commissioner  
Commissioner  
10-16  
Agenda Date  
Action taken: 41-0 AA  
Must Vote Not Later Than

STATE OF MISSOURI

OFFICE OF THE PUBLIC SERVICE COMMISSION

I have compared the preceding copy with the original on file in this office and  
I do hereby certify the same to be a true copy therefrom and the whole thereof.

WITNESS my hand and seal of the Public Service Commission, at Jefferson City,  
Missouri, this 16<sup>th</sup> day of Oct. 2001.

Dale Hardy Roberts  
Dale Hardy Roberts  
Secretary/Chief Regulatory Law Judge

