

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

In the Matter of the Application of)	
Looking Glass Networks, Inc. and Level 3)	
Communications, LLC to Transfer)	Case No. TO-2009-0251
Customers and Cancel Looking Glass)	
Network's Certificate of Service Authority)	
And Tariff)	

STAFF'S RESPONSE TO THE ORDER DIRECTING FILING

COMES NOW the Staff of the Missouri Public Service Commission (Staff), through Counsel, and submits this Response to the Missouri Public Service Commission (Commission), respectfully stating the following:

1. On December 15, 2008, Looking Glass Networks, Inc. (LGN) and Level 3 Communications, LLC (Level 3), together known as the Applicants, filed an Application for Transfer of Customers and Cancellation of Certificates of Service Authority and Tariff (Application). On February 2, 1999, Level 3 was granted certificates of service authority in Case No. TA-99-171, to provide local exchange and basic local telecommunication services in the state of Missouri. On September 21, 2000, LGN was granted certificates of service authority in Case No. TA-2001-55, to provide interexchange and nonswitched local exchange telecommunications services in the state of Missouri. LGN's tariff, MO P.S.C. Tariff No. 1, was also approved.
2. On December 19, 2008, the Commission issued its Order Directing Filing, allowing until January 13, 2009, for proper parties to intervene. The Order also directed Staff to file a recommendation as to the Application no later than January 23, 2009. No motions to intervene were received.

3. On January 23, 2009, the Staff filed its Recommendation in this case. Counsel for Staff noted the Application was filed pursuant to 4 CSR 240-3.520. However, the relief sought by the Applicants is in reality a merger under the Commission's merger and consolidation rule, 4 CSR 240-3.525. Nonetheless, counsel for Staff stated the Application could be analyzed as filed, as only one additional filing requirement is included under (2)(E) of the merger rule, that being the Applicants are to provide "[a]n estimate of the impact of the merger on the company's Missouri jurisdictional operations relative to the merger and acquisition in question." It was noted in the Staff's Recommendation that the Missouri jurisdictional operations will remain the same as the Application stated LGN's customers will become Level 3 customers, to receive their existing services over the same facilities.
4. Additionally, counsel for Staff noted the standard for Staff's review under 240-3.520 verses 240-3.525 is the same, whether the transaction is not detrimental to the public interest. *See State ex rel. City of St. Louis v. Public Service Com'n of Missouri*, 73 S.W. 2d 393, 400 (Mo. banc 1934).
5. Ultimately, the Staff's Recommendation found the Applicants' transaction is not detrimental to the public interest. Additionally, it stated a delinquency by Level 3 in the October 2008 remittance of Missouri Universal Service Fund (USF) charges, and that as of January 23, 2009, the January 2009 charges were not remitted. The source of Staff's information was the Missouri USF Payment Log Sheet, located on the Commission's intranet site.
6. On January 26, 2009, the Commission issued its Order directing the Applicants to file a response to the Staff's Recommendation. On February 16, 2009, Applicants filed their

Response which states that “Level 3’s October 2008 USF fund payment had been submitted prior to the filing of Staff’s Recommendation, and Level 3’s January 2009 USF payment has been made in a timely manner.”

7. Counsel for Staff has verified with Pam Nuernberger, Government Account Administrator for Central Bank, that the Applicants are current on all USF obligations.

WHEREFORE, the Staff recommends the Missouri Public Service Commission issue an order 1) approving Looking Glass Networks, Inc.’s merger with Level 3 Communications, LLC; and 2) requiring Level 3 Communications, LLC to notify the Commission when the transfer of customers is completed, thereafter Looking Glass Networks, Inc.’s certificates of authority and tariff can be cancelled by the Commission.

Respectfully submitted,

/s/ Jennifer Hernandez

Jennifer Hernandez

Legal Counsel

Missouri Bar No. 59814

Attorney for the Staff of the

Missouri Public Service Commission

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CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing have been mailed, hand-delivered, or transmitted by facsimile or electronic mail to all counsel of record this 17th day of February 2009.

/s/ Jennifer Hernandez

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AFFIDAVIT OF LISA MAHANEY

STATE OF MISSOURI)
) ss:
COUNTY OF COLE)

Lisa Mahaney, employee of the Missouri Public Service Commission, being of lawful age and after being duly sworn, states that she has participated in preparing the accompanying memorandum, and that the facts therein are true and correct to the best of her knowledge and belief.



LISA MAHANEY

Subscribed and affirmed before me this 17th day of February 2009.



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



NOTARY PUBLIC