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June 23, 2000

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FILED³

JUN 23 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. TM-2000-531

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,

Cliff E. Snodgrass
Senior Counsel
(573) 751-3966
(573) 751-9285 (Fax)

CES:sw
Enclosure
cc: Counsel of Record

BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI

FILED³

JUN 23 2000

Missouri Public
Service Commission

In the Matter of the Application of)
Innovative Telecom Corp. for an Order)
approving the transfer of its assets to)
Enhanced Global Convergence Services,)
Inc.)

Case No. TM-2000-531

STAFF RECOMMENDATION

COMES NOW the Staff of the Missouri Public Service Commission (Staff) by and through one of its attorneys, and for its Recommendation states as follows:

1. On February 25, 2000, Innovative Telecom Corp. (ITC), a competitive interexchange telecommunications carrier, filed an Application for Commission approval to transfer its assets to Enhanced Global Convergence Services, Inc. (EGCS) on a prospective basis. EGCS is also a competitive interexchange telecommunications carrier.

2. ITC was certificated in Missouri to provide intrastate interexchange services in Case No. TA-96-388. EGCS has been granted a certificate of service authority in Case No. TA-2000-530.

3. The sale of assets is governed by §392.300 RSMo 1994 and 4 CSR 240-060(7). Applicable case law provides that the Commission may approve an asset transfer if it is "not detrimental to the public interest". See State ex. rel Fee Fee Trunk Sewer, Inc. v. Litz, 596 S.W. 2d 466, 468 (Mo. App. E.D. 1980).

4. Staff has reviewed the application for asset transfer approval and has concluded that the transaction will not be detrimental to the public interest.

5. In the attached Memorandum, which is labeled Appendix A, the Staff summarizes its review of the application and recommends that the Commission enter an Order which:

A. Approves the application to transfer the assets of ITC to EGCS on a prospective basis.

Respectfully submitted,

DANA K. JOYCE
General Counsel



Cliff Snodgrass
Senior Counsel
Missouri Bar No. 52302

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 or hand-delivered to all counsel of record as shown on the attached service list this 23rd day of June, 2000.

A handwritten signature in cursive script, reading "Cliff Snodgrass", written over a horizontal line.

RECEIVED

JUN 21 2000

W H 4:35 PM

COMMISSION COUNSEL
PUBLIC SERVICE COMMISSION

MEMORANDUM

To: Missouri Public Service Commission Official Case File
Tariff File No. N/A Case No. TM-2000-531

From: Amonia Moore *AM BW*
Telecommunications Department

[Signature] *6/21/00*
Utility Operations Division/Date

2456-21-2000
Wm K Haas *6/22/00*
General Counsel's Office/Date

Date: June 19, 2000

Subject: Recommendation to Approve the Transfer of Assets from Innovative Telecom Corp. to Enhanced Global Convergence Services, Inc.

On February 25, 2000, Innovative Telecom Corp. (ITC), a competitive interexchange telecommunications carrier, filed an Application for Order Approving Transfer of Assets (Application) seeking to transfer its assets to Enhanced Global Convergence Services, Inc. (EGCS), also a competitive interexchange telecommunications carrier.

ITC was certificated to provide intrastate interexchange services in Missouri on June 12, 1996 (Case No. TA-96-388) as a provider of prepaid calling cards. ITC and EGCS consummated a transfer of assets in August of 1999 intending at that time to focus on transaction processing on behalf of other carriers rather than providing common carrier service in Missouri. Since the transfer of assets was made, ITC and EGCS have cooperated in the provision of intrastate interexchange telecommunications services in Missouri under the existing ITC certificate.

After the consummation of the asset transfer, the companies decided to focus on providing toll services by resale in Missouri, but EGCS had not yet been certificated in Missouri. On June 2, 2000, the Missouri Public Service Commission (Commission) granted EGCS a certificate of service authority effective June 7, 2000 (Case No. TA-2000-530, Tariff File No. 200000766). EGCS intends to provide interexchange telecommunications services including directory assistance and debit card services.

ITC acknowledges in the Application that "... it is now impossible to seek approval of the Missouri Commission of the transaction *in advance* of consummation . . . , [therefore] ITC is making this filing seeking approval on a *prospective* basis." (emphasis added)

Pursuant to 4 CSR 240.2 (F) – (H), the Application further states that

- (1) EGCS will provide service under the EGCS certificate.
- (2) EGCS will provide service under the EGCS tariff, and all prepaid calling cards issued by ITC will continue to be honored.
- (3) The proposed transfer of assets will not have any impact on the tax revenues of the political subdivisions in which any structures, facilities, or equipment of the companies involved in the transaction are located.
- (4) There are no pending or final judgments of any federal or state agency involving customer services or rates against the asset purchaser, EGCS.

Counsel for ITC states that ITC will defer a decision on canceling its current certificate until the MoPSC issues its order regarding this Application. Staff recognizes that the transfer of assets between ITC and EGCS has already been completed, but Staff does not feel that penalties should be assessed given that ITC is seeking approval on a prospective basis.

According to 4 CSR 240-2.060 (3), competitively classified companies are exempt from providing certain information such as public interest information in applications to merge, consolidate, or sell/transfer assets. Based on the limited information provided to the Telecommunications Department Staff (Staff), the Staff does not believe the transaction will be detrimental to the public interest since a customer can freely switch to another provider.

The purchaser, EGCS, has been granted a Certificate of Service Authority as a competitive interexchange telecommunications carrier in Missouri, therefore, Staff recommends that the Commission approve the Application to transfer the assets of ITC to EGCS, on a *prospective* basis. Staff is unaware of any other filing that may affect, or be affected by, this filing.

**Service List for
Case No. TM-2000-531
June 23, 2000**

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