



## Missouri Public Service Commission

Commissioners  
KELVIN L. SIMMONS  
Chair  
  
SHEILA LUMPE  
CONNIE MURRAY  
  
STEVE GAW

POST OFFICE BOX 360  
JEFFERSON CITY, MISSOURI 65102  
573-751-3234  
573-751-1847 (Fax Number)  
<http://www.psc.state.mo.us>

WESS A. HENDERSON  
Director, Utility Operations  
ROBERT SCHALLENBERG  
Director, Utility Services  
DONNA M. KOLILIS  
Director, Administration  
DALE HARDY ROBERTS  
Secretary/Chief Regulatory Law Judge  
DANA K. JOYCE  
General Counsel

August 23, 2001

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

FILED<sup>3</sup>  
AUG 23 2001  
Missouri Public  
Service Commission

**RE: Case No. TM-2001-628**

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,

Robert V. Franson  
Associate General Counsel  
(573) 751-6651  
(573) 751-9285 (Fax)  
[rfranson@mail.state.mo.us](mailto:rfranson@mail.state.mo.us)

RVF:ccl  
Enclosure  
cc: Counsel of Record

BEFORE THE PUBLIC SERVICE COMMISSION  
OF THE STATE OF MISSOURI

FILED<sup>3</sup>  
AUG 23 2001

Missouri Public  
Service Commission

In the Matter of the Application of Qwest )  
Communications Corporation and Certain )  
of its Affiliates for Approval of Internal )  
Corporate Restructuring )

Case No. TM-2001-628

**STAFF RECOMMENDATION**

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

1. On May 15, 2001, Qwest Communications Corporation and three of its affiliates filed with the Missouri Public Service Commission (Commission) an Application for Approval of Internal Corporate Restructuring. The three affiliates of Qwest Communications Corporation involved in these mergers are: LCI International Telecom Corp.; Phoenix Network, Inc.; and USLD Communications, Inc.

2. Qwest Communications Corporation was granted a certificate of service authority on June 1, 2000, in Case No. TA-2000-309 to provide basic local exchange telecommunications services in Missouri, was granted a certificate of service authority in Case No. TA-94-155 on February 18, 1994, to provide resold and facilities based intrastate interexchange telecommunications services and was granted a certificate of authority to provide intrastate interexchange and dedicated non-switched local exchange private line telecommunications services in Case No. TA-95-196 on May 22, 1995.

3. LCI International Telecom Corp. was granted a certificate of service authority in Case No. TA-98-8 on October 15, 1997 to provide basic local telecommunications service as a competitive telecommunications company in Missouri; and was granted a certificate of authority

to provide resold interexchange telecommunications services in Missouri in Case No. TA-89-204 on August 18, 1993.

4. LCI International Telecom Corp. currently is a wholly owned subsidiary of LCI International, Inc. LCI International, Inc. is a commonly owned affiliate of Qwest Communications Corporation. The proposed merger would involve LCI International Telecom Corp. being merged into Qwest Communications Corp. Qwest Communications Corporation would be the surviving corporation. The initial proposal sought to have any certificates of authority of LCI International Telecom Corp. transferred to Qwest Communications Corporation. This is not permitted in Missouri and LCI International Telecom Corp.'s certificates of authority should be canceled after the merger. Furthermore, no new certificates of authority are necessary since Qwest Communications Corporation already has the necessary certificates of authority but it will need to amend its tariffs to serve the customers of LCI International Telecom Corp.

5. Phoenix Network, Inc. was granted a certificate of service authority to provide intrastate interexchange telecommunications services in Case No. TA-92-217 on July 15, 1992. Phoenix Network, Inc. currently is a wholly owned subsidiary of Qwest Communications Corporation. Under the proposed transaction, Phoenix Network, Inc. will be merged into Qwest Communications Corporation. The initial proposal sought to have any certificates of authority of Phoenix Network, Inc. transferred to Qwest Communications Corporation. This is not permitted in Missouri and Phoenix Network, Inc.'s certificates of authority shall be canceled after the merger. Furthermore, no new certificates of authority are necessary since Qwest Communications Corporation already has the necessary certificates of authority but it will need to amend its tariff to serve the customers of Phoenix Network, Inc.

6. USLD Communications, Inc. was granted a certificate of service authority to provide resold intrastate interexchange telecommunications services in Case No. TA-91-390 on February 21, 1992, and received a certificate of authority to provide basic local telecommunications service as a competitive telecommunications company in Missouri on March 18, 1997, in Case No. TA-97-90. However, this certificate was withdrawn on August 24, 1998, by the voluntary dismissal of the case. USLD Communications Inc. is a directly wholly owned subsidiary of USLD Communications Corp. USLD Communications Corp., which is not a certificated telecommunications corporation, is a direct wholly owned subsidiary of LCI International, Inc. USLD Communications Corp. will merge into USLD Communications, Inc. with USLD Communications, Inc. being the surviving corporation. Accordingly, there will be no effect on the certificates or tariff of USLD Communications, Inc.

7. Staff has reviewed the application and recommends approval of the application.

8. The standard for approval of a merger is that the merger will not be detrimental to the public interest. See, In the Matter of the Application of WorldCom, Inc. and MFS Communications Company, Inc. for Approval and Plan of Merger, and Related Transactions, 5 Mo. P.S.C. 3d 312, 315 (1996).

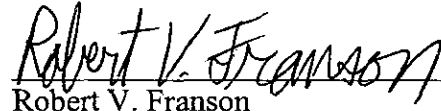
9. In the attached Memorandum, which is labeled Appendix A, the Staff recommends that the Commission find the mergers herein applied for to not be detrimental to the public interest based on the limited information in the application. Staff also recommends that the Commission grant Applicants' request for a waiver of the applicable subscriber authorization and verification requirement for the change of customers' carrier, 4 CSR 240-33.150 and not order any notice under the particular circumstances of this case.

10. Staff further recommends that the Commission issue an Order consistent with all of Staff's Recommendations in Appendix A. These recommendations involve several aspects of the merger. In addition to those recommendations Staff recommends that the Commission order Qwest Communications Corporation to amend its tariffs to set forth the rates, terms, and conditions of the tariffs of LCI International Telecom Corporation and of Phoenix Network, Inc. that are applicable to the transferred customers. Staff further recommends that Qwest Communications Corporation be ordered to file a pleading in this case immediately after the consummation of the mergers so that the certificates and tariffs of LCI International Telecom Corporation and Phoenix Network, Inc. may be cancelled.

**WHEREFORE**, the Staff recommends that the Commission issue an Order approving the mergers involving the Applicants consistent with Staff's Recommendation in Appendix A, order Qwest Communications to amend its tariffs as discussed above prior to the consummation of the merger, grant waiver of the applicable subscriber authorization and verification requirement, 4 CSR 240-33.150, and order Qwest Communications Corporation to file a pleading in this case to inform the Commission of the consummation of the merger.

Respectfully submitted,

DANA K. JOYCE  
General Counsel



Robert V. Franson  
Associate General Counsel  
Missouri Bar No. 34643

Attorney for the Staff of the  
Missouri Public Service Commission  
P. O. Box 360  
Jefferson City, MO 65102  
(573) 751-6651 (Telephone)  
(573) 751-9285 (Fax)  
e-mail: [rfranson@mail.state.mo.us](mailto:rfranson@mail.state.mo.us)

### **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 August, 2001.



MEMORANDUM

**TO:** Missouri Public Service Commission Official Case File  
Case No. TM-2001-628

**PARTIES:** Qwest Communications Corporation, LCI International Telecom Corp.,  
Phoenix Network, Inc. and USLD Communications, Inc.

**FROM:** Phil Garcia *pg*  
Telecommunications Department  
*Bin Olyett 8-21-01*  
Utility Operations Division/Date

*Wm K Hase 8/22/01*  
General Counsel's Office/Date

**SUBJECT:** Staff Recommendation for Approval of Internal Corporate Restructuring

**DATE:** August 21, 2001

**Staff Recommendation for Application Seeking Commission Approval of Competitive Company Transaction**

Staff recommends the Commission (check, as applicable):

- Approve:     Sale of assets     Merger     Consolidation     Cancel Certificate(s) & Tariff(s)  
(as shown below)

Companies (Print entire legal name of company/applicant)	Affected Customers Served By (as indicated by check mark)		Cancel (if applicable)		Grant / Approve (if applicable)	
	Pre- transaction	Post- transaction	All Certificates (identify by type: IXC, local, or basic local)	All Tariffs (identify PSC MO tariff number)	Grant Certificate (identify by type: IXC, local or basic local)	Approve Tariff (identify PSC MO tariff number)
LCI International Telecom Corp.			IXC Basic local	PSC No 1,2,3 to be adopted by QCC		
Phoenix Network, Inc.			IXC	PSC No 2 to be adopted by QCC		
USLD Communications, Inc.			No change	No change		
Qwest Communications Corporation			No change	No change		

*DW*  
08-21-01P04:23 RCVD

**Administrative Considerations:**

- Application solely involves competitively classified companies.
- No applications to intervene filed.
- Noteworthy Application Requirements:**
- Will have no impact on tax revenues pursuant to 4 CSR 240-2.060(7)(F) or 4 CSR 240-2.060(8)(F)
- Appropriate Secretary of State authorization has been submitted for all applicant (or if previously submitted, reference to prior case number).
- Missouri corporations:* A Certificate of Good Standing.
- Foreign corporations:* Authorization to do business in Missouri.
- If business conducted under a fictitious name:* A copy of Registration of the Fictitious Name. (LCI International Telecom Corp. d/b/a Qwest Communications Services)
- No pending or final judgments/decisions described in 4 CSR 240-2.060(1)(K).
- A statement that no annual report or assessment fees are overdue for any applicant.
- Requested a waiver of the "anti-slamming" rule 4 CSR 240-33.150.

Will customers experience rate increases?  Yes  No  
If yes, will customers be notified 10 days in advance of transaction taking effect?  Yes  No

Are there additional recommendations or special considerations?  Yes  No

Please See Attachment A

**Additional Staff Comments:**

*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 Staff, Staff does not believe the transaction will be detrimental to the public interest. Any transaction, solely involving competitively classified companies, is not detrimental to the public interest since a customer can freely switch to another provider.*



Attachment A

This application seeks Commission approval to consummate three mergers involving Qwest Communications Corporation is certificated, has an approved tariff, and is authorized to do business in Missouri. Qwest Communications Corporation and various of its affiliated companies and subsidiaries. The various parts of the transactions are summarized as follows:

1. LCI International Telecom Corporation is certificated, has an approved tariff and is authorized to do business in Missouri. LCI International Telecom Corporation will be merged into Qwest Communications Corporation with the surviving corporation being Qwest Communications Corporation. Applicants stated that LCI International Telecom Corporation has 7, 300 customers.
2. Phoenix Network, Inc. is certificated, has an approved tariff and is authorized to do business in Missouri. Phoenix Network, Inc. will be merged into Qwest Communications Corporation. The surviving corporation will be Qwest Communications Corporation. Applicants stated, in their July 23, 2001 filing that Phoenix Network, Inc. has about 100 business customers.
3. USLD Communications Corp., not certificated in Missouri, will be merged into USLD Communications, Inc. with the surviving corporation being USLD Communications, Inc. USLD Communications, Inc. is certificated, has an approved tariff and is authorized to do business in Missouri.

Staff had three conference calls and other communications with counsel for the Applicants to discuss Staff concerns about this case. These concerns included: customer notifications, cancellations of certificates, timing of cancellations of certificates, tariff adoptions and other matters. These conversations resulted in additional filings by the companies on July 23, 2001 and August 8, 2001.

Staff has learned from the Applicants that Phoenix Network, Inc., is currently billing customers solely as "Qwest." Staff is concerned about this since Phoenix Network, Inc. has never obtained authority from the Missouri Secretary of State to utilize a fictitious name in its business operations as required by Sections 417.200-.230 RSMo 2000 nor did it ever amend its tariffs to include this fictitious name. However, after careful consideration of this problem and considering that the Applicants are endeavoring to correct this problem in this case and that the approval of the merger would correct this problem, Staff recommends approval of the merger. Staff also notes that Phoenix only has 100 business customers.

Staff notes that LCI International Telecom. Corp. (LCI) is also billing customers under the name of "Qwest." However, LCI has obtained authority from the Missouri Secretary of State to do business under the fictitious name of "Qwest Communications Services."

Staff recommends that a waiver of the "anti-slamming" rule, 4 CSR 240-33.150, is necessary for the consummation of this merger and should be granted. The Company requested such a waiver in its Supplement to Application for Approval of Internal Corporate Restructuring that was filed on August 7, 2001. As part of the proposed merger, LCI and Phoenix customers

will be transferred to Qwest Communications Corporation. Accordingly, it is necessary that there be a waiver of 4 CSR 240-33.150. Staff has traditionally recommended to the Commission that notice about the transaction be given to customers by the Company as a condition of waiving 4 CSR 240-33.150. However, under the particular circumstances of this case, Staff recommends that notice should not be a condition of the waiver of 4 CSR 240-33.150 since it may confuse the customers and since the terms, conditions and price of service will not change for LCI and Phoenix customers. The LCI and Phoenix customers may be confused due to the fact that they are already billed solely in the name of "Qwest." It may be very confusing to suddenly receive notice that states that they are currently customers of another company (LCI or Phoenix) and that they are being transferred to Qwest when their current bills are already solely in the name of "Qwest."

The Applicants have indicated that they will adopt the tariffs of LCI and Phoenix or consolidate them into the QCC tariff as applicable (Application for Approval at 5, footnotes 5-6). Staff submits that consolidating the terms, conditions and prices of the LCI and Phoenix tariffs into the QCC tariffs would be the best way to assure that LCI and Phoenix customers continue to receive service under the same terms, conditions and price. This would necessitate the compliance filing of tariffs before the consummation of the merger.

Staff also recommends that the merger should be approved even though some of the applicants have had or still do have customer service or rate actions pending in various jurisdictions. Applicants state that no final judgments or judgments entered against applicants in the last 3 years remain unsatisfied. This merger will not bring into Missouri any telecommunications not already certificated here.

Staff recommends that LCI International Telecom Corporation's certificate be canceled at the time of the consummation of the merger and its services will be moved into the Qwest Communications Corporation tariff with no changes in rates, terms and conditions of service to LCI International Telecom Corporation customers.

Staff recommends that Phoenix Network, Inc.'s certificate is to be canceled at the time of the consummation of the merger and its services will be moved into the Qwest Communications Corporation tariff with no changes in rates, terms and conditions of service to Phoenix Network, Inc. customers.

**Service List for  
Case No. TM-2001-628  
August 20, 2001 (ccl)**

**Office of the Public Counsel  
P.O. Box 7800  
Jefferson City, MO 65012**

**Sharis Pozen  
Hogan & Hartson L.L.P.  
555 Thirteenth Street, N.W.  
Washington, DC 20004**