

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

In the matter of the Application of Startec)
Global Operating Company for Approval)
of the Merger with Startec Global)
Licensing Company and the Resulting)
Transfer of Missouri Customer Assets;)
Waiver of Commission Rule 4 CSR 240-)
33.150; and to Cancel the Certificate of)
Service Authority of Startec Global)
Licensing Company to Provide)
Telecommunications Services in Missouri)

Case No. TM-2007-0367

STAFF RECOMMENDATION

COMES NOW the Staff of the Public Service Commission, and for its recommendation in this matter, states:

1. On March 29, 2007 Startec Global Operating Company (Applicant) filed two applications: one seeking authority to provide telecommunications services (Case No. TA-2007-0366) and this case, where the company sought approval of its merger with Startec Global Licensing Company and the transfer of its long distance customer base and associated customer account information to that company.

2. The Applicant has applied for a certificate of service authority in Case No. TA-2007-0366, and contemporaneously with this filing, Staff is filing a positive recommendation in that case. Startec Global Licensing Company holds a certificate of service authority to provide intrastate interexchange telecommunications services from the Commission, granted in Case No. TA-99-226 and effective February 13, 1999. If the Commission approves the application in this case, this certificate should be cancelled at the conclusion of the matter.

3. The transfer of assets is governed by Section 392.300 and 4 CSR 240-3.520. Applicable case law provides that the Commission may “not withhold its approval of the

disposition of assets unless it can be shown that such disposition is detrimental to the public interest.” *State ex rel. Fee Fee Trunk Sewer, Inc. v. Litz*, 596 S.W.2d 466, 468 (Mo.App. E.D. 1980), citing to *State ex rel. City of St. Louis v. Public Serv. Comm’n of Mo.*, 73 S.W.2d 393, 400 (Mo. banc 1934).

4. In the attached Memorandum, the Staff summarizes its review of the transaction between the Applicant and Startec Global Licensing Company, and concludes that the transfer of assets will not be detrimental to the public interest. Staff recommends that the Commission approve the *Application*.

5. In the *Application*, the Applicant stated:

On advice of its outside consultants, Startec characterized this transaction as a change in carrier name. The Applicants now understand that Commission approval was required for the merger between SGLC and Applicant, the transfer of Customer Assets, waiver of the Commission’s anti-slamming rules, and relinquishment of SGLC’s Certification. Therefore, Applicant has endeavored to file this *Application* as soon as possible after learning that Commission authorization is required for Startec to provide telecommunications services in Missouri. Startec regrets not realizing sooner that Missouri PSC approval was required for this transaction, and apologizes to the Commission for its oversight.

Application at 4, para. 6. In order to encourage such self-reporting and in light of the company’s quick response to the discovery of its violation of the Commission’s statutes and rules requiring Commission approval of the transaction, Staff has determined not to file a complaint against the Applicant. The company has acknowledged its violation of Commission law and has agreed to pay \$100 to the Commission (payable to Director of Revenue) to transmit to the Public School Fund within ten (10) days of the Commission's approval of its *Application*, and the company or Staff will file a pleading in this case when the payment has been received so the case may be closed. Staff believes that this payment is in proportion to the harm caused because the Applicant has had minimal revenues during the approximately three-month period of violation.

As the company self-reported the violation, Staff suggests the amount is reasonable and proportionate, so as not to discourage self-reporters in the future.

6. The Applicant has requested waiver of the provisions of 4 CSR 240-33.150, the Commission's anti-slamming rule. Staff notes that the Applicants have provided copies of the notice the Applicant proposed to give to Startec Global Licensing Company's customers. *See Supplement to Application* (April 19, 2007). The Applicant has complied with part of that rule; however, as the transfer of customers has already taken place, however, Staff recommends that the Commission grant waiver of that rule, as customers will not receive notice of the "change through a notice in each subscriber's bill at least thirty (30) days prior to the effective date of the change" as required by 4 CSR 240-33.150(4)(B).

**CANCELLATION OF STARTEC GLOBAL LICENSING COMPANY'S
CERTIFICATE AND TARIFF**

7. In the *Application*, the Applicant stated that Startec Global Licensing Company is no longer providing telecommunications services to consumers within Missouri and its corporate existence has been terminated. See Paragraph 13. Accordingly, Staff recommends that should the Commission approve the Applicant's Applicant, then Startec Global Licensing Company's certificate and tariff should also be cancelled.

WHEREFORE, Staff recommends that the Commission approve the *Application*, and cancel the certificate and tariff of Startec Global Licensing Company; and upon receipt of verification that the Public School Fund has received the appropriate payment, close this case.

Respectfully submitted,

/s/ David A. Meyer

David A. Meyer
Senior Counsel
Missouri Bar No. 46620

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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 26th day of April 2007.

/s/ David A. Meyer

Memorandum

To: Missouri Public Service Commission Official Case File
Case No. TM-2007-0367, TA-2007-0366 File No. YX-2007-0733

From: Lisa Mahaney, Telecommunications Department
William Voight 4/24/07 David A. Meyer 4/24/07
Utility Operations Division/Date General Counsel's Office/Date

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

Date: 4/24/07

The Telecommunications Department Staff (Staff) recommends the Commission (check, as applicable):

- | | | |
|--|--|--|
| <input checked="" type="checkbox"/> Approve Merger
4 CSR 240-3.525 | <input type="checkbox"/> Approve Consolidation
4 CSR 240-3.525 | <input checked="" type="checkbox"/> Approve Sale of Assets
4 CSR 240-3.520 |
| <input type="checkbox"/> Approve Name Change
4 CSR 240-3.545(20) | | |
| <input checked="" type="checkbox"/> Cancel Certificate(s) & Tariff(s)
392.410.5 RSMo | <input checked="" type="checkbox"/> Approve Certificate(s) & Tariff(s)
4 CSR 240-3.510 | |

According to Commission rule 4 CSR 240-2.060 and the rule(s) specifically cited above, competitively classified companies are required to provide information in applications to merge, consolidate or sell/transfer assets. Based on the information provided to Staff, Staff does not believe this particular transaction will be detrimental to the public interest for the following reason(s) (check all that apply):

- This transaction solely involves competitively classified companies.
- Customers have/will receive advance notice.
- Customers can switch to another provider.
- Customers will continue to receive service at the same rates, terms and conditions.
- Other:

The following chart summarizes this transaction.

Companies Involved in Transaction	Customer Served By ("X", if applicable)		Sale of Assets ("X", if applicable)		Certificates* (If applicable, indicate "C" to cancel, "A" to approve)			Tariffs* (If applicable, indicate Tariff PSC MO Nos.)	
	Before	After	Seller	Buyer	IXC	Local	Basic Local	Cancel	Approve
Startec Global Licensing Company	X		X		C			No. 1	
Startec Global Operating Company		X		X	A				No. 1

*See attachment to Staff recommendation for further details associated with approving certificates or tariffs.

Merger, Consolidation, Sell or Transfer Assets

Will affected customers be switched to a different company? No Yes

Customers have been notified.

Customers will be notified of their right to transfer their service to another provider as a result of the merger. Staff recommends that the Commission grant waiver of 4 CSR 240-33.150.

Company Name Change Notification

Company has notified its customers of the name change.

Staff recommends the Commission order the Company to notify its customers at or before the next billing cycle of the name change and file a copy of the notice with the Commission.

Does this transaction involve a company in bankruptcy? Yes No

If yes, a copy of the bankruptcy order is attached.

Competitive Company Transaction Review Items

Administrative:

Application solely involves competitively classified companies.

No applications to intervene filed.

Noteworthy Transaction Application Requirements of 4 CSR 240-3.520 and 4 CSR 240-3.525:

Will have no impact on tax revenues pursuant to 4 CSR 240-3.520(F) or 4 CSR 240-3.525(F)

Appropriate Secretary of State authorization has been submitted for any applicant (or if previously submitted, reference to prior case number). Case No.

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.

- 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.

Are there additional recommendations or special considerations?

No

Yes

If yes, explain in an attachment.

- The Company is not delinquent in filing an annual report and paying the PSC assessment.
 - The Company is delinquent. Staff recommends the Commission grant the requested relief/action on the condition the applicant corrects the delinquency. The applicant should be instructed to make the appropriate filing in this case after it has corrected the delinquency.
- (No annual report Unpaid PSC assessment. Amount owed:)

The Applicant has requested waiver of the provisions of 4 CSR 240-33.150, the Commission's anti-slamming rule. Staff notes that the Applicants have provided copies of the notice the Applicant proposed to give to Startec Global Licensing Company's customers. *See Supplement to Application* (April 19, 2007). The Applicant has complied with part of that rule; however, as the transfer of customers has already taken place, Staff recommends that the Commission grant waiver of that rule, as customers will not receive notice of the "change through a notice in each subscriber's bill at least thirty (30) days prior to the effective date of the change" as required by 4 CSR 240-33.150(4)(B).

Attachment to Staff Recommendation

Is this transaction requesting the granting of certificates and approval of tariffs? No Yes
(If yes, see below. Attach additional sheets, if necessary.)

Applicant:

The applicant has met Staff's review of requirements for obtaining a certificate of service authority and tariff approval. Therefore, Staff recommends the applicant be granted the following certificate(s), as indicated below. The certificate shall be conditioned to become effective on the same date the tariff becomes effective; however no later than the approval date of the transaction involving the competitively classified companies.

certificate to provide basic local exchange telecommunications services. Granting the certificate should be based on the following conditions:

1. The applicant's originating and terminating access rates will be no greater than the lowest Commission approved corresponding access rates in effect for each ILEC within whose service area the applicant seeks authority to provide service, unless authorized by the Commission pursuant to Sections 392.220 and 392.230 RSMo.
2. The certificate and service classification for switched access service is conditioned on the continued applicability of Section 392.200 RSMo, and the requirement that any increases in switched access services rates above the maximum switched access service rates set forth herein shall be made pursuant to Sections 392.220 and 392.230 RSMo, and not Sections 392.500 and 392.510 RSMo.
3. If the directly competing ILEC, in whose service area the applicant is operating, decreases its originating and/or terminating access service rates, the applicant shall file an appropriate tariff amendment to reduce its originating and/or terminating access rates in the directly competing ILEC's service area within 30 days of the directly competing ILEC's reduction of its originating and/or terminating access rates in order to maintain the cap.

certificate to provide interexchange telecommunications services.

certificate to provide local exchange telecommunications services.*

*local exchange authority should be restricted to dedicated, private line services.

No objection to tariff taking effect MO No. 1 Effective 5/16/07

Company's Request for Expedited Treatment was granted April 9, 2007. Staff has no objection to the tariff becoming effective no later than 5/16/07 and sooner if possible.

Staff recommends the applicant and its services receive competitive classification. In addition, Staff recommends approval of the waivers normally granted to competitively classified companies (392.210.2, 392.240.1, 392.270, 392.280, 392.290, 392.300.2, 392.310, 392.320, 392.330, 392.340, 4 CSR 240-10.020, 4 CSR 240-30.040, and 4 CSR 240-3.550(5)(C) (this last rule only applies to companies providing basic local telecommunications service).

Certificate applications, if applicable:

- Statement of character of business performed.
- Application includes an affidavit.
- Applicant seeks waivers of rules or statutes previously granted to a competitively classified company.
- Applicant shows that grant of authority is in the public interest.

Additional review items for CLEC applications, if applicable:

- Possesses sufficient technical, financial and managerial resources and abilities.
- Identifies geographic area (no smaller than an exchange).
- Statement that applicant will offer basic local service as a separate and distinct service.
- Statement that applicant will give equitable access to all Missourians.

Tariff review items (applicable for all competitively classified companies):

- The tariff complies with requirements reviewed by Staff for any competitive telecommunications company tariff filing.

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 Company for Approval of the Merger with)
 Startec Global Licensing Company and the)
 Resulting Transfer of Missouri Customer)
 Assets; Waiver of Commission Rule 4 CSR)
 240-33.150; and to Cancel the Certificate of)
 Service Authority of Startec Global Licensing)
 Company to Provide Telecommunications)
 Services in Missouri)

Case No. TM-2007-0367

Application of Startec Global Operating)
 Company for a Certificate of Service Authority)
 to Provide Intrastate Interexchange)
 Telecommunications Services in the State of)
 Missouri, for Competitive Classification, and)
 for Approval of Tariff Adoption)

Case No. TA-2007-0366
 Tariff Filing No. YX-2007-0733

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

 Lisa Mahaney

Subscribed and affirmed before me this 24th day of April 2007.
 I am commissioned as a notary public within the County of Callaway,
 State of Missouri and my commission expires on 9-21-10



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

Susan L. Sundermeyer

 NOTARY PUBLIC