

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

In the Matter of the Combined Application of Teleport)
Communications America, LLC for a Certificate of)
Service Authority to Provide Basic Local Exchange,)
Non-Switched Local Exchange and Intrastate)
Interexchange Telecommunications Services within the) **File No. TA-2013-0040**
Areas Served by TCG Kansas City, Inc. and TCG)
St. Louis and of TCG Kansas City, Inc. and TCG)
St. Louis for Cancellation of Certificates of)
Service Authority)

STAFF RECOMMENDATION

COMES NOW the Staff of the Missouri Public Service Commission (“Staff”) and for its recommendation, states as follows:

1. On August 1, 2012, TCG Kansas City, Inc. and TCG St. Louis (“the TCG Companies”) and Teleport Communications America, LLC (“Teleport”) applied for Teleport to be granted a certificate of service authority to provide basic local, non-switched local and interexchange telecommunications service in the areas now served by the TCG Companies, for competitive classification, for waivers and to cancel the certificates and tariffs of the TCG Companies as of December 31, 2012.

2. The Application included sufficient information for the Staff to conclude that Teleport possesses sufficient financial, technical and managerial resources to be certificated. In addition, the Staff notes that granting the requested waivers complies with §392.420 RSMo 2009.

3. In the attached Memorandum, the Staff recommends that the Commission grant Teleport’s request for basic local, non-switched local and interexchange telecommunications service authority. The Commission shall grant an application for a certificate of

telecommunications service authority upon a finding that the grant of authority is in the public interest. §§ 392.430 and 392.440 RSMo 2000.

4. Staff also recommends that the Commission classify Teleport's services as competitive. The Commission may classify a telecommunications provider or its services as competitive if the Commission determines it is subject to sufficient competition to justify a lesser degree of regulation and that such lesser regulation is consistent with the protection of ratepayers and promotes public interest. §392.361.4 RSMo Supp. 2009. A majority of the services a competitive company provides must be classified as competitive. §392.361.3 RSMo Supp. 2009.

5. The Staff further recommends that the Commission state in its order that, pursuant to §392.410, the authority conferred by the certificate of service authority shall be null and void unless it is exercised within one year of its issuance.

6. No tariffs were submitted with the application; Teleport relies on §392.461 RSMo and will publish its rates, terms and conditions of service on its publically available web site.

7. Teleport is not delinquent in filing an annual report, paying the PSC assessment, MoUSF, and Relay Missouri.

8. The Staff recommends that the application be granted with the following conditions:

- a. The Applicant's originating and terminating access rates shall not exceed the access rates of the incumbent local exchange company against whom the Applicant is competing pursuant to §§ 392.361.6 and 392.370 RSMo Supp. 2009.
- b. 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.

- c. The Applicant will undertake all necessary measures to ensure its contracts with underlying carriers do not contain provisions preventing delivery of traffic to any telephone exchange area of Missouri. Such measures include but are not limited to:
 - 1) Prevention of call blocking and/or call gapping based on the cost of traffic termination,
 - 2) Preventing the alteration or stripping of Calling Party Number identification, and
 - 3) Ensuring sufficient network capacity exists to process all traffic according to industry accepted practices.

9. The Staff recommends that the Commission grant the waivers listed below:

- 392.210.2 Accounting requirements (system of accounts)
- 392.240.1 Reasonableness of rates
- 392.270 Accounting requirements (valuation of property)
- 392.280 Accounting requirements (depreciation rates/accounts)
- 392.290 Issuance of stocks, bonds and other indebtedness
- 392.300 Transfer of property and ownership of stock
- 392.310 Approval of issuing stocks, bonds and other indebtedness
- 392.320 Certificate of Commission to be recorded-stock dividends
- 392.330 Accounting requirements (proceeds of sales of stock, bonds, notes, etc.)
- 392.340 Company reorganization
- 4 CSR 240-3.520 Applications to sell or transfer assets
- 4 CSR 240-3.525 Applications to merge or consolidate
- 4 CSR 240-3.530 Applications to issue stocks, obtain loans
- 4 CSR 240-3.535 Applications to acquire stock
- 4 CSR 240-3.545(8)(C) Listing of Waivers in Tariff
- 4 CSR 240-3.550 Telco Records and Reports (except (5)(B), (D) and (E))
- 4 CSR 240-3.555 Residential Customer Inquiries
- 4 CSR 240-3.560 Procedure for Ceasing Operations
- 4 CSR 240-10.020 Depreciation Records
- 4 CSR 240-30.020 Residential Telephone Underground Systems
- 4 CSR 240-30.040 Uniform System of Accounts
- 4 CSR 240-32.010 General Provisions
- 4 CSR 240-32.040 Metering, Inspections and Tests
- 4 CSR 240-32.050 Customer Services
- 4 CSR 240-32.060 Engineering and Maintenance
- 4 CSR 240-32.070 Quality of Service
- 4 CSR 240-32.080 Service objectives and surveillance levels
- 4 CSR 240-32.090 Connection of equipment and Inside Wiring
- 4 CSR 240-32.100 Provision of Basic Local and Interexchange Services
- 4 CSR 240-32.130-170 Prepaid Calling Cards (except 32.140 and 32.150(1))
- 4 CSR 240-32.180-190 Caller ID blocking requirements
- 4 CSR 240-33.010 Service and Billing Practice General Provisions
- 4 CSR 240-33.040 Billing and Payment standards
- 4 CSR 240-33.045 Clear identification and placement of charges on bills
- 4 CSR 240-33.050 Deposits
- 4 CSR 240-33.060 Residential Customer Inquiries

- 4 CSR 240-33.070 Discontinuance of service
- 4 CSR 240-33.080 Disputes by Residential Customers
- 4 CSR 240-33.090 Settlement agreements with residential customers
- 4 CSR 240-33.130 Operator service requirements
- 4 CSR 240-33.140 Payphone requirements (except (2))
- 4 CSR 240-33.150 “Anti-slamming” requirements
- 4 CSR 240-33.160 Customer Proprietary Network Information

10. As part of this Application, the TCG Companies have requested that their certificates and tariffs be canceled as of December 31, 2012, when Teleport will begin serving the areas presently served by the TCG Companies. The delay is necessary so that all the necessary regulatory authorities are in place prior to the changeover. The Commission has the authority to cancel a telecommunications certificate pursuant to Section 392.410.5 RSMo 2000, which provides “[a]ny certificate of service authority may be altered or modified by the commission after notice and hearing, upon its own motion or upon application of the person or company affected.”

The Staff recommends that the certificates and tariffs be cancelled as of December 31, 2012. If they cannot be cancelled in this Application case, if the Regulatory Law Judge will so notify it, the Staff will file a motion in a decertification-denominated case that they be cancelled.

WHEREFORE, the Staff recommends that the Commission grant Teleport’s Application for basic local, non-switched local and interexchange telecommunications service authority, classify Teleport and its services as competitive, grant the listed waivers and acknowledge that Teleport may offer its proposed services to retail end-user customers without a tariff; and

WHEREFORE, the Staff recommends that the Commission grant the TCG Companies’ request to cancel their certificates of service and their tariffs as of December 31, 2012.

Respectfully submitted,



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CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing have been mailed, hand-delivered, transmitted by facsimile or electronically mailed to all counsel of record this 21st day of August, 2012.



MEMORANDUM

To: Missouri Public Service Commission Official Case File
Case No. TA-2013-0040
Teleport Communications America, LLC, TCG Kansas City Inc., and TCG St. Louis.

From: Kari Salsman
Telecommunications Department

William Voight 8-20-12
Utility Operations Division/Date

Subject: Staff's Recommendation to Approve Application to Provide Basic Local Exchange, Non-Switched Local Exchange and Interexchange Telecommunications Service of Teleport Communications America; and to Cancel Certificates of TCG Kansas City and TCG St. Louis.

Date: August 20, 2012

On August 1, 2012, Teleport Communications America (Teleport), TCG Kansas City and TCG St. Louis (collectively the TCG Companies) filed a combined Application requesting the Commission grant certificates of Basic Local Exchange, Non-Switched Local Exchange and Intrastate Interexchange Telecommunications service authority to Teleport and to simultaneously cancel the TCG Companies certificates of service authority to provide Basic Local Exchange, Non-Switched Local Exchange and Intrastate Interexchange authority.

Teleport and the TCG Companies (collectively Teleport Group) explain that its request is part of a broader, multi-state initiative to merge, effective December 31, 2012, multiple entities into a single business entity. More specifically, the intrastate regulated telecommunications services that are now provided through multiple and duplicative Teleport Group subsidiaries in several states (such as TCG Kansas City and TCG St. Louis in Missouri) will be consolidated into Teleport. The merger is entirely internal to AT&T Inc., which is and will remain the ultimate corporate parent of Teleport.

Teleport explains that its merger is entirely *pro forma* and that it does not affect the rates, terms and conditions of service to any of its customers. Under the proposal, Teleport will do business in Missouri and the TCG Companies will cease operations in Missouri.

Staff recommends the Commission grant Teleport's request for Basic Local Exchange, Non-Switched Local Exchange and Intrastate Interexchange Telecommunications authority, and for the company to be classified as a competitive telecommunications company. Staff recommends Teleport's certificate to provide Basic Local Exchange

service be predicated upon the conditions of §392.500 and §392.510 RSMo which holds that the company's originating and terminating switched access rates shall be no greater than those with whom it's competing. Staff recommends the Commission grant Teleport's request for authority to provide service in the service areas of AT&T Missouri, CenturyLink, and Windstream.

Staff further recommends the Commission cancel the requisite certificates of the TCG Companies (Local, Basic Local and Interexchange telecommunications authority). Staff notes that notwithstanding the business-as-usual nature of the transaction, Teleport has provided a notice of the merger to the TCG Companies customers (Exhibit 4 of its August 1st Application). Lastly, staff notes that both Teleport and the TCG Companies have elected to "detariff" pursuant to §392.461 RSMo. Therefore, this transaction requires no tariffs for the Commission to approve.

Teleport also requests the Commission grant waivers of certain statutes and rules to the extent necessary. Teleport lists those waivers in paragraph 20 of its Application. Staff recommends the Commission grant Teleport's request for the requisite waivers.

The Staff is unaware of any other matter that affects, or that would be affected by, this matter. Staff recommends the Commission approve Teleport's request at the Commission's earliest convenience.

Under penalty of perjury, I affirm that the above statement is true and correct.



KARI SALSMAN