



Missouri Public Service Commission

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June 28, 2001

FILED³

JUN 28 2001

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. TA-2001-350

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
Assistant General Counsel
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RVF:ccl
Enclosure
cc: Counsel of Record

BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI

FILED²

JUN 28 2001

Missouri Public
Service Commission

In the Matter of the Application of Everest)
Midwest Licensee LLC for Authority to)
Provide Basic Local Telecommunications)
Services and to Provide Intrastate)
Interexchange and Non-Switched Local)
Exchange Telecommunications Services)
Within the State of Missouri.)

Case No. TA-2001-350

STAFF RECOMMENDATION

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

1. In the attached Memorandum, which is labeled Appendix A, the Staff recommends that the Missouri Public Service Commission (Commission) grant Everest Midwest Licensee LLC (Applicant) a certificate of authority to provide interexchange telecommunications services and a certificate to provide local exchange telecommunications services restricted to dedicated, private line services. The Staff also recommends that the Commission grant Applicant a certificate to provide basic local telecommunications services subject to the conditions contained in the Staff's Memorandum. 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. (See §§ 392.430 and 392.440 RSMo 2000.)

2. Staff also recommends that the Commission classify the Applicant and its 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. (See §392.361.4 RSMo 2000.) All the services a competitive company provides must be classified as competitive. (See §392.361.3 RSMo 2000.)

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3. Staff further recommends that the Commission grant Applicant waivers of all of the standard waivers for competitive basic local exchange and interexchange carriers. The Commission may waive the application of its rules and certain statutes if the Commission determines that waiver is consistent with the purposes of Chapter 392 RSMo. (See §§ 392.361.5, 392.420 and 392.185 RSMo 2000.)

4. Finally, Staff recommends that the Commission grant approval of the Applicant's adoption of tariffs in Case Nos. TT-2001-352, TT-2001-353 and TT-2001-354. These are Interexchange Services Tariff P.S.C. Mo. No. 1, Local Exchange Services Tariff P.S.C. Mo. No. 2 and Exchange Access Tariff P.S.C. Mo. No. 3. All of these tariffs have proposed effective dates of August 6, 2001.

WHEREFORE, Staff recommends that the Commission grant Everest Midwest Licensee LLC certificates to provide interexchange telecommunications services and local exchange telecommunications services restricted to dedicated, private line services, grant Applicant a certificate to provide basic local telecommunications services subject to the conditions contained in the Staff's Memorandum, grant Applicant competitive classification, approve Applicant's adoption of tariffs in Case Nos. TT-2001-352, TT-2001-353 and TT-2001-354, and approve all of the standard waivers for competitive basic local exchange and interexchange carriers.

Respectfully submitted,

DANA K. JOYCE
General Counsel

Robert V. Franson by WKT
Robert V. Franson
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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 28th day of June, 2001.

Wms K Hoas

MEMORANDUM

To: Missouri Public Service Commission Official Case File

Case No.: TA-2001-350

Case No.: TT-2001-352

File No.: 200100623

Case No.: TT-2001-353

File No.: 200100624

Case No.: TT-2001-354

File No.: 200100625

Everest Midwest Licensee LLC

Docket ID: U5188

From: Arthur P. Kuss *APK*
Telecommunications Department

Bruce Vayt 6-25-01
Utility Operations Division/Date

RF 6/22/01
Wm K. Hoan 6/28/01
General Counsel's Office/Date

Subject: 1. Staff Recommendation to Approve Certificates of Service Authority to Provide Basic Local and Interexchange Telecommunications Services

2. Staff Recommendation to Approve the Adoption of:

(200100623) Interexchange Services Tariff Missouri P.S.C. Mo. No. 1

(200100624) Local Exchange Services Tariff Missouri P.S.C. Mo. No. 2

(200100625) Exchange Access Tariff Missouri P.S.C. Mo. No. 3

Date Filed: December 06, 2000

Effective Date:

August 06, 2001

Date: June 22, 2001

On December 06, 2000, Everest Midwest Licensee LLC, (Everest ML) submitted to the Public Service Commission (Commission) an Application for Authority to Provide Basic Local Telecommunications Services and to Provide Intrastate Interexchange and Non-Switched Local Exchange Telecommunications Services within the State of Missouri (Application). Everest ML and Everest Connections Corporation (Everest CC), a competitive Interexchange telecommunications Carrier (IXC), are wholly-owned subsidiaries of Everest Global Technologies Group, LLC (Everest GTG).

Filed concurrently are Notices of Adoption under associated case numbers and tariff file numbers as listed above, and with corresponding revised tariff Title Pages, to provide tariffed services under the same rates, terms, and conditions as are now under the name of Everest CC, for:

- Interexchange Services Tariff P.S.C. Mo. No. 1
- Local Exchange Services Tariff Missouri P.S.C. Mo. No. 2
- Exchange Access Tariff Missouri P.S.C. Mo. No. 3

DA
6/29/01 11:03 AM - Returned

06-29-01 11:03 AM

Appendix A

On January 12, February 02, February 13, March 08, March 28, April 10, June 07, and then June 19, 2001, Everest ML filed requests to **extend** the Effective Date of the proposed tariffs to February 19, March 01, March 19, April 13, April 24, June 22, July 23, and then August 06, 2001, respectively.

On December 06, 2000, Everest ML submitted a Motion for Protective Order to allow filing of its confidential information. On December 19, 2000, the Commission issued an **Order Granting Protective Order** by which Everest ML was authorized to file confidential information. On December 29, 2000, the Staff of the Commission notified Everest ML that its financial exhibits failed to meet the financial qualifications for authorization to provide Local Exchange services. On January 31, 2001, Everest ML submitted a **Supplement to Application** (Supplement) in which financial information was filed under protective seal. As of February 14, 2001, the Financial Analysis Department has determined that Everest ML **does meet** the required minimum financial qualifications for Competitive Local Exchange Carrier (CLEC) applicants.

On December 12, 2000, the Missouri Public Service Commission (Commission) issued a **Notice of Applications** that established an intervention deadline of January 11, 2001 for Case No. TA-2001-350. No parties filed to intervene in the case.

On June 19, 2001, Everest ML submitted Original Title Pages and replacement Original Notice of Adoption Pages for each of the proposed tariffs, all pages showing the same, latest, requested Effective Date to support filing consistency and clarity.

I. Background

Everest ML requests classification as a competitive telecommunications carrier and proposes to provide resold and facilities-based interexchange, non-switched local exchange, and basic local telecommunications services throughout certain portions of Missouri that are currently served by the incumbent local exchange carriers (ILECs) Southwestern Bell Telephone Company (SWBT), GTE Midwest d/b/a Verizon (Verizon), and Sprint Missouri, Inc., d/b/a Sprint.

Everest ML seeks authority to provide local exchange services within the proposed service territory of ILEC exchanges as listed in the incumbent provider's respective local exchange tariffs. Everest ML intends to provide all forms of basic local exchange telecommunications services to all customers in the State of Missouri.

Everest ML has submitted copies of its Certificates of Good Standing from the Missouri Secretary of State, descriptions of the qualifications and experience of Everest ML's key management and technical personnel, and a copy of Everest ML's financial statements (under protective order).

Everest ML's Application states that it will comply with all billing, quality of service, and tariff requirements of the Commission. The Application also states that Everest ML will offer basic local telecommunications service as a separate and distinct service, and give consideration to equitable access for all Missourians within the geographic area in which it proposes to offer

basic local service, regardless of where they live or their income. As required by 4 CSR 240-2.060, Everest ML provided statements declaring it had no pending action or final unsatisfied judgments, and no overdue annual reports/assessment fees.

On December 20, 2000, Everest ML filed an **Amendment to Application** to list the waivers of Statutes and Regulations being requested, each of which has been previously granted to a competitively classified company. Everest ML requested waivers of the following Missouri Statutes and Commission Regulations:

Missouri Statutes

| | |
|--------------------|--|
| Section 392.210.2 | Uniform System of Accounts. |
| Section 392.240(1) | Setting just and reasonable rates. |
| Section 392.270 | Valuation of Property. |
| Section 392.280 | Depreciation Accounts. |
| Section 392.290 | Issuance of Securities. |
| Section 392.300.2 | Acquisition of Stock. |
| Section 392.310 | Stock and Debt Issuance. |
| Section 392.320 | Stock Dividend Payment. |
| Section 392.330 | Issuance of Securities, Debts and Notes. |
| Section 392.340 | Reorganization. |

PSC Regulations

| | |
|------------------------|--|
| 4 CSR 240-10.020 | Depreciation Fund Income. |
| 4 CSR 240-30.010(2)(C) | Posting of exchange rates at central operating offices. |
| 4 CSR 240-30.040 | Uniform System of Accounts. |
| 4 CSR 240-32.030(4)(C) | Filing of exchange boundary maps (for IXC certification only). |
| 4 CSR 240-33.030 | Informing customers of lowest priced services. |
| 4 CSR 240-35 | Reporting of bypass. |

II. Other Filings.

Everest CC has been certificated to provide *interexchange* telecommunications services under **Case No. TA-2000-623**, approved by the Commission on June 06, 2000. Everest CC also has been certificated to provide *local exchange* telecommunications services under **Case No. TA-2000-452**, approved by the Commission on April 27, 2000. At the present time, Everest CC has **no** Missouri customers.

On November 15, 2000, Everest CC and Everest ML submitted an Application for approval of transfer of certain assets from Everest CC to Everest ML, under **Case No. TM-2001-313**. This Application was withdrawn on June 22, 2001. Under that filing, it is to be established that Everest ML will become the provider of services to enduser customers within Missouri, and Everest CC will transfer all functions required to provide enduser customer services to Everest ML. Also under that filing, Everest ML is to adopt all interconnection agreements concluded between Everest CC and other carriers. Additionally, Everest ML submitted copies of its Certificates of Good Standing from the Missouri Secretary of State with that filing.

III. Summary Recommendation.

The Telecommunications Department Staff (Staff) has reviewed Everest ML's Application and concludes that:

1. Everest ML possesses sufficient technical and managerial resources to provide interexchange, non-switched local exchange and basic local exchange telecommunications service. In Exhibits B, and D to its Application, Everest ML demonstrates its managerial and technical resources and abilities.
2. Everest ML possesses sufficient financial resources to provide basic local exchange telecommunications service. In the Supplement to its Application, Everest ML demonstrates its financial resources and abilities.
3. Everest ML has sufficiently identified the geographic area in which it proposes to offer basic local service, and the area follows exchange boundaries of the ILECs and is no smaller than an exchange.
4. Everest ML will provide basic local exchange service as a separate and distinct service.
5. Everest ML has demonstrated that the services it proposes to offer satisfy the minimum standards established by the Commission and that it will comply with those minimum standards.
6. Everest ML will provide equitable access to affordable telecommunications services for all Missourians, regardless of where they live or their income.

Therefore, the Staff recommends the Commission grant Everest ML a Certificate of Service Authority to Provide Basic Local Telecommunications subject to the following conditions:

1. If Everest ML provides access service, its 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 Everest ML seeks authority to provide service, unless authorized by the Commission pursuant to Sections 392.220 and 392.230 RSMo.

2. The service authority and service classification for switched exchange access should be granted conditioned on the continued applicability of Section 392.200 RSMo, and the requirement that any increases in switched access service 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. Staff recommends that the Commission order that if the directly competing ILEC, in whose service area Applicant is operating, decreases its originating and/or terminating access service rates, 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 thirty (30) days of the directly competing ILEC's reduction of its originating and/or terminating access rates in order to maintain the cap.
4. Staff recommends the Commission grant Everest ML waivers of all the standard waivers for competitive basic local exchange and interexchange carriers.
5. Staff recommends approval of Everest ML's adoption of tariffs in Case Nos. TT-2001-352, TT-2001-353 and TT-2001-354.
6. Staff recommends that Everest ML be classified as a competitive telecommunications carrier and that Everest ML's certificates become effective when its tariffs become effective.
7. Staff recommends that Everest CC's certifications as a competitive telecommunications carrier be cancelled when Everest ML's certificate and tariffs become effective.

In addition, Staff recommends the applicant be granted the following additional certificate(s), as indicated below, to be effective on the same date the tariff becomes effective:

1. Certificate to provide interexchange telecommunications services.
2. Certificate to provide local exchange telecommunications services by which local exchange authority is restricted to dedicated, private line services.

Except as noted above, the Telecommunications Department Staff (Staff) is unaware of any other filings that may affect, or be affected by, this filing.

**Service List for
Case No. TA-2001-350
June 28, 2001 (ccl)**

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