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October 8, 2004

**FILED<sup>2</sup>**  
OCT 08 2004  
Missouri Public  
Service Commission

The Honorable Dale Hardy Roberts  
Secretary/Chief Regulatory Law Judge  
Missouri Public Service Commission  
P.O. Box 360  
Jefferson City, MO 65102-0360

Re: The Staff of the Missouri Public Service Commission v.  
Lockheed Martin Global Telecommunications Services, Inc.  
Case No. TC-2004-0415

Dear Judge Roberts:

Enclosed for filing in the referenced matter please find the original and five copies of Suggestions in Opposition to Staff Motion for Summary Disposition.


Would you please bring this filing to the attention of the appropriate Commission personnel.

Please contact me if you have any questions regarding this matter. Thank you.

Very truly yours,

NEWMAN, COMLEY & RUTH P.C.

By:

  
Mark W. Comley  
comleym@ncrpc.com

MWC:ab

Enclosure

cc: Office of Public Counsel  
David Meyer  
Winafred Brantl

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

**FILED<sup>2</sup>**  
OCT 08 2004  
Missouri Public  
Service Commission

The Staff of the Missouri Public Service )  
Commission, )

Complainant, )

Case No. TC-2004-0415

v. )

Lockheed Martin Global )  
Telecommunications Services, Inc., )

Respondent. )

In the Matter of Lockheed Martin Global )  
Telecommunications Services, Inc.'s 2002 )  
Annual Report to the Commission as an )  
Interexchange Telecommunications )  
Carrier, )

Case No. XE-2004-0488

**SUGGESTIONS IN OPPOSITION TO  
STAFF MOTION FOR SUMMARY DISPOSITION**

Comes now Lockheed Martin Global Telecommunications Services, Inc., Respondent in the leading consolidated case above captioned (hereinafter "Respondent" or "LMGTS"), by its undersigned counsel, and pursuant to 4 CSR 240-2.085 hereby files these suggestions opposing Staff's Motion for Summary Disposition. ("Motion"). LMGTS submits that grant of summary disposition at this time would be premature and inconsistent with the demands of due process for this proceeding.

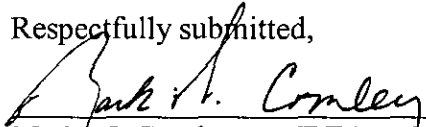
As LMGTS has attested earlier in this proceeding, its failure to submit the company's 2002 annual report was inadvertent and not a willful or deliberate act of intention. The company had ceased operations, had no customers and was being taken through the process of unwinding,

surrendering its telecommunications certificates and corporate authority in approximately forty states. When LMGTS understood that it had failed to file the 2002 report, the company took steps to remedy the oversight. Since the issuance of the Staff complaint earlier this year, LMGTS has taken pro-active steps to cooperate with Staff in resolving the matter, initiating negotiations which led to the Company's proposal of a generous settlement offer, reflecting its understanding of the gravity of the matter while exceeding by immeasurable degree the assessment which would have been due had the company filed its report on time. LMGTS understands that the imperative for timely submission of annual reports demands that noncompliance incur meaningful penalties; however the Company also believes that the facts and circumstances surrounding each carrier's noncompliance are relevant to the Commission's determinations and to the level of penalty sought for that carrier.

As Staff persuasively demonstrated earlier this year in its Suggestions in Support of the Stipulation and Agreement, the Commission has a considerable discretion regarding how to apply the statutory mandates pertaining to annual reports, including (but not limited to) whether to require the reports and when to deem them actually due (even to the extent of being able to change the deadline after it has passed). Consequently, it follows logically that in determining whether and in what manner to exercise its discretion, the Commission must be provided with a complete record for each carrier's noncompliance. Staff's argument that the entire proceeding rides solely upon a single factor – whether or not the carrier filed its report on time – overlooks much of Staff's own research regarding the Commission's discretionary authority to apply the statutes in a manner appropriate to a particular case.

WHEREFORE, LMGTS respectfully requests that the Commission deny Staff's Motion for Summary Disposition of this Case.

Respectfully submitted,

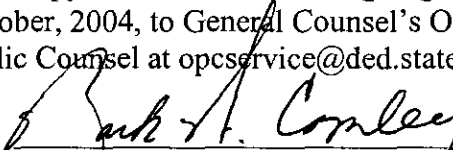


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ATTORNEYS FOR Lockheed Martin Global  
Telecommunications Systems, Inc.

**CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of the above and foregoing document was sent via e-mail on this 8<sup>th</sup> day of October, 2004, to General Counsel's Office at [gencounsel@psc.state.mo.us](mailto:gencounsel@psc.state.mo.us); Office of Public Counsel at [opcservice@ded.state.mo.us](mailto:opcservice@ded.state.mo.us).

  
Mark W. Comley