

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

In the Matter of the Application of)	
PAETEC Communications, Inc., and)	
American Long Lines, Inc. for Approval)	Case TM-2006-0210
of Merger, Discontinuance of Service, and)	
Cancellation of Authority)	

STAFF RECOMMENDATION

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

1. On November 16, 2005, PAETEC Communications, Inc. ("PAETEC") and American Long Lines, Inc. jointly filed an application ("Joint Application") seeking approval of a transaction where the two entities, both wholly-owned subsidiaries of a common owner, will merge with PAETEC as the survivor. Customers of American Long Lines, Inc. will receive service from PAETEC at the conclusion of the transaction.

2. PAETEC holds a certificate of service authority to provide intrastate interexchange telecommunications services from the Commission, granted in Case No. TA-99-379 and effective May 17, 1999. American Long Lines, Inc. originally received a certificate of service authority to provide intrastate interexchange telecommunications services in Case No. TA-97-363, as noted in the Joint Application. That initial certificate has been supplanted by the one granted in Case No. XA-2003-0163, effective December 16, 2002, as a result of an earlier merger approved in Case No. XM-2003-0178. This is the certificate that should be cancelled at the conclusion of the transaction.

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 PAETEC and American Long Lines, Inc. and concludes that the transfer of assets will not be detrimental to the public interest. Staff recommends that the Commission approve the *Joint Application*.

5. Staff notes that the Applicants have provided copies of the notice given to American Long Lines, Inc. customers and it is attached as part of Appendix A to Staff’s Memorandum. See also paragraph 6 and Appendix C of the *Joint Application*. In light of this notice and the other representations made in that paragraph, Staff recommends waiver of the provisions of 4 CSR 240-33.150, the Commission’s anti-slamming rule.

CANCELLATION OF AMERICAN LONG LINES, INC.’S CERTIFICATE AND TARIFF

6. In the *Joint Application*, the parties state that American Long Lines, Inc. will “discontinue AMLL’s operations in Missouri.” *Joint Application*, para. 5. In the conclusion to the Joint Application, the Applicants request that “only upon notice from PAETEC to the Commission of the transaction, cancel AMLL’s authorization to provide telecommunications service in Missouri after completion of the proposed merger[.]” Accordingly, Staff requests the Commission to require the Joint Applicants to notify the Commission when the transfer of customers has been completed so American Long Lines, Inc.’s certificate and tariff may be cancelled. Upon receiving that notification, the certificate and tariff should be cancelled.

WHEREFORE, Staff recommends that the Commission approve the application and direct the parties to notify it when the transaction is complete so the certificate of service

authority granted to American Long Lines, Inc. and any associated tariffs may be cancelled.

When that notification takes place, the certificate and tariff should be cancelled.

Respectfully submitted,

DANA K. JOYCE
General Counsel

/s/ David A. Meyer

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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 7th day of December 2005.

/s/ David A. Meyer

Memorandum

To: Missouri Public Service Commission Official Case File
Case No. TM-2006-0210

PAETEC Communications, Inc. and American Long Lines, Inc.

From: Sherri Kohly, Telecommunications Department

William L. Voight 12/06/05

/s/ David A. Meyer 12/06/05

Utility Operations Division/Date

General Counsel's Office/Date

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

Date: December 6, 2005

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

☒ **Approve Merger** ☐ **Approve Consolidation** ☐ **Approve Sale of Assets**

☐ **Approve Name Change**

☒ **Cancel Certificate(s) & Tariff(s)** ☐ **Approve Certificate(s) & Tariff(s)**

According to Commission rules, competitively classified companies are required to provide minimal 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. This transaction solely involves competitively classified companies and is not detrimental to the public interest since a customer has/will receive advance notice and can freely switch to another provider. 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
PAETEC Communications, Inc.		X		X					
American Long Lines, Inc.	X		X			C		PSC MO. 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 and a copy of the notification is attached to this Staff Recommendation.☒ Customers will be notified at least 30 days prior to being switched to a different company. (4 CSR 240-3.525) A copy of the notification is attached to this Staff Recommendation.☒ Yes☐ No**Company Name Change Notification**☐ Company has notified its customers of the name change. A copy of the customer notice is attached.☐ 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:)