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In the Matter of the Application of TCG St. Louis)
for a Certificate of Service Authority to Provide)
Basic Local Telecommunications Services in Those) Case No. TA-96-345
Portions of St. Louis LATA No. 520 Served by)
Southwestern Bell Telephone Company.)
)

TCG St. Louis (TCG) filed a proposed tariff (File No. 9800213) in this case on September 16, 1997, for Commission approval. This tariff filing (P.S.C. Mo. No. 2) describes TCG's basic local exchange service and intraLATA toll service offerings. The original effective date was October 16. TCG submitted substitute sheets on October 2, October 27, and November 5, and extended the effective date to November 8.

On October 3 TCG filed a second tariff (File No. 9800263) for Commission approval, with an effective date of November 3. TCG filed substitute sheets on October 21, 27 and 29, and extended the effective date to November 8. This tariff filing (P.S.C. Mo. No. 3) describes TCG's switched access service offerings.

TCG is currently certificated to provide intrastate interexchange services and local exchange services limited to dedicated, nonswitched private line services in Missouri. TCG's interexchange tariff (P.S.C. Mo. No. 1) is already on file with the Commission. Because TCG's interexchange services are proposed to be limited to dedicated, nonswitched, private line

services, TCG submitted a request on October 27 to cancel P.S.C. Mo. No. 1 upon approval of P.S.C. Mo. No. 3.

TCG's filings are submitted pursuant to the Commission's February 11 Report and Order in this case that granted TCG a certificate of service authority to provide basic local telecommunications services subject to the conditions stated in the Report and Order. The February 11 Report and Order temporarily waived the filing of a 45-day tariff as required by 4 CSR 240-2.060(4)(H) until TCG entered into a Commission-approved interconnection agreement that enabled it to provide basic local exchange services, and ordered TCG to file tariff sheets for approval no later than 30 days after the Commission approves the required interconnection agreement(s).

TCG filed a notice with the Commission on October 10 that it has adopted the interconnection agreement between Brooks Fiber Communications of Missouri, Inc. (Brooks Fiber) and Southwestern Bell Telephone Company (SWBT), in its entirety. Together with this filing, TCG submitted an executed interconnection agreement with SWBT. The Commission has not yet approved or otherwise ruled on this interconnection agreement, which is the subject of Case. No. TO-98-154 (the "interconnection case"). SWBT filed an application to intervene in the interconnection case on October 21, which is the subject of a separate Commission order being issued in Case No. TO-98-154 simultaneously with this order.

On October 30, the Staff of the Commission (Staff) filed its recommendation to approve the tariffs submitted by TCG. In its recommendation, Staff noted that TCG's P.S.C. Mo. No. 2 tariff contains a \$3.00 monthly charge for TCG's interim number portability service which is designed to allow customers of TCG to port a TCG telephone number to

another connecting local exchange company should a TCG customer desire to switch to another local exchange company. Staff stated that it is not aware of other local exchange carriers in Missouri who charge connecting local exchange companies for this service.

In connection with P.S.C. Mo. No. 3, Staff pointed out that TCG's method of calculating switched access is premised on a manner similar to the method proposed by SWBT and denied by the Commission in Case No. TR-95-342, namely a method of flat rate pricing of transport and entrance facilities in instances where SWBT's charges are based on actual minutes of use. In addition, Staff noted that SWBT and TCG had different methods of calculating switched access, because certain rate elements (e.g., carrier common line charge) are utilized by SWBT but not by TCG, and certain rate elements (e.g., end office charge) are utilized by TCG but not by SWBT. In order to determine whether TCG's P.S.C. Mo. No. 3 complies with the condition in the Commission's February 11 Report and Order requiring TCG to use originating and terminating switched access rates no greater than the lowest Commission-approved corresponding access rates for the large incumbent local exchange carrier in its service areas, Staff made certain assumptions about minutes of use and determined that TCG's proposed access rates are unlikely to be greater than those of SWBT.

Finally, Staff noted that TCG proposes to offer basic local service to business customers only. The Commission's February 11 Report and Order reflected TCG's statement in its application that TCG would voluntarily participate in the Commission's Lifeline program.

Staff noted in its memorandum that Case No. TO-98-154 is pending, but nevertheless recommended approval of both tariffs.

MCI Telecommunications Corporation (MCI), a party to this case, filed a motion to suspend or reject TCG's P.S.C. Mo. No. 2 filing on November 5. MCI alleged that the Commission decided in Case No. TO-97-40 that there should not be current charges for interim number portability, but rather that companies should keep track of their interim number portability costs for purposes of a future proceeding. MCI asserted that the Commission should not unlawfully discriminate in favor of TCG and against other companies by establishing different rules and practices concerning interim number portability cost recovery. MCI has notified the Commission that it intends to withdraw its motion if TCG eliminates its interim number portability charge by the filing of a revised Original Sheet 95 of the tariff. TCG filed a revised Original Sheet 95 to P.S.C. Mo. No. 2 on November 5. Whether or not MCI's motion remains pending, or all of the interim number portability charge provisions have been removed, however, the Commission will suspend TCG's tariff for the reasons discussed below.

The Commission has reviewed TCG's proposed tariff filings, the case papers in Case Nos. TA-96-345 and TO-98-154, Staff's recommendation and MCI's motion. Approval of TCG's proposed tariffs is inappropriate at this time in that approval of the tariffs necessarily depends upon approval of TCG's interconnection agreement with SWBT. Pursuant to the federal Telecommunications Act of 1996 ("the Telecommunications Act"), 47 U.S.C. Sections 252(e)(2)(A) and 252(e)(4), the Commission has jurisdiction until January 8, 1998 (90 days after the submission of the interconnection agreement to the Commission) to determine whether the agreement or any portion thereof discriminates against a telecommunications carrier not a party to the agreement, or whether the implementation or any portion

thereof is inconsistent with the public interest, convenience, and necessity. Although Staff has already filed its recommendation in the interconnection case, SWBT, and possibly other parties, will be permitted to participate without intervention and will be given an opportunity to file comments and request a hearing. Without knowing whether the underlying interconnection agreement meets the requirements of the Telecommunications Act, the Commission cannot meaningfully review any tariffs which are based upon it or determine the sufficiency of such tariffs.

Moreover, the Commission needs additional time to review the access rates proposed by TCG in P.S.C. Mo. No. 3 and to compare them with the access rates charged by SWBT. The Commission will also examine whether TCG should be required to include Lifeline services in P.S.C. Mo. No. 2. The issues raised by Staff and MCI concerning TCG's proposed current charges for interim number portability are important, as well. Although TCG filed a revised Original Sheet 95 on November 4, indicating that it does not intend to charge for this service, the Staff has not yet had time to review the revised sheet or time to file a memorandum with the Commission concerning whether the interim number portability charge appears elsewhere in the tariff.

The Commission finds that the proposed tariffs should be suspended in their entirety for at least 60 days following the date on which the Commission loses its jurisdiction over Case No. TO-98-154, to permit TCG to refile its tariffs if necessary and for Staff to make recommendations on any new or revised tariff provisions. The Commission finds that the entire proposed tariffs should be suspended for approximately 120 days beyond the effective date of November 8 to March 9, 1998, or until otherwise ordered by this Commission. The Commission will schedule an early

prehearing conference, and set a date for the parties to offer a procedural schedule.

IT IS THEREFORE ORDERED:

1. That the effective date of the following tariff sheets, submitted on September 16 and October 3, 1997, and subsequently replaced and revised by TCG St. Louis, is suspended to March 9, 1998, or until otherwise ordered by this Commission:

Local Exchange Services P.S.C. Tariff No. 2,
Original Title Page through Original Sheet 97

Access Services P.S.C. Tariff No. 3,
Original Title Sheet through Original Sheet 64

2. That the tariffs submitted by TCG St. Louis shall not be rejected at this time.

3. That any pending motion requesting relief inconsistent with this order is denied.

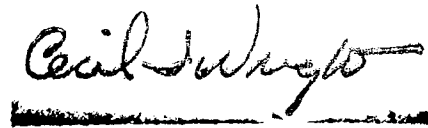
4. That the Commission will conduct an early prehearing conference on Wednesday, November 26, 1997, at 10:00 a.m. in the Commission's hearing room on the fifth floor of the Harry S Truman State Office Building, 301 West High Street, Jefferson City, Missouri.

5. That anyone wishing to attend the prehearing conference who has special needs as addressed by the Americans With Disabilities Act should contact the Missouri Public Service Commission at least ten (10) days before the prehearing or hearing at one of the following numbers: Consumer Services Hotline — 1-800-392-4211 or TDD Hotline — 1-800-829-7541.

6. That the parties shall file a proposed procedural schedule no later than December 11, 1997.

7. That this order shall become effective on November 6, 1997.

BY THE COMMISSION

A handwritten signature in dark ink, appearing to read "Cecil I. Wright", is written over a thick, dark horizontal line.

Cecil I. Wright
Executive Secretary

(S E A L)

Lumpe, Ch., Crumpton, Drainer
and Murray, CC., concur.

Randles, Regulatory Law Judge