

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

In the Matter of the Application of ATX)	
Licensing, Inc. for a Certificate of Service)	Case No. XA-2005-0272
Authority to Provide Competitive Intrastate)	Tariff No. YX-2005-0614
Interexchange Telecommunications Services)	
including within the State of Missouri)	

STAFF RECOMMENDATION

COMES NOW the Staff of the Missouri Public Service Commission and states:

1. In the attached Memorandum, labeled Appendix A, the Staff recommends that the Missouri Public Service Commission grant ATX Licensing, Inc. (Applicant) a certificate of service authority to provide intrastate, interexchange telecommunications services. 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).

2. The Applicant had commenced providing intrastate, interexchange telecommunications services without a certificate from the Commission to branch offices of a non-Missouri business, incidental to services it provides to that customer. As soon as the Applicant realized this service was being offered inappropriately, the Applicant filed its application. Staff believes granting a certificate is appropriate in this situation because it will encourage companies to come forward immediately to disclose and rectify their errors. However, the Applicant should be on notice that further violations of the Commission's statutes and regulations will not be tolerated.

3. Staff also recommends that the Commission classify the Applicant and the services it proposes to offer in its *Application* 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. §392.361.4. All the services a competitive company provides must be classified as competitive. §392.361.3.

4. Staff further recommends that the Commission grant the waivers listed in the *Notice of Applications*. In its Application, the Applicant requested the waiver of 4 CSR 240-30.010(2)(c). The Commission rescinded that regulation as of April 30, 2003. Staff does not recommend that the Commission grant a waiver of that regulation, and the regulation was not listed on the Commission's *Notice of Applications*. 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. §§ 392.185, 392.361.5 and 392.420.

5. Finally, Staff recommends that the Commission grant approval of the Applicant's proposed tariff, MO P.S.C. TARIFF No. 1, with a proposed effective date of March 31, 2005.

WHEREFORE, Staff recommends that the Commission grant ATX Licensing, Inc. a certificate of service authority to provide intrastate, interexchange telecommunications services; grant it the requested competitive classification; grant the waivers listed in the Commission's Notice of Application; and approve its proposed tariff MO P.S.C. TARIFF No. 1, with a proposed effective date of March 31, 2005.

Respectfully submitted,

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/s/ David A. Meyer

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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 10th day of March 2005.

/s/ David A. Meyer