

# BEFORE THE PUBLIC SERVICE COMMISSION OF THE STATE OF MISSOURI

In the Matter of the Application of TCO Network, Inc. for a )  
Certificate of Service Authority to Provide Interexchange ) **Case No. XA-2008-0098**  
Telecommunications Services and to Classify Such ) **Tariff No. YX-2008-0215**  
Services and the Company as Competitive )

## **ORDER REJECTING TARIFF AND DIRECTING STAFF TO FILE A RECOMMENDATION**

Issue Date: October 12, 2007

Effective Date: October 12, 2007

On October 5, 2007, TCO Network, Inc. ("TCO") applied to the Missouri Public Service Commission for a certificate of service authority to provide intrastate interexchange telecommunications services in Missouri. In conjunction with its application, TCO also filed a proposed tariff, which has been assigned Tariff No. YX-2008-0215.<sup>1</sup> For the reasons given below, this tariff must be rejected.

Commission Rule 4 CSR 240-3.510 sets forth specific filing requirements governing an application for a certificate of service authority to provide telecommunications services. Under that rule, TCO was not required to file the proposed tariff simultaneously with the certificate application.<sup>2</sup> However, having chosen to do so, TCO was obligated to comply with 4 CSR 240-3.510(1)(C), which requires all such tariffs to have "an effective date which is not fewer than forty-five (45) days after the tariff's issue date."<sup>3</sup>

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<sup>1</sup> The Commission has not yet issued notice of the application or established a deadline for submission of requests to intervene.

<sup>2</sup> See 4 CSR 240-3.510(1)(C).

<sup>3</sup> The purpose of this requirement, of course, is to give the Commission and any other interested parties a minimum of 45 days notice of the filing.

The proposed tariff filed by TCO on October 5, 2007 bears an effective date of November 11, 2007, which is less than 45 days after the date it was received by the Commission.<sup>4</sup> Therefore, it must be rejected and the Commission will consider it to be merely an illustrative tariff with no force or effect.<sup>5</sup>

The Commission also finds that it would be aided in its review of TCO's application by a recommendation from its Staff. Accordingly, it will direct Staff to file a recommendation by no later than November 12, 2007.

**IT IS ORDERED THAT:**

1. Tariff No. YX-2008-0215, which was filed by TCO Network, Inc. on October 5, 2007, is rejected.
2. The Staff of the Commission shall file its recommendation regarding the application of TCO Network, Inc. by no later than November 12, 2007.

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<sup>4</sup> If TCO's application and proposed tariff had been received by the Commission on or before September 27, 2007, there would have been no problem. This appears to have been TCO's original intent, since the information was sent by overnight courier, the packet contains a cover letter dated September 26, 2007, and the "issue date" of the proposed tariff was September 27, 2007. However, for some reason the information was not sent for overnight delivery until October 4, 2007.

<sup>5</sup> Illustrative tariffs are not assigned tracking numbers by the Commission's Data Center. TCO remains free to file another proposed tariff which fully complies with 4 CSR 240-3.510. In fact, it must file such a tariff before service can lawfully be provided. See 4 CSR 240-3.510(1)(C); 4 CSR 240-3.510(2).

3. This order shall become effective on October 12, 2007.

**BY THE COMMISSION**

A handwritten signature in black ink, appearing to read 'Colleen M. Dale', written over a horizontal line.

Colleen M. Dale  
Secretary

(S E A L)

Benjamin H. Lane, Regulatory  
Law Judge, by delegation of authority  
under Section 386.240, RSMo 2000.

Dated at Jefferson City, Missouri,  
on this 12th day of October, 2007.