

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

In the Matter of the Application of )	
Network US, Inc., d/b/a CA Affinity, for )	Case No. XM-2005-0105
Approval of Transfer of Assets from )	Tariff File No. YX-2005-0554
ConnectAmerica, Inc., and for Waiver )	

**STAFF RECOMMENDATION**

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

1. Network US, Inc. d/b/a CA Affinity (Network US) filed its Application on October 15, 2004, and its Supplement to Application on October 19, 2004. Network US is requesting Commission approval for the transfer of ConnectAmerica Inc.'s assets and customers.

2. On January 27, 2005, Network US made a tariff submission that is designed, *inter alia*, to incorporate ConnectAmerica's service plans and rates into Network US's tariff. Network US revised its tariff submission on March 21, 2005. The tariff submission, Tariff File No. YX-2005-0554, bears an extended proposed effective date of April 4, 2005.

3. In the attached Memorandum which is labeled Appendix A, the Staff recommends approval of the transfer.

4. The transfer of assets is governed by Section 392.300 RSMo. (2000). 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 392, 400 (Mo. banc 1934).

5. In its Application, Network US requests a waiver of the subscriber authorization and verification requirements in 4 CSR 240-33.150 for the change of customers' interexchange carrier. This rule was recently amended. Subsection (4) now allows a change in subscriber carrier selections as a result of a Commission-approved transfer of assets; the carrier must notify subscribers of the change and of the right to switch to another service provider. The Staff notes that Network US has taken this step.

6. The Staff also recommends that the tariff submission be allowed to go into effect. It incorporates ConnectAmerica's service plans and rates. It also incorporates Motion Telecom, Inc.'s service plans and rates as directed in Case No. XM-2005-0124.

WHEREFORE, the Staff recommends that the Commission approve the transfer of assets and customers of Connect America, Inc., to Network US Inc. d/b/a CA Affinity, and allow the amended tariff submission, Tariff File No. YX-2005-0554, to go into effect.

Respectfully submitted,

DANA K. JOYCE  
General Counsel

**/s/ William K. Haas**

William K. Haas  
Deputy General Counsel  
Missouri Bar No. 28701

Attorney for the Staff of the  
Missouri Public Service Commission  
P. O. Box 360  
Jefferson City, MO 65102  
(573) 751-7510 (Telephone)  
(573) 751-9285 (Fax)  
[william.haas@psc.mo.gov](mailto:william.haas@psc.mo.gov)

### **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 23<sup>rd</sup> day of March 2005.

**/s/ William K. Haas**

William K. Haas