

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

In the Matter of the Application of Nexus	)	
Communications, Inc d/b/a TSI	)	
For Designation as a Carrier Eligible for Universal	)	CA-2006-0282
Service Support pursuant to Section 254 of the	)	
Telecommunications Act of 1996	)	

**OFFICE OF THE PUBLIC COUNSEL'S MOTION TO DISMISS OR,  
IN THE ALTERNATIVE, MOTION FOR EVIDENTIARY HEARING**

The Office of the Public Counsel asks the Missouri Public Service Commission to dismiss the Petition of Nexus Communications, Inc d/b/a TSI. for as a Carrier Eligible for Universal Service Support pursuant to Section 254 of the Telecommunications Act of 1996. In the alternative, Public Counsel asks the Commission to hold an evidentiary hearing on the application.

Public Counsel suggests that the Application should be dismissed because TSI is not eligible as a matter of law for ETC status in that the company fails to provide the essential and basic telephone services required for ETC status.

The Company's Tariff No. 1, Original Sheet No. 18, (effective March 12, 2004) states that TSI's basic local telephone service is **on a prepaid basis**. Long distance service is not provided by TSI, Inc. and **customers will not have access to the following calls, which will be blocked by TSI, Inc.: long distance, toll, third-number billed calls, incoming collect calls and local or long distance operator services, including local and long distance directory assistance**. The tariff charge for monthly local service is \$49.95 with a \$60.00 application processing fee, \$20 for "MCA (extended service," and \$5.00 a month for most custom calling features.

TSI does not provide all of the basic local services defined in Section 386.020 (34), RSMo but rather offers only a subset of the components of basic local service.

According to the statement of offered services and the disclaimer of services it does not offer described in its tariff, TSI does not provide the "essential services" defined in 4 CSR 240-31.010 (5) for purposes of qualifying for state universal service fund support. It does not provide access to basic local operator services (Subsection (5) (C)), access to basic directory assistance (Subsection (5) (D)), and equal access to interexchange carriers consistent with rule and regulations of the FCC (Subsection (5) (F)). It does not offer all the basic services that the incumbent SBC offers. TSI blocks access to all direct dialed toll calls, collect calls, DA calls, operator-completed calls, 900 calls, and third party calls, according to its tariff.

Prepaid service providers, such as TSI, do not offer the full scope of basic local service at a price and under similar terms and conditions that are offered by the incumbent or other "full service" CLECs. Prepaid service providers do not offer its services in the same manner or with comparable and substitutable quality as does the incumbent local exchange company. The prepaids offer an "inferior" service that has limitations and restrictions on the customer that are not placed on the typical (or standard) local customer of the incumbent. These restrictions include mandatory blocking of the ability to dial 1+ and 0+ calls, blocking the ability to reach a presubscribed toll carrier via 1+ dialing parity, general toll blocking for all subscribers, thereby requiring the use of prepaid calling cards obtained from third party telecom companies to make any toll calls from the customer's residence or place of business.

If TSI intends to be an ETC it must offer quality services at affordable rates throughout the designated service area. TSI's \$49.95 monthly charge for an inferior local service is inconsistent with affordable local rates and is not comparable with SBC's and the full service CLEC's basic local rates. TSI also limits the customer who applies for low income assistance to only one telephone per residence. That is inconsistent with the intent and purpose of USF and is an unreasonable condition.

ETCs should be required to demonstrate their capability and commitment not only to provide service throughout the designated service area, but also to be ready, willing, and able to serve as a carrier of last resort. *See*, Section 254 of the Federal Telecommunications Act of 1996. The PSC should require formal build-out commitments and plans, backed by regular progress reports, to ensure that universal service support is used to provide the supported services and for the underlying infrastructure.

For that reason, Public Counsel urges the PSC to dismiss the application for legal ineligibility based on the tariffed services offered by TSI and the statutory definition of basic local services and the PSC's rule on essential services for purposes of USF.

In the alternative, Public Counsel asks the Commission to hold an evidentiary hearing on the application.

**OFFICE OF THE PUBLIC COUNSEL**

**/s/ Michael F. Dandino**

BY: \_\_\_\_\_  
Michael F. Dandino (24590)  
Deputy Public Counsel  
P.O. Box 2230  
Jefferson City, MO 65102  
(573) 751-4857  
(573) 751-5559  
Fax (573) 751-5562  
email: [mike.dandino@ded.mo.gov](mailto:mike.dandino@ded.mo.gov)

**CERTIFICATE OF SERVICE**

I hereby certify that a copy of the foregoing was mailed or hand delivered this 27th day of January 2006 to the following attorneys of record:

General Counsel  
Missouri Public Service Commission  
P. O. Box 360  
Jefferson City, MO 65102

Lance Steinhart  
1720 Windward Concourse, Suite 250  
Alpharetta, GA 30005  
[lsteinhart@telecomcounsel.com](mailto:lsteinhart@telecomcounsel.com)

**/s/ Michael F. Dandino**

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