

BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI

In the Matter of the Application of TCG St. Louis)	
to Expand its Certificate of Basic Local Exchange)	<u>Case No. CA-2008-0320</u>
Telecommunications Service Authority to the)	Tariff File No. YC-2008-0606
Jefferson City, Missouri Exchange)	

ORDER GRANTING CERTIFICATE TO PROVIDE
BASIC LOCAL TELECOMMUNICATIONS SERVICES,
AND APPROVING TARIFF SHEETS

Issue Date: May 9, 2008

Effective Date: May 19, 2008

This order grants a certificate of service authority to provide basic local telecommunications service in Jefferson City, Missouri, classifies those services and the company as competitive, waives certain statutes and regulations, and approves the company's tariff sheets.

On April 4, 2008, TCG St. Louis applied for certificates of service authority to provide basic local exchange telecommunications service within the state of Missouri, and for competitive classification. The company seeks certification to provide basic local service in portions of Missouri that are currently being served by Embarq Missouri, Inc. d/b/a Embarq. TCG is authorized to do business in Missouri by the Missouri Secretary of State and is authorized by this Commission to provide basic local service in the areas served by Southwestern Bell Telephone Company, d/b/a AT&T Missouri.

On April 10, 2008, the Commission issued its Notice of Applications, establishing a deadline for intervention. No applications to intervene were received. On May 5, 2008,

the Staff of the Commission recommended that the requested certificate, classifications and waivers be granted.

The Commission may grant an application for a certificate of service authority to provide telecommunications service upon a showing that the applicant has met the statutory requirements,¹ and that the grant of authority is in the public interest.² Based on the verified application and Staff's uncontested recommendation, the Commission finds that TCG satisfies the requirements for certification and that granting such certificate is in the public interest.

TCG also requests that it and its services be classified as competitive and that the application of certain statutes and regulatory rules be waived. The Commission may classify a telecommunications service as competitive if the Commission determines that the applicant is subject to a sufficient degree of competition to justify a lesser degree of regulation.³ The Commission may only classify a telecommunications carrier as competitive if all of its services are so classified.⁴ The Commission may waive the application of certain statutes and of its rules to a competitive carrier if it determines that such waiver is consistent with the purposes of Chapter 392.⁵

TCG will compete with incumbent local exchange carriers, as well as other competitive local exchange carriers in the exchanges in which it provides basic local

¹ See Sections 392.450, 392.451 and 392.455, RSMo 2000. All statutory references, unless otherwise specified, are to the Revised Statutes of Missouri (RSMo), revision of 2000.

² Sections 392.430 and 392.440.

³ Section 392.361.2.

⁴ Section 392.361.3.

⁵ See Sections 392.185, 392.361.3 and 392.420.

telecommunications service. The Commission finds that TCG will be subject to a sufficient level of competition to justify a lesser degree of regulation. Furthermore, all of the services TCG will offer are qualified for classification as competitive services.

The Commission may waive certain statutes and administrative rules for competitively classified carriers “if such waiver or modification is otherwise consistent with the other provisions of Section 392.361 to 392.520 and the purposes of this chapter.”⁶ The Commission has developed a standard list of statutes and regulations that it waives for competitive local exchange. The Commission finds that the waiver of those statutes and regulations is consistent with the purposes of Chapter 392, and will waive those provisions for TCG.

The Commission may also require a telecommunications company to comply with any conditions reasonably necessary to protect the public interest. Staff recommends that TCG’s application be granted subject to certain restrictions regarding switched access rates. These conditions are routinely recommended by Staff and TCG accepted them in its application. The conditions proposed by Staff are necessary to protect the public interest and will be adopted.

Along with its application, TCG submitted proposed revised tariff sheets. The effective date of the proposed tariff sheets is May 19, 2008. Included with the tariff sheets concerning expanded Basic Local Exchange Service are additional tariff revisions by which TCG proposes to introduce separate rate schedules for local Integrated Services Digital Network (ISDN) transmissions services and facilities and certain long-distance toll-calling services in Embarq exchanges. Staff recommends that the tariff sheets be approved. The

⁶ Sections 392.361.5 and 392.420.

Commission finds that TCG's proposed revised tariff sheets should be approved to become effective on May 19, 2008.

The Commission places TCG on notice that failure to comply with certain obligations pursuant to law may result in penalties assessed against the company. These obligations include, but are not limited to, the following:

- A) The obligation to file an annual report, as established by Section 392.210, RSMo 2000. Failure to comply with this obligation will make the utility liable for a penalty of \$100 per day for each day that the violation continues. Rule 4 CSR 240-3.540 requires telecommunications utilities to file their annual report on or before April 15 of each year.
- B) The obligation to pay an annual assessment fee established by the Commission, as required by Section 386.370, RSMo 2000.
- C) The obligation to comply with all relevant laws and regulations, as well as orders issued by the Commission. If the company fails to comply, it is subject to penalties for noncompliance ranging from \$100 to \$2,000 per day of noncompliance, under Section 386.570, RSMo 2000.
- D) The obligation to keep the Commission informed of its current address and telephone number.

The company is reminded that its officers may not represent it before the Commission. The company must be represented by an attorney licensed to practice law in Missouri.

Additionally, Section 392.410.5, RSMo Cum. Supp. 2005, provides that the company's certificate of service authority becomes null and void one year from the date of this order unless the company has exercised its authority under that certificate.

The Commission notes that before providing telecommunications service in Missouri, a party shall possess the following: (1) an interconnection agreement approved by the Commission; (2) except for wireless providers, a certificate of service authority from the Commission to provide interexchange or basic local telecommunications service; and (3) except for wireless providers, a tariff approved by the Commission.

Motion for Protective Order

With its application, TCG filed a motion for a protective order to protect certain financial information used by Staff. The Commission hereby notifies TCG that on January 30, 2007, a new Commission rule⁷ concerning the handling of confidential information went into effect, supplementing the standard protective order the Commission had previously routinely issued. 4 CSR 240-2.135(2)(A) specifically provides "no order from the commission is necessary before a party in any case pending before the commission may designate material as proprietary or highly confidential and such information shall be protected as provide in this rule" Because TCG's motion is unnecessary, the Commission will deny it.

IT IS ORDERED THAT:

1. TCG St. Louis is granted a certificate of service authority to provide basic local telecommunications services in the exchanges of Embarras Missouri, Inc. d/b/a

⁷ 4 CSR 240-2.135.

Embarq, subject to the conditions and recommendations contained in the Staff's Memorandum.

2. TCG St. Louis and its services are granted competitive classification.
3. TCG St. Louis' originating and terminating access rates will be no greater than the lowest Commission-approved corresponding access rates in effect for each incumbent local exchange carrier within whose service area TCG seeks authority to provide service, unless authorized by the Commission pursuant to Section 392.220 and 392.230, RSMo.
4. The certificate and competitive service classification for switched exchange access are granted conditioned on the continued applicability of Section 392.200, RSMo, and the requirement that any increase in switched access service rates above the maximum switched access service rates set forth herein shall be made pursuant to Section 392.200 and 392.230, RSMo, and not Section 392.500 and 392.510, RSMo.
5. If the directly competing incumbent local exchange carrier, in whose service area TCG St. Louis is operating, decreases its originating or terminating access service rates, TCG shall file an appropriate tariff amendment to reduce its originating or terminating access rates in the directly competing incumbent local exchange carrier's service area within 30 days of the directly competing incumbent local exchange carrier's reduction of its originating or terminating access rates in order to maintain the cap.
6. Application of the following statutes and Commission rules is waived:

Statutes

- 392.210.2 - uniform system of accounts
- 392.240.1 - rates-rentals-service & physical connections
- 392.270 - valuation of property (ratemaking)
- 392.280 - depreciation accounts
- 392.290 - issuance of securities

- 392.300.2 - acquisition of stock
- 392.310 - stock and debt issuance
- 392.320 - stock dividend payment
- 392.330 - issuance of securities, debts and notes
- 392.340 - reorganization(s)

Commission Rules

- 4 CSR 240-3.550(5)(C) - exchange boundary map
- 4 CSR 240-10.020 - depreciation fund income
- 4 CSR 240-30.040 - uniform system of accounts

7. The following tariff, assigned file number YC-2008-0606 is approved, as amended, to become effective on May 19, 2008:

P.S.C. Tariff No. 2

Second Revised Sheet No. 54, Cancelling First Revised Sheet No. 54
First Revised Sheet No. 56, Cancelling Original Sheet No. 56
First Revised Sheet No. 57, Cancelling Original Sheet No. 57
Third Revised Sheet No. 58, Cancelling Second Revised Sheet No. 58
Fourth Revised Sheet No. 64, Cancelling Third Revised Sheet No. 64
Seventh Revised Sheet No. 64.1, Cancelling Sixth Revised Sheet No. 64.1
Third Revised Sheet No. 65, Cancelling Second Revised Sheet No. 65
Fifth Revised Sheet No. 65.1, Cancelling Forth Revised Sheet No. 65.1
Fourth Revised Sheet No. 66, Cancelling Third Revised Sheet No. 66
Second Revised Sheet No. 66.1, Cancelling First Revised Sheet No. 66.1
First Revised Sheet No 66.3, Cancelling Original Sheet No. 66.3
Sixth Revised Sheet No. 69, Cancelling Fifth Revised Sheet No. 69
Fifth Revised Sheet No. 69.1, Cancelling Forth Revised Sheet No. 69.1
Second Revised Sheet No. 69.2, Cancelling First Revised Sheet No. 69.2
First Revised Sheet No. 76.8.0.4, Cancelling Original Sheet No. 76.8.0.4
Eighth Revised Sheet no. 76.8.1, Cancelling Seventh Revised Sheet No. 76.8.1
Sixth Revised Sheet No. 76.8.2, Cancelling Fifth Revised Sheet No. 76.8.2
Fifth Revised Sheet No. 76.8.3, Cancelling Fourth Revised Sheet 76.8.3
Second Revised Sheet No. 76.8.4, Cancelling First Revised Sheet No. 76.8.4
First Revised Sheet No. 76.8.5, Cancelling Original Sheet No. 76.8.5
Original Sheet 76.8.6
Original Sheet 76.8.7
First Revised Sheet No. 76.9, Cancelling Original Sheet No. 76.9
Third Revised Sheet No. 76.26, Cancelling Second Revised Sheet No. 76.26
First Revised Sheet No. 76.27, Cancelling Original Sheet No. 76.27
First Revised Sheet No. 76.34, Cancelling Original Sheet No. 76.34

First Revised Sheet No. 76.35, Cancelling Original Sheet No. 76.35
Third Revised Sheet No. 76.37, Cancelling Second Revised Sheet No. 76.37
Second Revised Sheet No. 76.37.1, Cancelling First Revised Sheet No. 76.37.1
Second Revised Sheet 76.41, Cancelling First Revised Sheet No. 76.41
Second Revised Sheet No. 76.42, Cancelling First Revised Sheet No. 76.42
Third Revised Sheet No. 76.43, Cancelling Second Revised Sheet No. 76.43
First Revised Sheet No. 76.44, Cancelling Original Sheet No. 76.44
Third Revised Sheet No. 76.47, Cancelling Second Revised Sheet No. 76.47
Second Revised Sheet No. 76.48, Cancelling First Revised Sheet No. 76.48
First Revised Sheet No. 76.52, Cancelling Original Sheet No. 76.52

8. The certification granted herein is conditioned upon the company's compliance with the regulatory obligations set out in this order

9. This order and TCG St. Louis' certificate shall become effective on May 19, 2008.

10. TCG St. Louis' Motion for Protective order is denied.

11. This case shall be closed on May 20, 2008.

BY THE COMMISSION



Colleen M. Dale
Secretary

(S E A L)

Kennard L. Jones, Senior Regulatory Law
Judge, by delegation of authority pursuant
to Section 386.240, RSMo 2000.

Dated at Jefferson City, Missouri,
on this 9th day of May, 2008.