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August 9, 2013

The Honorable Jocelyn Boyd
Chief Clerk of the Commission
Public Service Commission of South Carolina
Post Office Drawer 11649
Columbia, South Carolina 29211

Re: Joint Application of TC Systems, Inc. , And Teleport Communications America, LLC, for Approval of Asset Transfer
Docket No. 2013-___-C

Dear Ms. Boyd:

Enclosed for filing by TC Systems, Inc. and Teleport Communications America, LLC is a Joint Application for Approval of Asset Transfer.

By copy of this letter, I am serving the Office of Regulatory Staff a copy of this application as indicated on the attached Certificate of Service.

Sincerely,

Patrick Turner

Patrick W. Turner

PWT/nml
Enclosure
cc: Office of Regulatory Staff
1036483

BEFORE THE
PUBLIC SERVICE COMMISSION
OF SOUTH CAROLINA

IN RE:

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| Joint Application of TC Systems, Inc. , And Teleport Communications America, LLC, for Approval of Asset Transfer | ) | Docket No. 2013-___-C |

**JOINT APPLICATION FOR APPROVAL OF ASSET TRANSFER**

TC Systems, Inc., ("TC Systems") is one of many subsidiaries of AT&T Corp. that currently offer various services, including without limitation competitive local exchange services and interexchange telecommunications services, in various states and the District of Columbia. As part of an on-going, multi-state initiative to increase efficiency and provide a more seamless customer experience by consolidating various subsidiaries into a single entity, the AT&T family of companies would like to transfer the assets of TC Systems that serve South Carolina customers to its affiliate, Teleport Communications America, LLC, ("TCA") on or about October 31, 2013. The assets to be transferred include, without limitation, all of the certificates and authorizations TC Systems currently has, subject to the same terms and conditions that appear in TC Systems' existing certificates and authorizations. Accordingly, TC Systems and TCA ("Applicants") respectfully request that, prior to October 31, 2013, the Commission enter an order approving the proposed transfer by TC Systems of all of its assets serving South Carolina customers to TCA and granting the related relief requested in this Joint Application.

## I. APPLICANTS AND THEIR AUTHORIZED REPRESENTATIVE

1. The name and address of the Applicants are:

TC Systems, Inc.
One AT&T Way
Bedminster, NJ 07921

Teleport Communications America, LLC
One AT&T Way
Bedminster, NJ 07921

2. TC Systems' and TCA's authorized representative in this proceeding is:

Patrick W. Turner
1600 Williams Street, Suite 5200
Columbia, South Carolina 29201
Telephone: (803) 401-2900
Facsimile: (803) 254-1731
Email: pt1285@att.com

Correspondence or communication relative to this Joint Application should be addressed to this authorized representative.

3. In addition to the information set forth in this Joint Application and its Attachment A, the relief requested by the Applicants is further supported by the verified, pre-filed testimony of James F. Dionne. Mr. Dionne's verified testimony is being filed with the Commission contemporaneously with this Joint Application.

4. The Applicants, individually or together with their affiliates, have invested at least five million dollars in telecommunications facilities in the State of South Carolina.

## II. TC SYSTEMS

5. TC Systems is a corporation formed and existing under the laws of the State of Delaware and is a wholly-owned indirect subsidiary of AT&T Corp.

6. TC Systems is authorized to provide local exchange, including exchange access, services and interexchange telecommunications services in the State of South Carolina pursuant

to a Certificate of Public Convenience and Necessity the Commission granted in Order No. 2004-314 in Docket No. 2004-074-C. The Order provides that "[a]ny proposal to provide competitive local exchange telecommunications services to areas served by rural telephone companies is subject to the terms of the Stipulation" between TC Systems and the South Carolina Telephone Coalition that is attached to the Order as Exhibit 1. TC Systems currently provides access services to certain customers in South Carolina – it does not serve any retail end users in this State.

7. TC Systems intends to transfer all of its assets used to serve South Carolina customers, including without limitation its accounts receivable, customer base, and all certificates and authorizations described in Paragraph 6 above, to TCA on or about October 31, 2013.

8. This corporate change is strictly *pro forma* and will not impact the provision of telecommunications services in South Carolina. There will be no change in the ultimate ownership, control or management or the day-to-day operations of the authorized carrier. Service will be provided using the same network, billing systems, and customer service operations used by TC Systems today. After the transaction is complete, TCA will provide current TC Systems customers with the services they are currently receiving from TC Systems pursuant to TCA contracts and/or tariffs that offer such services under the same rates, terms and conditions as these customers currently receive.

## III. TCA

9. TCA is a limited liability company formed and existing under the laws of the State of Delaware as of June 6, 2012. TCA is a wholly-owned indirect subsidiary of AT&T Corp.

10. TCA is not currently certificated or otherwise authorized to provide, and does not provide, any regulated telecommunications services in South Carolina. After the transaction is complete, TCA will offer local exchange, including exchange access, services and/or interexchange telecommunications services pursuant to the certificates and authorizations described in Paragraph 6 above. This is consistent with state law, including without limitation Section 58-9-280(B), because:

A. All of the technical and managerial resources of TC Systems used to serve South Carolina customers (including without limitation employees) will be transferred to TCA upon completion of the transaction. The sufficiency of TC Systems' technical and managerial resources has not been called into question at the Commission in the nine years that it has been providing service in South Carolina. Accordingly, TCA will have technical and managerial resources sufficient to provide the services that TC Systems currently is certificated to provide in the State of South Carolina.

B. All of the financial resources of TC Systems used to serve South Carolina customers will be transferred to TCA upon completion of the transaction. The sufficiency of TC Systems' financial resources has not been called into question at the Commission in the nine years that it has been providing service in South Carolina. Accordingly, TCA will have financial resources sufficient to provide the services that TC Systems currently is certificated to provide in the State of South Carolina.

C. After the transaction is complete, TCA will provide services that will meet the applicable service standards that the Commission has adopted and that the Commission may adopt.

D. After the transaction is complete, TCA's provision of service will not adversely impact the availability of affordable local exchange service.

E. After the transaction is complete, TCA, to the extent that it may be required to do so by the Commission, will participate in the support of universally available telephone service at affordable rates.

F. After the transaction is complete, TCA's provision of service will not otherwise adversely impact the public interest.

11. After the transaction is complete, TCA's contact for regulatory matters will be:

Cindy Cox
Executive Director
1600 Williams Street, Suite 5470
Columbia, South Carolina 29201
803-401-2252 (phone)
803-771-4680 (fax)
cc2283@att.com

12. After the transaction is complete, TCA's contact regarding financial matters will be:

James F. Dionne
Chief Financial Officer
One AT&T Way, Room 3C213
Bedminster, New Jersey 07921
908-234-5276 (phone)
908-532-1808 (fax)
jdionne@att.com

13. After the transaction is complete, TCA will make appropriate filings to convert any TC Systems tariffs that may exist to TCA tariffs and to operate under one or more d/b/a's as appropriate.

14. TC Systems' South Carolina customers will receive the following notice of the impending transaction by way of bill messages: "Subject to regulatory approvals, effective on or about October 31, 2013, your service provider will be Teleport Communications America, LLC, an affiliate of TC Systems. This change will not affect the rates, terms, or conditions under which you currently receive service."

15. TCA has no plans to offer local exchange telecommunications services to a customer located in a rural incumbent LEC's service area. Should those plans change in the future, however, TCA will honor the terms and conditions set forth in the Stipulation that is attached as Exhibit 1 to Order No. 2004-314 in Docket No. 2004-074-C.

## IV. REQUESTS FOR COMMISSION APPROVALS

Applicants respectfully request that the Commission expeditiously grant the following approvals:

### A. Approval Pursuant to Section 58-3-310.

Section 58-9-310 of the South Carolina Code provides, in pertinent part, that "[n]o telephone utility, without the approval of the Commission . . . may sell, transfer, lease, consolidate, or merge its property, powers, franchises, or privileges or any of them . . . ." Applicants respectfully request approval of the Commission for the transfer of all applicable property, powers, franchises and privileges of TC Systems to TCA on or about October 31, 2013.

### B. Approval Pursuant to Section 58-9-300.

Section 58-9-300 of the South Carolina Code provides, in pertinent part, that "no telephone utility shall abandon all or any portion of its service to the public . . . unless written application is first made to the commission for the issuance of a certificate authorizing such abandonment, nor until the commission in its discretion issues such certificate." To the extent that the transaction arguably constitutes the abandonment of service by TC Systems, the Applicants respectfully request the Commission's approval of such abandonment.

### C. Slamming Waivers.

"Slamming" occurs when a company changes a subscriber's carrier selection without that subscriber's knowledge or explicit authorization.[1] Section 58-3-230 of the South Carolina Code addresses slamming, and it provides in pertinent part that a telephone utility "may not submit a change request for a customer's utility service until the customer's authorization for the change is obtained by using marketing or anti-slamming guidelines approved by the [FCC] and [this Commission]." Applicants will comply with all marketing or anti-slamming guidelines approved by the FCC.

Applicants are not aware of any Commission-approved "marketing or anti-slamming guidelines" that apply to this situation.[2] Upon request in prior proceedings, however, the Commission has waived any "slamming" regulations that arguably would apply to similar

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[1] *See* Second Report and Order and Further Notice of Proposed Rulemaking, In the Matter of Implementation of the Subscriber Carrier Selection Changes Provisions of the Telecommunications Act of 1996, 14 F.C.C.R. 1508 at ¶1 (December 23, 1998).

[2] The Commission has adopted marketing guidelines that apply to interexchange carriers and that prohibit certain misleading marketing practices, *see* Order Addressing Marketing Practices and Marketing Guidelines, *In Re: Proceeding Addressing Marketing Guidelines for Telecommunications Companies*, Order No. 95-658 in Docket No. 94-559-C (March 10, 1995), but those guidelines do not apply to the transaction that is the subject of this docket.

transactions.[3] Applicants, therefore, respectfully request that the Commission waive any "slamming" regulations that arguably would be violated by this transaction. Such a limited waiver is in the public interest because after the transaction is complete, TCA will provide current TC Systems customers with the services they are currently receiving from TC Systems pursuant to TCA contracts and tariffs that offer such services under the same rates, terms and conditions as these customers currently receive. Additionally, the transfer will have no effect on the ability of residential local exchange customers to switch to another carrier after the transaction is completed.

### D. Approval to Remove Local Carrier Freezes from Accounts of TC Systems Customers

To the extent that it may be necessary to remove a local carrier freeze from a customer's account in order to transition the customer from TC Systems to TCA, Applicants respectfully seek Commission approval to do so.

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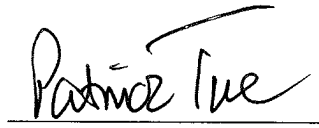
[3] *See, e.g.*, Order Approving Transfer, In Re: Petition of Verizon Communications, Inc. to Approve Transfer of Customers Between Bell Atlantic Communications, Inc. d/b/a Verizon Long Distance and Verizon Select Services, Inc., Order No. 2001-508 in Docket No. 2001-191-C (May 29, 2001); Order Granting Expedited Review and Approving Merger, In Re: Application of MCI, Inc. for Approval of a Merger of SouthernNet of South Carolina, Inc., SouthernNet Service, Inc. and MCI WorldCom Network Services, Inc. and Related Intra-Corporate Transactions undertaken to Streamline MCI, Inc.'s Corporate Structure, Order No. 2004-647 in Docket No. 2004-319-C (December 30, 2004); Order Approving Transfer and Waiving Regulations, In Re: Joint Application of Matrix Telecom, Inc. and Global Crossing Telecommunications, Inc., Global Crossing Local Services, Inc. and Global Crossing Telemanagement, Inc. for Expedited Approval of a Transfer of Certain Assets and a Waiver of Applicable Anti-Slamming Regulations, Order No. 2005-496 in Docket No. 2005-75-C (September 27, 2005); Order Granting Certificate, Approving Modified Alternative Regulation and Flexible Regulation, and Approving Acquisition of Assts, In Re: Application of Comtel Telecom Assets LP DBA VarTec Telecom, Clear Choice Communications, Excel Telecommunications and VarTec Solutions for a Certificate of Public Convenience and Necessity to Provide Interexchange and Local Exchange Telecommunications Services, for Flexible Regulatory Treatment, Alternative Regulation, and for Approval to Acquire Certain Assets of VarTec Telecom, Inc., Excel Telecommunications, Inc. and VarTec Solutions, Inc., Order No. 2006-107 in Docket No. 2005-342-C (February 15, 2006).

## V. CONCLUSION

WHEREFORE, for the reasons stated above, TC Systems and TCA respectfully request that the Commission enter an order:

1. granting approval pursuant to Section 58-9-310 of the transfer of all applicable property, powers, franchises and privileges (including without limitation the transfer of TC Systems' existing certificates and authorizations to provide services) of TC Systems to TCA to occur on or after October 31, 2013;
2. granting any approval that is required pursuant to Section 58-9-300;
3. waiving any "slamming" regulations that arguably would be violated by the transaction;
4. approving the removal of any local carrier freezes that are necessary to implement the transaction; and
5. granting TCA all of the certificates and authorizations TC Systems currently has, subject to the same terms and conditions that appear in TC Systems' existing certificates and authorizations.

Respectfully submitted this 9th day of August, 2013.



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ATTORNEY REPRESENTING TC SYSTEMS AND TCA

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| STATE OF SOUTH CAROLINA | ) | |
| | ) | CERTIFICATE OF SERVICE |
| COUNTY OF RICHLAND | ) | |

The undersigned, Nyla M. Laney, hereby certifies that she is employed by the Legal Department for AT&T South Carolina ("AT&T") and that she has caused a Joint Application for Approval of Asset Transfer to be served on the following on August 9, 2013:

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Nyla M. Laney

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