

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

In the Matter of the Application of Common Point for Certificate of Service Authority to Provide Local Exchange and Interexchange Telecommunications Services throughout the State of Missouri and to Classify the Company as Competitive)
Case No. LA-2009-0278

STAFF RECOMMENDATION

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

1. On January 27, 2009, Common Point, LLC (“Applicant”) filed an application with the Commission seeking authority to provide local exchange and interexchange telecommunication services in Missouri. The Applicant also requested competitive classification and waivers of specific statutes and regulations.

2. On January 28, 2009 the Missouri Public Service Commission (“Commission”) issued its *Notice of Applicants for Intrastate Certificates of Service Authority and Opportunity to Intervene* by February 12, 2009. There were no interveners on record.

3. On February 6, 2009 the Applicant filed an *Amended Application* removing a citation to a statute that was not applicable in the matter at hand.

4. On February 18, 2009 the Commission *Order Directing Filing of Staff Recommendation* for March 10, 2009.

5. On March 4, 2009, Applicant filed a *Second Amended Application* removing 4 CSR 204-3.550(5)(c) from its list of requested waivers.

6. In the attached Memorandum, labeled Appendix A, the Staff recommends that the Missouri Public Service Commission grant Applicant a certificate to provide local exchange telecommunication services and a certificate to provide interexchange telecommunications

services in Missouri. The local exchange authority should be restricted to dedicated, private line services.

7. The Commission shall grant an application for a certificate of telecommunications service authority upon a finding that the grant of authority is in the public interest. §§ 392.430, 392.440, and 392.470 RSMo. (2000).

8. The Staff also recommends that the Commission classify the Applicant and the services it proposes to offer in its Application as competitive. The Commission may classify a telecommunications provider or its services as competitive if the Commission determines it is subject to sufficient competition to justify a lesser degree of regulation. §392.361.4 RSMo (Supp. 2008). All services a competitive company provides must be classified as competitive. §392.361.3 RSMo (Supp. 2008).

9. The Staff further recommends that the Commission grant the waivers listed in the *Second Amended Application*. The Commission may waive the application of its rules and certain statutes if the Commission determines that waiver is consistent with the purposes of Chapter 392. §§ 392.185 (2000), 392.361.5 (Supp. 2008) and 392.420 (Supp. 2008).

10. The Applicant did not submit a tariff with the Application. The Staff notes that the Commission's rule at 4 CSR 240-3.510(1)(c) states that the Applicant cannot lawfully provide service until tariffs are effective.

WHEREFORE, Staff recommends that the Commission grant Common Point, LLC a certificate to provide interexchange telecommunications services, and a certificate to provide local exchange telecommunications services, restricted to dedicated, private line services; grant it the requested competitive classification; and grant the standard waivers listed in the Commission's Notice of Application.

Respectfully submitted,

/s/ Jaime N. Ott
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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 10th day of March 2009.

/s/ Jaime N. Ott

MEMORANDUM

To: Missouri Public Service Commission Official Case File
Case No: LA-2009-0278
Applicant: Common Point LLC

From: Lisa Mahaney
Telecommunications Department
William Voight 3/5/09
Utility Operations Division/Date

Subject: Staff Recommendation for Approval of Certificate

Date: 3/5/09
Filing Deadline: 3/10/09

The Telecommunications Department Staff (Staff) recommends the applicant be granted the following certificate(s), as indicated below, to be effective on the same date the tariff becomes effective:

certificate to provide basic local exchange telecommunications services in the following service areas.

- All of AT&T Missouri
- All of Embarq
- All of CenturyTel
- All of Spectra
- Other _____ (please describe)

certificate to provide interexchange telecommunications services.

certificate to provide local exchange telecommunications services.*

*local exchange authority should be restricted to dedicated, private line services.

Staff recommends the applicant and its services receive competitive classification. Staff further recommends a Commission order granting certification state that pursuant to Section 392.410 RSMo, unless exercised within a period of one year from the issuance thereof, authority conferred by a certificate of service authority shall be null and void. In addition, Staff recommends approval of the waivers listed in the Notice.

Granting a certificate to provide basic local exchange telecommunications services should be based on the following two conditions:

1. The applicant's originating and terminating access rates shall not exceed the access rates of the incumbent local exchange company against whom the applicant is competing pursuant to Sections 392.361.6 and 392.370 RSMo.
2. If the directly competing ILEC, in whose service area the applicant is operating, decreases its originating and/or terminating access service rates, the applicant shall file an appropriate tariff amendment to reduce its originating and/or terminating access rates in the directly competing ILEC's service area

within 30 days of the directly competing ILEC's reduction of its originating and/or terminating access rates in order to maintain the cap.

No objection to tariff taking effect (Insert MO PSC number.) Effective Date: The Staff states that the tariff meets the requirements of all applicable statutes, specifically, one or more of the following: Sections 392.200(8), (12); 392.455(3), (4); 392.515(1) and 392.500(2) RSMo. In addition, the tariff filing does not conflict with the following Commission rules: 4 CSR 240-3.545 (4), (6), (7), (8 C,G,H), (9), (15), (16), (19); 4 CSR 240-31.065(1), (2), (3); 4 CSR 240-32.150(5), 32.160(1), (2), 32.190; 4 CSR 240-33.040(4), 33.045(2), 33.050(4) and 33.070(2).

Tariff was not submitted with application. Pursuant to 4 CSR 240-3.510(1)(C), the applicant cannot lawfully provide service until tariffs are effective.

Additional Comments:

The waivers requested by Common Point were previously granted to AT&T Corp. in Case No. TE-2009-0169.

The Company is not delinquent in filing an annual report, paying the PSC assessment, MoUSF, and Relay Missouri.

The Company is delinquent. Staff recommends the Commission grant the requested relief/action on the condition the applicant corrects the delinquency. The applicant should be instructed to make the appropriate filing in this case after it has corrected the delinquency.

(No annual report Unpaid PSC assessment. Amount owed:
 Unpaid MoUSF Unpaid Relay Missouri)

Review Items for IXC, Non-switched Local and CLEC Certificate Applications (as required by 4 CSR 240-2.060):

- Proper Secretary of State authorization
- Statement of character of business performed.
- Statement declaring no pending action or final unsatisfied judgments
- Statement declaring no overdue annual reports/assessment fees
- Application includes an affidavit.

- The applicant is requesting waivers of rules or statutes previously granted to a competitively classified company

(as required by 392.430/.440):

- Application shows that grant of authority is in the public interest.

