

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

In the matter of the Application of US )  
Cable Telecom of Missouri, LLC for )  
Certificates of Authority to Provide Basic )  
Local Exchange and Resold and )  
Facilities-Based Intrastate Interexchange )  
and Nonswitched Local Exchange )  
Telecommunications Services in the State )  
of Missouri and to Classify those Services  
and the Company as Competitive.

Case No. LA-2007-0453

**STAFF RECOMMENDATION**

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

1. In the attached Memorandum, which is labeled Appendix A, the Staff recommends that the Missouri Public Service Commission grant US Cable Telecom of Missouri, LLC (Applicant), a certificate of service authority to provide basic local telecommunications service in the service areas of Southwestern Bell Telephone L.P. d/b/a SBC Missouri; Sprint Missouri, Inc. d/b/a Sprint; CenturyTel of Missouri, LLC; and Spectra Communications Group, LLC d/b/a CenturyTel; conditioned upon certain access rate provisions. Staff also recommends that the company receive a certificate of service authority to provide interexchange telecommunications services and local exchange services restricted to dedicated, private line services. 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. (See §§ 392.430 and 392.440 RSMo. (2000).)

2. Staff also recommends that the Commission classify the Applicant and its services 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. (See §392.361.2.) All the services a competitive company provides must be classified as competitive. (See §392.361.3.)

3. No tariff was submitted with application. Although a tariff filing at this time is not required, Staff notes that pursuant to 4 CSR 240-3.510(1)(C), the applicant cannot lawfully provide service until tariffs are effective. Although the Applicant requests a temporary waiver of 4 CSR 240-3.510(1)(C) because the Applicant did not file a proposed tariff with its application (see *Application* at ¶ 20), Staff sees no need for this waiver to be granted on this basis. The rule states that “filing the tariff and any applicable interconnection agreements simultaneously with the certificate application is optional.” As the rule already explicitly states that filing a proposed tariff with the certificate is optional, the Commission need not waive the rule merely because the Applicant has not yet filed a proposed tariff. Moreover, if the Commission were to waive this rule, it is possible that a waiver could be construed as a waiver of another clause in the rule that states “before service can be provided, a tariff and any applicable interconnection agreements must be filed with the commission and approved.” Accordingly, Staff recommends the Commission *not* grant a waiver of this rule.

WHEREFORE, Staff recommends that the Commission grant US Cable Telecom of Missouri, LLC a certificate to provide basic local exchange telecommunications services, conditioned upon the access rate provisions described in the Staff memorandum; grant a certificate of service authority to provide interexchange telecommunications services and local exchange services restricted to dedicated, private line services; grant competitive classification; deny a waiver of 4 CSR 240-3.510(1)(C); and grant a waiver of the statutes and regulations listed in the Commission’s *Notice of Applications*.

Respectfully submitted,

**/s/ David A. Meyer**

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David A. Meyer  
Senior Counsel  
Missouri Bar No. 46620

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**Certificate of Service**

I hereby certify that copies of the foregoing have been mailed, hand-delivered, transmitted by facsimile or e-mailed to all counsel of record this 18<sup>th</sup> day of July 2007.

**/s/ David A. Meyer**

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# **M E M O R A N D U M**

To: Missouri Public Service Commission Official Case File  
Case No: LA-2007-0453      File No:

From: Applicant: US Cable Telecom of Missouri, LLC  
Sara Buyak  
Telecommunications Department  
William Voight    7-16-07      William Haas    7-16-07  
Utility Operations Division/Date      General Counsel's Office/Date

Subject: Staff Recommendation for Approval of Certificate and/or Initial Tariff

Date: 7-16-07  
Filing Deadline: NA ( by 4:00 pm 7 working days prior to proposed effective date)

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 conditions:

1. The applicant's originating and terminating access rates will be no greater than the lowest Commission approved corresponding access rates in effect for each ILEC within whose service area the applicant seeks authority to provide service, unless authorized by the Commission pursuant to Sections 392.220 and 392.230 RSMo.
2. The certificate and service classification for switched access service is conditioned on the continued applicability of Section 392.200 RSMo, and the requirement that any increases in switched access services rates above the

maximum switched access service rates set forth herein shall be made pursuant to Sections 392.220 and 392.230 RSMo, and not Sections 392.500 and 392.510 RSMo.

3. 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 (indicate PSC MO numbers) 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 Company is not delinquent in filing an annual report and paying the PSC assessment.

☐ 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: )

**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.

**Additional Review Items for CLEC Applications (as required by 392.455 and/or 4 CSR 240-3.510):**

- ☒ Possesses sufficient technical, financial and managerial resources and abilities.
- ☒ Statement that the applicant will satisfy the minimum standards established by the commission.
- ☒ Identifies geographic area (no smaller than an exchange).
- ☒ Statement that applicant will offer basic local service as a separate and distinct service.
- ☒ Statement that applicant will give equitable access to all Missourians.

**Tariff Review Items (applicable for all competitively classified companies):**

- ☐ The tariff meets Staff's review for compliance with rules for competitive company tariff filings.

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OF THE STATE OF MISSOURI**

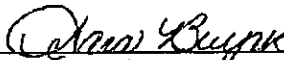
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Telecommunications Services )

Case No. LA-2007-0453

**AFFIDAVIT OF Sara Buyak**

STATE OF MISSOURI )  
 ) ss:  
COUNTY OF COLE )

Sara Buyak, employee of the Missouri Public Service Commission, being of lawful age and after being duly sworn, states that she has participated in preparing the accompanying staff recommendation and that the facts therein are true and correct to the best of her knowledge and belief.

  
Sara Buyak

Subscribed and affirmed before me this 16<sup>th</sup> day of July 2007  
I am commissioned as a notary public within the County of Callaway,  
State of Missouri and my commission expires on 9-21-10

  
NOTARY PUBLIC