

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

In the Matter of the Application of CLEC,)
Inc. for a Certificate of Service Authority)
to Provide Basic Local, Local Exchange)
and Interexchange Telecommunications)
Services and for Competitive)
Classification.)

Case No. LA-2006-0274

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 (Commission) grant CLEC, Inc. (Applicant) a certificate to provide basic local exchange service, non-switched local exchange service and interexchange service, with the conditions in the attached Memorandum. The Commission shall grant an application for a certificate of service authority to provide basic local exchange service, non-switched local exchange service and interexchange service upon a finding that the grant of authority is in the public interest (See §§ 392.430 and 392.440, RSMo 2000) and that the applicant has complied with the requirements of §§ 392.450 and 392.455 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 RSMo 2000). All the services a competitive company provides must be classified as competitive. (See § 392.361.3 RSMo 2000).

3. Staff further recommends that the Commission approve the waivers listed in the Notice of Applications. 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 RSMo. (See §§ 392.185, 392.361.3 and 392.420 RSMo 2000).

WHEREFORE, Staff recommends that the Commission grant CLEC, Inc. a certificate to provide basic local exchange services, non-switched local exchange services and interexchange services; grant Applicant competitive classification; and approve the waivers listed in the Notice of Applications.

Respectfully submitted,

/s/ Marc Poston

Marc Poston
Senior Counsel
Missouri Bar No. 45722

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Missouri Public Service Commission
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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 22nd day of February 2006.

/s/ Marc Poston

MEMORANDUM

To: Missouri Public Service Commission Official Case File
Case No: LA-2006-0274
Applicant: CLEC, Inc.

From: Sara Buyak
Telecommunications Department
William Voight 2-17-06 Marc Poston 2-22-06
Utility Operations Division/Date General Counsel's Office/Date

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

Date: 2-22-06
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 SBC
- ☒ All of Sprint
- ☒ All of CenturyTel
- ☒ All of Spectra
- ☐ Other _____ (please describe)

Granting the certificate 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.

☒ 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:)

☒ certificate to provide interexchange telecommunications services.

☒ certificate to provide local exchange telecommunications services.*

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

☐ No objection to tariff taking effect (indicate PSC MO numbers) Effective Date

☒ 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.

Staff recommends the applicant and its services receive competitive classification. In addition, Staff recommends approval of the waivers listed in the Notice.

☐ There is an attachment to this recommendation.

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):

- ☒ Possesses sufficient technical, financial and managerial resources and abilities.
- ☒ 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):

- ☐ Properly formatted: (Company name, PSC MO No., Page #, Page revision #, proposed effective date)
- ☐ Identifies competitive classification.
- ☐ Identifies waivers granted.
- ☐ Customer specific pricing, if proposed, limited for private line, special access or Centrex-like services or to business customers in exchanges where the incumbent local exchange company has had its business services declared competitive pursuant to Section 392.245. (392.200(8))
- ☐ Proposed rates do not establish geographic deaveraged rates (if not checked, explain in attachment). (392.200(4)).
- ☐ If an alternative operator service provider (receives more than 40% of revenues from traffic aggregators) operator service rates do not exceed: Person-to-Person (\$12.50), Station-to-Station/card (\$7.50). (392.515(1)).

Tariff Review Items (applicable only for CLECs):

- ☐ Interconnection agreement approved (if not checked, explain in attachment).
- ☐ Tariff clearly indicates areas offering local service (392.455(3)). Tariff identifies by exchange the areas where it offers basic local telecommunications service.
- ☐ Tariff offers local service as a separate and distinct service. (392.455(4))
- ☐ Switched access rates capped at ILEC's rates.

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Services Throughout the State of Missouri)
and to Classify the Company as)
Competitive)

Case No. **LA-2006-0274**

AFFIDAVIT OF Sara Buyak

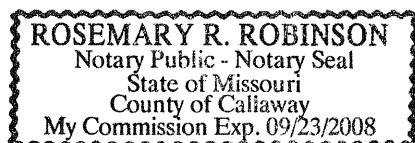
STATE OF MISSOURI)
) ss:
COUNTY OF COLE)

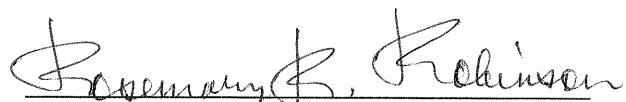
Sara Buyak, employee of the Staff of the Missouri Public Service Commission, being of lawful age and after being duly sworn, states that she has participated in the preparation of the accompanying Certificate of Authority to Provide Basic Local, Local Exchange, and Interexchange Telecommunications Services, 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 17th day of February, 2006,
I am commissioned as a notary public within the County of Cole, State of Missouri
and my commission expires on 9-23-2008





NOTARY PUBLIC