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March 21, 2000

VIA FEDERAL EXPRESS

Mr. Dale Hardy Roberts
Secretary/Chief Regulatory Law Judge
Missouri Public Service Commission
The Truman State Office Building
5th Floor, 301 West High Street
Jefferson City, MO 65102

Re: NewPath Holdings, Inc.

Dear Mr. Roberts:

Enclosed for filing with the Commission, please find an original and 16 copies of an Amended Application for Certificate of Authority filed on behalf of NewPath Holdings, Inc. Please file-stamp the extra copies and return them to us in the enclosed self-addressed, stamped envelope.

We are filing this Amended Application of NewPath Holdings, Inc. for Certificate of Service Authority and Competitive Classification, amending the Application of NewPath Holdings, Inc. for Certificate of Service Authority and Competitive Classification originally filed with the Missouri Public Service Commission on February 10, 2000. This Amended Application incorporates by reference the Exhibits attached to the original Application. We understand that the Commission will not require that these Exhibits be refiled since they are already on file and available to the Commission.

Concurrently with the filing of this Amended Application for Certificate of Authority to the Commission, we are transmitting an additional copy to the Office of Public Counsel and the General Counsel.

If you have any questions or concerns regarding any of the above information, please do not hesitate to contact me. Thank you for your assistance with this matter.

Very truly yours,

By

DeSimone Pearson, L.C.

Brad L. Pearson

BIP/jmg
Enclosures

cc: Office of Public Counsel
General Counsel

FILED²

MAR 22 2000

**Missouri Public
Service Commission**

TA-2000-491

**BEFORE THE
MISSOURI PUBLIC SERVICE COMMISSION**

In the Matter of the Application of)
NewPath Holdings, Inc. for a)
Certificate of Service Authority to)
Provide Switched and Dedicated)
Resold and Facilities-Based Local)
Exchange Telecommunications)
Services and Resold and Facilities-Based)
Interexchange Telecommunications)
Services within the State of)
Missouri and to Classify Said Services)
and the Company as Competitive.)

Case No. TA-2000-491

FILED²
MAR 22 2000

Missouri Public
Service Commission

To the Commission:

CERTIFICATE OF SERVICE

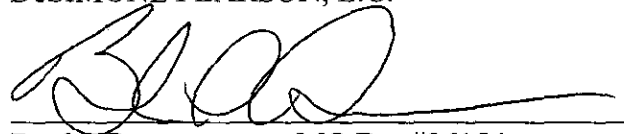
On March 21, 2000, NewPath Holdings, Inc. transmitted by regular mail to the office of the Public Counsel and the office of the General Counsel a true and correct copy of the above-referenced Amended Application for Certificate of Authority and the cover letter accompanying same.

Dated: March 21, 2000.

Respectfully Submitted,

DeSIMONE PEARSON, L.C.

By



Brad I. Pearson MO Bar #36154

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COUNSEL FOR NEWPATH

**BEFORE THE
MISSOURI PUBLIC SERVICE COMMISSION**

FILED²

MAR 22 2000

**Missouri Public
Service Commission**

In the Matter of the Application of)
NewPath Holdings, Inc. for a)
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and the Company as Competitive.)

Case No. TA-2000-491

**AMENDED APPLICATION OF NEWPATH HOLDINGS, INC.
FOR CERTIFICATE OF SERVICE AUTHORITY
AND FOR COMPETITIVE CLASSIFICATION**

NewPath Holdings, Inc. ("NewPath" or "Applicant"), by its undersigned counsel, and pursuant to Section 392.361, 392.430 RSMo 1994, 392.410, 392.450 RSMo Supp. 1996, the federal Telecommunications Act of 1996, and 4 CSR 240-2.060, hereby files this Amended Application for authority to provide switched and dedicated, resold and facilities-based local exchange telecommunications services and resold and facilities-based interexchange telecommunications services in the State of Missouri and to classify said service and company as competitive, amending the original Application (the "Application") filed with the Commission as of February 5, 2000. This Amended Application restates and reiterates the original Application in its entirety except that this introduction and paragraphs 3 and 7 below have been modified to clarify the scope and location of services. Applicant incorporates herein by reference the exhibits attached to and made a part of the original Application filed with the Commission on February 5, 2000.

Applicant, a Delaware corporation, files this verified Amended Application respectfully requesting that the Missouri Public Service Commission (the "Commission") issue an Order that:

- (a) grants Applicant a Certificate of Service Authority to provide switched and dedicated, resold and facilities-based local exchange telecommunications services.
- (b) grants Applicant a Certificate of Service Authority to provide resold and facilities-based interexchange telecommunications services.
- (c) grants competitive status to Applicant.
- (d) waives certain Commission rules and statutory provisions pursuant to R.S.Mo. § 392.420.

In support of its application NewPath states as follows:

1. The legal name and principal office or place of business of the Applicant are:

NewPath Holdings, Inc.
11260 Aurora Avenue
DeMoines, Iowa 50322

Applicant is a corporation duly organized and existing under and by virtue of the laws of the State of Delaware. NewPath is qualified to do business in the State of Missouri. Attached to the original Application, as Exhibit A, is a copy of NewPath's Certificate of Incorporation with the State of Delaware. Attached to the original Application as Exhibit B is a copy of Applicant's Certificate of Authority to Transact Business as a Foreign Corporation in the State of Missouri.

2. The name and address of Applicant's in-state attorney are:

Brad I. Pearson
DeSimone Pearson, LC
4324 Belleview, Suite 100
Kansas City, Missouri 64111
(816) 753-2823

All inquiries, correspondence, communications, pleadings, notices, orders and decisions relating to this case should be also addressed to:

M.P.S.C.

Amended Application of NewPath Holdings, Inc.

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Lawrence R. Freedman
Fleischman and Walsh, LLP
1400 Sixteenth Street, N.W. - Suite 600
Washington, DC 20036
Telephone: (202) 939-7900
Facsimile: (202) 588-0095

Also, Applicant may be reached at its principal place of business:

Mick Herke, Executive Vice President
NewPath Holdings, Inc.
11260 Aurora Avenue
Des Moines, Iowa 50322
Telephone: (515) 276-3069
Facsimile: (515) 270-9181

3. Applicant proposes to provide switched and dedicated basic local exchange telecommunications service on a facilities and resold basis, only in those territories within the state of Missouri presently served by the Southwestern Bell, Sprint, and GTE local exchange carriers. NewPath will initially provide data transmission services via high-speed, high quality data connections. However, NewPath seeks authority to provide the full range of local exchange and interexchange services in its later service offerings and further reserves the right to expand the territories served.

4. Pursuant to this application, NewPath seeks to offer many forms of basic local telecommunications services and long distance telecommunications services. The Company will describe and provide rates for these services in the tariff it will file with the Commission once its interconnection agreement or agreements are in place.

5. NewPath possesses the technical and managerial expertise and experience necessary to provide the services it proposes. Description of the backgrounds of Applicant's management, which demonstrate NewPath's extensive experience and expertise, are attached to the original Application and incorporated herein by reference as Exhibit C. Applicant also possesses the necessary financial resources to provide its telecommunications services in the state of Missouri. In particular, NewPath has access to the financing and capital necessary to conduct the telecommunications operations it seeks authority to provide by this application. Attached to the original Application, as Exhibit D, are NewPath's financial statements which demonstrate that it meets the Missouri Public Service Commission's financial criteria. NewPath requests that the financial statement attached as Exhibit D, be treated as highly confidential by the Commission. NewPath is a privately held corporation and its financial statements are not public information. NewPath requests that the financial statements filed under seal with the original Application remain confidential and not be made available to anyone not a party to this proceeding.

6. Applicant requests classification as a competitive telecommunications company within the State of Missouri. Applicant believes that its proposed services will be subject to sufficient competition to justify a lesser degree of regulation. Granting this Application will allow greater price and service options for telephone users.

7. NewPath's initial plans call for the provision of data services only. However, to the extent the company does eventually provide voice telecommunications service, it hereby agrees to offer basic local telecommunications service as a separate and distinct service in accordance with

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Amended Application of NewPath Holdings, Inc.

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applicable law. NewPath will give consideration to equitable access for all customers in its service areas, regardless of where they might reside or their income, to affordable telecommunications services in NewPath's proposed service areas for basic local telecommunications services in accordance with applicable law.

8. NewPath will comply with all applicable Commission rules and is willing to meet all relevant service standards, including, but not limited to billing, quality of service, and tariff filing and maintenance.

Applicant requests, pursuant to R.S.Mo. § 392.420, that the Commission waive the application of the following rules and statutory provisions as they relate to the regulation of Applicant's interexchange services:

<u>Statutes</u>	<u>Commission Rules</u>
392.240 (1)	4 CSR 240-10.020
392.270	4 CSR 240-30.010(2)(C)
392.280	4 CSR 240-30.040
392.290	4 CSR 240-32.030(1)(B)
392.310	4 CSR 240-32.030(1)(C)
392.320	4 CSR 240-32.030(2)
392.330	4 CSR 240-32.050(3-6)
392.340	4 CSR 240-32.070(4)
	4 CSR 240-33.030
	4 CSR 240-33.040(5)

Applicant requests, pursuant to R.S.Mo. § 392.420, that the Commission waive the application of the following rules and statutory provisions as they relate to the application of Applicant's local exchange services:

<u>Statutes</u>	<u>Commission Rules</u>
392.210.2	4 CSR 240-10.020
392.270	4 CSR 240-30.040
392.280	4 CSR 240-35
392.290.1	
392.300.2	
392.310	
392.320	
392.330	
392.340	

The above referenced rules and statutory provisions have been waived for other carriers in prior cases. Since Applicant is providing similar services as those companies who have been previously granted such waivers, Applicant respectfully requests waiver of the above referenced rules and statutory provisions, consistent with the principle of competitive equality.

9. NewPath further requests a temporary waiver of 4 CSR 240-2.060(4)(H). This rule requires that an application for a certificate of service authority to provide interexchange, local exchange or basic local exchange service shall include a proposed tariff with a forty-five day effective date. NewPath finds it inappropriate at this time to develop tariffs to fully comply with this rule since, among other things, NewPath has not yet executed or received Commission approval of any

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Amended Application of NewPath Holdings, Inc.

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interconnection and/or resale agreements with incumbent local exchange companies and has not finalized the operational methodologies by which voice service will be offered. At such time as all facts necessary for the development of such tariffs are known to Applicant, it will promptly file said tariffs bearing no less than a 30-day effective date with the Commission in a manner consistent with recent Commission practice in similar cases.

10. The Commission has already approved numerous applications for companies proposing to provide competitive local exchange carrier ("CLEC") services in Missouri. NewPath submits that the public interest will be served by Commission approval of this Amended Application because NewPath's proposed services will create and enhance competition and expand customer service options in the local exchange market-place and high-speed data market. NewPath's certification as a CLEC will not have a negative impact on the prices, network design or financial viability of the incumbent LECs, the principal providers of local exchange services in Missouri. To the contrary, introduction of a new competitive entrant will promote the availability, affordability, and quality of exchange telephone services. The public convenience and necessity, therefore, will be served by the prompt approval of this application authorizing NewPath to provide the services described herein.

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Amended Application of NewPath Holdings, Inc.

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WHEREFORE, applicant NewPath Holdings, Inc. respectfully requests that the Commission grant it a certificate of service authority to provide basic local and interexchange telecommunications services as herein requested, classify NewPath's and its proposed services as competitive, and grant a waiver of the aforesaid statutes and regulations.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Brad L. Pearson', written over a horizontal line.

Brad L. Pearson

MO Bar # 36154

DeSimone Pearson, L.C.

4324 Belleview, Suite 100

Kansas City, Missouri 64111

ATTORNEY FOR NEWPATH HOLDINGS, INC.

VERIFICATION

I, Mick Herke, am the Executive Vice President of Regulatory and Contracts of NewPath Holdings, Inc., the Applicant. I verify that, based upon information and belief, I have knowledge of the statements in the foregoing Amended Application, and I declare that they are true and correct.

Mick Herke
Signature

Sworn to before me, the undersigned Notary Public, on this 20th day of March, 2000.

STATE OF Iowa
COUNTY OF Polk

Karen Blum
Notary Public

Karen Blum
Print Name

My Commission Expires on: 8-3-2002

