

BEFORE THE PUBLIC SERVICE COMMISSION  
OF THE STATE OF MISSOURI

In the Matter of the Application of	)	
Mercury Voice and Data Company	)	
for Amendment of Certificate of Service	)	
Authority to Expand its Service Areas to	)	
Provide Basic Local Voice Service in	)	Case No. _____
Additional Exchanges in the State of	)	
Missouri and to Classify said Services	)	
and the Company as Competitive.	)	

**APPLICATION FOR AMENDMENT OF  
CERTIFICATE OF SERVICE AUTHORITY**

Comes now Mercury Voice and Data Company (“Mercury”), by its undersigned counsel, and pursuant to Sections 392.361, 392.410, 392.420, 392.430 and 392.450 R.S.Mo. 2000, the federal Telecommunications Act of 1996, and 4 C.S.R. § 240-2.060, hereby files this Application requesting that the Missouri Public Service Commission (the “Commission”) issue an order amending its Certificate of Service Authority to expand the exchanges in which it is authorized to provide basic local voice service in the state of Missouri and designating Mercury and such service as competitive.

In support of its Application, Mercury states as follows:

1. Applicant Mercury is a corporation duly organized and existing under and by virtue of the laws of the state of Missouri. A true and correct copy of a Certificate of Good Standing from the Missouri Secretary of State is attached as Exhibit A. The legal name and principal office or place of business of Mercury are:

Mercury Voice and Data Company  
825 Edmond Street  
St. Joseph, MO 64501

2. All inquiries, correspondence, communications, pleadings, notices, orders and decisions relating to the case should be addressed to:

Michael L. McCann, Esq.  
Spencer Fane Britt & Browne, LLP  
1000 Walnut Street, Suite 1400  
Kansas City, MO 64105  
816-292-8110  
816-474-3216 (fax)  
[mmccann@spencerfane.com](mailto:mmccann@spencerfane.com)

and

Gregory C. Lawhon, Esq.  
Mercury Voice and Data Company  
825 Edmond Street  
St. Joseph, MO 64501  
816-221-8100  
[glawhon@npgco.com](mailto:glawhon@npgco.com)

3. On July 20, 2006, in Docket No. CA-2006-0483, the Commission granted Mercury a certificate of service authority to provide (i) interexchange voice services in the state of Missouri, (ii) local exchange voice services restricted to dedicated private line service in the state of Missouri, and (iii) basic local voice services in the Missouri exchanges served by Southwestern Bell Telephone L.P. d/b/a AT&T Missouri. The Commission also classified Mercury and the services it offers as competitive. Mercury has not yet filed a basic local exchange service tariff in such proceeding.

4. In this Application, Mercury seeks to amend its Certificate of Service Authority to expand the Missouri exchanges in which it is authorized to provide basic local voice service to include the exchanges served by the following incumbent local exchange telecommunications companies (“ILECs”): Embarq Missouri, Inc. d/b/a Embarq (“Embarq”) (formerly Sprint Missouri, Inc.); CenturyTel of Missouri, LLC (“CenturyTel”); and Spectra Communications

Group, LLC d/b/a CenturyTel (“Spectra”). The specific Embarq, CenturyTel and Spectra exchanges within which Mercury proposes to offer service are listed in each ILECs’ respective local exchange tariffs. Mercury may seek authority to provide service in other areas of the state in a subsequent proceeding.

5. Mercury seeks classification of itself and its services rendered pursuant to an amended or expanded certificate to be classified as competitive, as are its current services.

6. Pursuant to this Application, Mercury seeks to offer and provide basic local voice service as described in its application submitted in Case No. CA-2006-0483, which is hereby incorporated by reference.

7. Mercury continues to possess the technical and managerial expertise and experience necessary to provide the services it proposes, as described in its application submitted in Case No. CA-2006-0483.

8. Mercury also continues to possess the necessary financial resources required to provide the proposed voice services and meets the financial tests described in state statutes, as described in its application submitted in Case No. CA-2006-0483.

9. Mercury will offer basic local service as a separate and distinct service in accordance with applicable law. Mercury will give consideration to equitable access for all Missourians, regardless of where they might reside or their income, to affordable voice services in Mercury’s proposed service areas in accordance with applicable law.

10. Mercury has no pending actions or final unsatisfied judgments or decisions against it from any state or federal agency or court which involve customer service or rates, which action, judgment or decision has occurred within three (3) years of the date of the Application. No Missouri annual reports or assessment fees are overdue.

11. Mercury is willing to 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 in a manner consistent with the Commission's requirements for incumbent local exchange carrier(s) with whom Mercury seeks authority to compete. Additionally, Mercury agrees that, pursuant to Section 392.455(3) and (4) RSMo. 2000, its service area shall be no smaller than an exchange. Consistent with the Commission's treatment of other certificated competitive local providers, Mercury requests that the following statutes and regulations be waived for Mercury and its local service offerings:

<u>Statutes</u>	<u>Missouri Public Service Commission Rules</u>
392.210.2	4 C.S.R. § 240-3.550(5)(C)
392.240.1	4 C.S.R. § 240-10.020
392.270	4 C.S.R. § 240-30.040
392.280	
392.290	
392.300.2	
392.310	
392.320	
392.330	
392.340	

12. Before providing service Mercury will file tariffs bearing no less than a 45 day effective date with the Commission in a manner consistent with law and the Commission's practice in similar cases.

13. Mercury submits that the public interest will be served by Commission approval of this Application because Mercury's services will create and enhance competition and expand customer service options consistent with the legislative goals set forth in the federal Telecommunications Act of 1996 and Chapter 392 R.S.Mo. Prompt approval of this

Application also will expand the availability of innovative, high quality, and reliable voice services within the State of Missouri.

14. Mercury submits, notwithstanding the provisions of Section 392.500 R.S.Mo., as a condition of certification and competitive classification, Mercury agrees that, unless otherwise ordered by the Commission, Mercury's originating and terminating switched exchange access rates in a service area will be no greater than the lowest Commission-approved corresponding access rates in effect for the ILEC serving such service area. Additionally, pursuant to the Commission's Report and Order in Case No. TO-99-596, Mercury agrees that, if the ILEC in whose service area Mercury is operating decreases its originating and/or terminating access service rates, Mercury shall file an appropriate tariff amendment to reduce its originating and/or terminating access rates within thirty (30) days of ILEC's reduction of its originating and/or terminating access rates in order to maintain the cap on switched exchange access rates.

15. In recognition of the currently unsettled nature of the issues surrounding the appropriate regulatory treatment of Internet Protocol based voice services such as those proposed by Mercury, nothing in this submission should be construed as a concession or agreement by Mercury that the services at issue in this Application constitute telecommunications services, local exchange services, common carrier offerings, or services that are otherwise subject to federal or state regulation, nor that the entity or entities providing them constitute telecommunications carriers, telecommunications providers, local exchange carriers, common carriers, or other regulated entities.

WHEREFORE, applicant Mercury respectfully requests that the Commission amend Mercury's Certificate of Service Authority to include the exchanges specified above, classify Mercury and its proposed services as competitive, and grant a waiver of the aforesaid statutes and regulations.

Respectfully submitted,

By   
Michael L. McCann, Esq. Mo. Bar #41166  
Spencer Fane Britt & Browne LLP  
1000 Walnut Street, Suite 1400  
Kansas City, MO 64106  
Telephone: (816) 292-8110  
Email: [mmccann@spencerfane.com](mailto:mmccann@spencerfane.com)  
*Attorney for Applicant Mercury Voice and  
Data Company*

VERIFICATION


STATE OF MISSOURI                    )  
  ) ss.  
COUNTY OF JACKSON                )

COMES NOW Gregory C. Lawhon, being of lawful age and duly sworn, swears and affirms as follows:

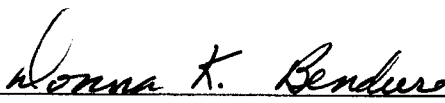
1. My name is Gregory C. Lawhon and I hold the position of Vice President and General Counsel of Mercury Voice and Data Company, the applicant in the foregoing Application. In that capacity, I am authorized on its behalf to delegate responsibility for the foregoing Application of Mercury Voice and Data Company.

2. The information contained in the Application is true and accurate to the best of my knowledge and belief.

3. I have authorized Michael L. McCann, Esq., and the law firm of Spencer Fane Britt & Browne LLP to file and prosecute the Application, and to represent Mercury Voice and Data Company in any proceedings arising out of the Application.

  
\_\_\_\_\_  
Gregory C. Lawhon

Subscribed and sworn to before me this 6<sup>th</sup> day of October, 2006.

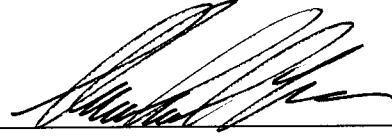
  
\_\_\_\_\_  
Notary Public

My Commission Expires: 4-1-2010

DONNA K. BENDURE  
Notary Public - Notary Seal  
STATE OF MISSOURI  
Ray County  
My Commission Expires: 4/1/2010  
Commission #06436116

**Certificate of Service**

On this 9<sup>th</sup> day of October, 2006, a true and correct copy of the above document was served upon each of the parties set forth below via United States Mail, postage prepaid.



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Michael L. McCann

Office of the Public Counsel  
Governor Office Building  
P.O. Box 7800  
200 Madison, Suite 650  
Jefferson City, MO 65102

General Counsel  
Missouri Public Service Commission  
P.O. Box 360  
Jefferson City, MO 65102



# **Exhibit A**

## **Certificate of Good Standing**

**(copy attached)**

# STATE OF MISSOURI



Robin Carnahan  
Secretary of State

**CORPORATION DIVISION  
CERTIFICATE OF GOOD STANDING**

I, ROBIN CARNAHAN, Secretary of the State of Missouri, do hereby certify that the records in my office and in my care and custody reveal that

**MERCURY VOICE AND DATA COMPANY  
00734762**

was created under the laws of this State on the 28th day of April, 2006, and is in good standing, having fully complied with all requirements of this office.

IN TESTIMONY WHEREOF, I have set my hand and imprinted the GREAT SEAL of the State of Missouri, on this, the 3rd day of October, 2006

A handwritten signature in cursive script that reads "Robin Carnahan".

Secretary of State

