

BEFORE THE PUBLIC SERVICE COMMISSION OF THE STATE OF MISSOURI

In the Matter of the Application of)
Conterra Ultra Broadband, LLC for a)
Certificate of Service Authority to Provide)
Resold and Facilities-Based Basic Local,)
Non-Switched Access Local Exchange,)
Exchange Access and Interexchange)
Telecommunications Services in Missouri and to)
Classify those Services and the Applicant as)
Competitive)

File No. TA-2015-0348

ORDER GRANTING CERTIFICATES TO PROVIDE BASIC LOCAL, NONSWITCHED LOCAL, AND INTEREXCHANGE TELECOMMUNICATIONS SERVICES

Issue Date: July 22, 2015

Effective Date: August 1, 2015

This order grants certificates of service authority to provide basic local, nonswitched local, and interexchange telecommunications services in the state of Missouri, and classifies those services and the company as competitive.

On June 29, Conterra Ultra Broadband, LLC applied for certificates of service authority to provide basic and nonswitched local exchange, as well as interexchange telecommunications services within the state of Missouri, and for competitive classification. The company seeks certification to provide interexchange service throughout the state and basic local service in portions of Missouri that are currently being served by Southwestern Bell Telephone d/b/a AT&T Missouri; Embarq Missouri, Inc. d/b/a CenturyLink; CenturyTel of Missouri d/b/a CenturyLink; and Spectra Communications Group, LLC d/b/a CenturyLink. Conterra is authorized to do business in Missouri by the Missouri Secretary of State.

On July 1, the Commission issued its Notice of Applications, establishing a 15-day deadline for intervention. No applications to intervene were received. On July 22, the Staff of the Commission recommended that the requested certificates and classifications be granted.

The Commission may grant an application for a certificate of service authority to provide telecommunications service upon a showing that the applicant has met the statutory requirements,¹ and that the grant of authority is in the public interest.² Based on the verified application and Staff's uncontested recommendation, the Commission finds that Conterra satisfies the requirements for certification and that granting such certificates is in the public interest.

Conterra also requests that it and its services be classified as competitive. The Commission may classify a telecommunications service as competitive if the Commission determines that the applicant is subject to a sufficient degree of competition to justify a lesser degree of regulation.³ The Commission may classify a telecommunications carrier as competitive if a majority of its services are so classified.⁴

The Commission finds that the intrastate interexchange market is competitive and that the interexchange services Conterra will offer are subject to competition. In addition, Conterra will compete with incumbent local exchange carriers, as well as other competitive local exchange carriers in the exchanges in which it provides basic local telecommunications service. The Commission finds that Conterra will be subject to a sufficient level of competition to justify a lesser degree of regulation. Furthermore, a

¹ See Sections 392.450, RSMo (Cum. Supp. 2013), 392.451, RSMo (Cum. Supp. 2013) and 392.455, RSMo 2000.

² Sections 392.430 and 392.440, RSMo 2000.

³ Section 392.361.2, RSMo (Cum. Supp. 2013).

⁴ Section 392.361.3, RSMO (Cum. Supp. 2013).

majority of the services Conterra will offer are qualified for classification as competitive services.

The Commission may also require a telecommunications company to comply with any conditions reasonably necessary to protect the public interest. Staff recommends that Conterra's application be granted subject to certain restrictions regarding switched access rates and delivery of traffic. These conditions are routinely recommended by Staff and Conterra accepted them in its application. The conditions proposed by Staff are necessary to protect the public interest and will be adopted.

Conterra did not file a tariff along with its application, indicating it would not do so until it has executed interconnection agreements with the underlying ILECs. Conterra reserves the right to offer its retail services by means of a designated website as allowed by applicable rules. It will not offer exchange access service unless and until it has in place a Commission-approved tariff for access services.

Pursuant to section 392.461, RSMo (Cum. Supp. 2013), Conterra is not subject to Commission rules pertaining to the installation, provisioning, or termination of retail service unless it elects, in written notice to the Commission, to be subject to such rules.

The Commission places Conterra on notice that failure to comply with certain obligations pursuant to law may result in penalties assessed against the company. These obligations include, but are not limited to, the following:

- A) The obligation to file an annual report, as established by Section 392.210, RSMo 2000. Failure to comply with this obligation will make the utility liable for a penalty of \$100 per day for each day that the violation continues.

Rule 4 CSR 240-3.540 requires telecommunications utilities to file their annual report on or before April 15 of each year.

- B) The obligation to pay an annual assessment fee established by the Commission, as required by Section 386.370, RSMo 2000.
- C) The obligation to comply with all relevant laws and regulations, as well as orders issued by the Commission. If the company fails to comply it is subject to penalties for noncompliance ranging from \$100 to \$2,000 per day of noncompliance, under Section 386.570, RSMo 2000.
- D) The obligation to keep the Commission informed of its current address and telephone number.

The company is reminded that its officers may not represent it before the Commission. The company must be represented by an attorney licensed to practice law in Missouri.

In addition, Section 392.410.5, RSMo (Cum. Supp. 2013), provides that the company's certificate of service authority becomes null and void one year from the date of this order unless the company has exercised its authority under that certificate.

The Commission notes that before providing telecommunications services in Missouri, a party shall possess the following: (1) an interconnection agreement approved by the Commission; and (2) except for wireless providers, a certificate of service authority from the Commission to provide interexchange or basic local telecommunications services.

THE COMMISSION ORDERS THAT:

1. Conterra Ultra Broadband, LLC is granted a certificate of service authority to provide basic local telecommunications services in the exchanges of Southwestern Bell

Telephone d/b/a AT&T Missouri; Embarras Missouri, Inc. d/b/a CenturyLink; CenturyTel of Missouri d/b/a CenturyLink; and Spectra Communications Group, LLC d/b/a CenturyLink, subject to the conditions and recommendations contained in Staff's Memorandum.

2. Conterra Ultra Broadband, LLC is granted certificates of service authority to provide nonswitched local exchange and interexchange telecommunications services in the state of Missouri.

3. Conterra Ultra Broadband, LLC and its services are granted competitive classification.

4. Conterra Ultra Broadband, LLC'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 (Cum. Supp. 2013).

5. If the directly-competing incumbent local exchange carrier, in whose service area Conterra Ultra Broadband, LLC is operating, decreases its originating or terminating access service rates, Conterra shall file an appropriate tariff amendment to reduce its originating or terminating access rates in the directly competing incumbent local exchange carrier's service area within 30 days of the directly competing incumbent local exchange carrier's reduction of its originating or terminating access rates in order to maintain the cap.

6. Conterra Ultra Broadband shall undertake all necessary measures to ensure its contracts with underlying carriers do not contain provisions preventing delivery of traffic to any telephone exchange area of Missouri. Such measures included, but are not limited to:

a) Prevention of call blocking and/or call gapping based on the cost of traffic termination;

b) Preventing the alteration or stripping of Calling Party Number identification; and

c) Ensuring sufficient network capacity exists to process all traffic according to industry accepted practices.

7. This order and Conterra Ultra Broadband, LLC's certificates shall become effective on August 1, 2015.

8. This file shall be closed on August 2, 2015.

BY THE COMMISSION



A handwritten signature in black ink that reads "Morris L. Woodruff".

Morris L. Woodruff
Secretary

Morris L. Woodruff, Chief Regulatory Law Judge,
by delegation of authority pursuant
to Section 386.240, RSMo 2000.

Dated at Jefferson City, Missouri,
on this 22nd day of July, 2015.