

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

In the matter of the Application of Socket )  
Telecom, LLC to Expand Its Certificate of Basic )  
Local Service Authority to Include Provision of )  
Basic Local Exchange Telecommunications )  
Service Throughout the State of Missouri and to )  
Continue to Classify Company and Its Services )  
as Competitive )

**Case No. TA-2010-0006**

**ORDER GRANTING EXPANSION OF  
CERTIFICATE OF SERVICE AUTHORITY**

Issue Date: August 10, 2009

Effective Date: August 20, 2009

**Syllabus:** This order expands Socket Telecom, LLC's certificate of service authority to provide basic local telecommunications service, continues to classify those services and the company as competitive, and waives certain statutes and regulations.

**Procedural History**

Socket Telecom, LLC applied to the Missouri Public Service Commission on July 6, 2009, for permission to expand its certificate of service authority to provide basic local exchange telecommunications services to include all exchanges in the state of Missouri. Socket also sought to remain classified as a competitive company and asked the Commission to grant the following waivers:

**Statutes**

- 392.210.2 uniform system of accounts
- 392.240.1 just and reasonable rates
- 392.270 valuation of property (ratemaking)
- 392.280 depreciation accounts
- 392.290 issuance of securities
- 392.300 transfer of property and acquisition of stock
- 392.310 stock and debt issuance

392.320	stock and dividend payment
392.330	issuance of securities, debts and notes
392.340	reorganization(s)

Commission Rules

4 CSR 240-3.550(4)	records of applications
4 CSR 240-3.550(5)(A)	quality of service quarterly report
4 CSR 240-3.550(5)(C)	exchange boundary maps
4 CSR 240-10.020	depreciation fund income
4 CSR 240-30.040	uniform system of accounts
4 CSR 240-32.060	engineering and maintenance
4 CSR 240-32.070	quality of service
4 CSR 240-32.080	service objectives and surveillance levels
4 CSR 240-33.040 (excluding (4))	billing and payment standards
4 CSR 240-33.045	customer bills
4 CSR 240-080(1)	company name for billing disputes
4 CSR 240-33.130(1), (4) and (5)	operator service

On July 6, 2009, the Commission issued a Notice of Socket's application and directed that those wishing to intervene file an application requesting intervention no later than July 16, 2009. There were no requests to intervene. The Staff of the Commission then filed its Memorandum on July 23, recommending that the Commission approve the application.

Additionally, Socket amended its application to request a waiver of Commission rule 4 CSR 240-32.050(4)(B). Socket's request is made in light of Southwestern Bell Telephone Company d/b/a AT&T Missouri's application for waiver of the general distribution requirement of White Pages Directories.<sup>1</sup> The Staff of the Commission does not oppose Socket's request as long as Socket is subject to the same conditions imposed under the Unanimous Stipulation and Agreement reached in File No. IE-2009-0357. Those conditions are that: (1) Socket advise its customers in the metropolitan calling area that they will not receive printed residential white page directories unless they call Socket's

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<sup>1</sup> Commission File No. IE-2009-0357.

toll-free number or use Socket's web site to request delivery of printed white page directories; and (2) Socket will forward to AT&T electronic files identifying those customers that make such requests, so that delivery can be accomplished pursuant to the applicable interconnection agreement. In its reply, Socket agreed to those conditions.

### **Findings of Fact**

1. Socket Telecom, LLC is a limited liability company organized under the laws of the state of Missouri.
2. The Commission granted Socket a certificate to provide basic local telecommunications services in the territories of Southwestern Bell Telephone Company n/k/a AT&T, CenturyTel of Missouri, LLC, and Embarq Missouri, Inc., as well as to provide interexchange and non-switched local exchange telecommunications services throughout the state of Missouri.<sup>2</sup>
3. When it granted Socket its certificate of service authority, the Commission also classified Socket and its service as competitive and granted the "standard" Commission waivers.<sup>3</sup>
4. Socket applied to the Commission on July 6, 2009, for permission to expand its certificate of service authority to provide basic local telecommunications service in every exchange throughout the state of Missouri.<sup>4</sup>
5. Socket is qualified to do business in the State of Missouri as evidence by its Certificate of Authority from the Missouri Secretary of State.<sup>5</sup>

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<sup>2</sup> See Commission Case No. TA-2001-671.

<sup>3</sup> Application, page 2.

<sup>4</sup> Application, page 1.

<sup>5</sup> Application, para. 4.

6. Socket provided names and addresses for contact purposes.<sup>6</sup>
7. Socket has no pending actions or final unsatisfied judgments or decisions against it from any state or federal agency or court involving customer service or rates.<sup>7</sup>
8. Socket intends to file a tariff, reflecting this grant of authority, before providing basic local service in the expanded service area.<sup>8</sup>
9. Socket will compete with all incumbent local exchange carriers in their respective service territories.<sup>9</sup>
10. Granting the expansion of the certificate will benefit the public interest by increasing equitable access for Missourians, creating and enhancing competition and expanding customer service options.<sup>10</sup>
11. Granting the expansion of the certificate will also indirectly benefit the public because the competitive presence of Socket will increase the incentives for the incumbents and others to operate more efficiently, offer more innovative service, reduce prices and improve the quality and coverage of services.<sup>11</sup>
12. The Staff of the Commission recommended that the Commission grant Socket's request.<sup>12</sup>
13. Staff recommended that the Commission grant Socket's request to expand its basic local certificate subject to the following conditions:
  - A. Socket's originating and terminating access rates shall not exceed the access rates of the incumbent local exchange company against whom Socket is competing pursuant to Section 392.361.6 and 392.370.

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<sup>6</sup> Application, paras. 2 and 3.

<sup>7</sup> Application, para. 12.

<sup>8</sup> Application, para. 8.

<sup>9</sup> Application, para 11.

<sup>10</sup> Application, para. 15.

<sup>11</sup> *Id.*

<sup>12</sup> Staff Recommendation, para. 1.

- B. If the directly competing ILEC, in whose service areas Socket is operating, decreases its originating and/or terminating access service rates, Socket 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.

14. Socket agrees with the conditions suggested by Staff and found in paragraph 13, above.<sup>13</sup>

15. Socket is not delinquent in filing an annual report or in paying the Commission assessment and Relay Missouri.<sup>14</sup>

### **Conclusions of Law**

The Missouri Public Service Commission has reached the following conclusions of law:

1. The requirement for a hearing is met when the opportunity for a hearing was provided and no party requested the opportunity to present evidence.<sup>15</sup> Notice was issued in this case and no hearing has been requested.
2. Socket is an "alternative local exchange telecommunications company" as that term is defined by Section 386.020, RSMo.
3. The Commission is authorized to create a process by which to certify new entrants to provide local exchange telecommunications services in Missouri as common carriers, and is further authorized to grant such certificates where it is in the public interest.<sup>16</sup>
4. Socket was certificated to provide basic local telecommunications service prior to August 28, 2008.

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<sup>13</sup> Application, para. 11.

<sup>14</sup> Staff Memorandum.

<sup>15</sup> *State ex rel. Deffenderfer Enterprises, Inc. v. Public Service Comm'n*, 776 S.W.2d 494, 495-496 (Mo. App. 1989).

<sup>16</sup> Sections 392.430, 392.450 and 392.455, RSMo.

5. Socket has requested that the Commission grant it an expansion of its certificate to provide basic local exchange telecommunications services to include all exchanges in the state of Missouri. Socket has satisfied the requirements of the Commission's regulations and of Section 392.455, and consequently, the Commission concludes that Socket has complied with the certification process established by the Commission in satisfaction of Section 392.450.1.
6. The Commission shall modify the existing certificate of service authority to provide basic local telecommunications service to any alternative local exchange telecommunications company which was certificated to provide basic local telecommunications service as of August 28, 2008, as long as the alternative local exchange company is in good standing, in all respects, with all applicable Commission rules and requirements.<sup>17</sup> Socket "is in good standing, in all respects, with all applicable Commission rules and requirements."<sup>18</sup> Therefore, the Commission shall grant the certificate expansion.
7. Socket requests that it and its basic local services continue to be classified as competitive. The Commission may classify a telecommunications service as competitive if the Commission determines that it is subject to a sufficient degree of competition to justify a lesser degree of regulation and that such lesser regulation is consistent with the protection of ratepayers and promotes the public interest.<sup>19</sup> The Commission may classify a telecommunications carrier as competitive if the Commission finds that a majority of its services are so classified.<sup>20</sup>

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<sup>17</sup> Subsection 392.450.3, RSMo (amended by H.B. 1779 effective Aug. 28, 2008).

<sup>18</sup> Subsection 392.450.3, RSMo (amended by H.B. 1779 effective Aug. 28, 2008).

<sup>19</sup> Section 392.361.2 and 4, RSMo (amended by H.B. 1779 effective Aug. 28, 2008).

<sup>20</sup> Section 392.361.3, RSMo (amended by H.B. 1779 effective Aug. 28, 2008).

8. Socket has been found to be a competitive company in prior Commission cases. Furthermore, all the services to be provided by Socket in the state will be competitive. The Commission also found that the expansion of Socket's certificate will benefit the public and will be in direct competition with the incumbent basic local provider. Considering these findings, the Commission concludes that Socket will be subject to a sufficient level of competition to justify a lesser degree of regulation and its services and the company shall continue to be classified as competitive.
9. The Commission shall waive, at a minimum, the application and enforcement of its quality of service and billing standards rules, as well as the provisions of Subsection 2 of Section 392.210, Subsection 1 of Section 392.240, and Sections 392.270, 392.280, 392.290, 392.300, 392.310, 392.320, 392.330, and 392.340, RSMo.<sup>21</sup> In accordance with Section 392.420, RSMo, the Commission shall grant the requested waivers.
10. An applicant for a basic local certificate must meet the minimum service standards that the Commission requires of the competing incumbent local exchange carriers.<sup>22</sup> Socket has agreed to provide services that will meet the minimum basic local service standards required by the Commission. The Commission concludes that Socket has met the requirements of Section 392.450.2(2).
11. The Commission may also "require a telecommunications company to comply with any conditions reasonably made necessary to protect the public interest by the suspension of the statutory requirement."<sup>23</sup> Staff recommends that Socket's application be granted subject to the conditions set out above.<sup>24</sup> Socket has agreed to these

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<sup>21</sup> Subsection 392.420, RSMo (amended by H.B. 1779 effective Aug. 28, 2008).

<sup>22</sup> Section 392.450.2(2), RSMo.

<sup>23</sup> Section 392.361.6, RSMo.

<sup>24</sup> See Finding of Fact 13.

conditions.<sup>25</sup> The Commission has considered the conditions proposed by Staff and concludes that they are reasonably necessary to protect the public interest and shall be adopted.

12. Prior to providing telecommunications service in the expanded area, Socket shall have in effect a tariff authorizing it to provide service in the area.<sup>26</sup>
13. The certificate of service authority granted in this order becomes null and void one year from the date of this order unless Socket has exercised its authority under that certificate.<sup>27</sup>
14. The Commission reminds the company that failure to comply with its regulatory obligations may result in the assessment of penalties against it. These regulatory 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 to a penalty of \$100 per day for each day that the violation continues. 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 \$2000 per day of noncompliance, pursuant to Section 386.570, RSMo 2000.

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<sup>25</sup> See Finding of Fact 14.

<sup>26</sup> Section 392.450.2(1).

<sup>27</sup> Section 392.410.5, RSMo Cum. Supp. 2007.

- D) The obligation to keep the Commission informed of its current address and telephone number.

**THE COMMISSION ORDERS THAT:**

1. Socket Telecom, LLC is granted an expansion of its certificate of service authority to provide basic local telecommunications services to include all exchange in the state of Missouri subject to the conditions set out below and to all applicable statutes and Commission rules except as specified in this order.

2. Socket Telecom, LLC and its telecommunications services are classified as competitive.

3. Socket Telecom, LLC's originating and terminating access rates shall not exceed the access rates of the incumbent local exchange company against whom Socket is competing pursuant to Sections 392.361.6 and 392.370, RSMo.

4. If the directly competing incumbent local exchange company in whose service area Socket is operating decreases its originating and/or terminating access service rates, Socket 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.

5. The following statutes and Commission regulations are waived:

Statutes

392.210.2	uniform system of accounts
392.240.1	just and reasonable rates
392.270	valuation of property (ratemaking)
392.280	depreciation accounts
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4 CSR 240-33.045	customer bills
4 CSR 240-080(1)	company name for billing disputes
4 CSR 240-33.130(1), (4) and (5)	operator service

6. Prior to delivering service under its expanded certificate of service authority, Socket Telecom, LLC, shall file tariff sheets with an effective date which is not fewer than 45 days from the issue date, and which reflect the rates, rules, regulations, and the services it will offer. The tariff shall also include a listing of the statutes and Commission rules waived above.

7. Socket Telecom, LLC is granted a waiver of Commission rule 4 CSR 240-32.050(4)(B), subject to the conditions that: (1) Socket advise its customers in the metropolitan calling areas that they will not receive printed residential white page directories unless they call Socket's toll-free number or use Socket's website to request delivery of such printed directories; and, (2) Socket forward to AT&T electronic files identifying those customers that make such requests, so that delivery can be accomplished pursuant to the applicable interconnection agreement.

8. This order shall become effective on August 20, 2009.

**BY THE COMMISSION**

A handwritten signature in black ink, appearing to read 'S. C. Reed', written in a cursive style.

Steven C. Reed  
Secretary

( S E A L )

Kennard L. Jones, Senior Regulatory  
Law Judge, by delegation of authority  
pursuant to Section 386.240, RSMo 2000.

Dated at Jefferson City, Missouri,  
on this 10th day of August, 2009.