

authority to transfer the assets of the CassTel companies to the FairPoint companies. FairPoint Communications Missouri, Inc., d/b/a FairPoint Communications, and ST Long Distance, Inc., d/b/a FairPoint Communications Long Distance, also request that they be granted the certificates of service authority that they will need to provide service to CassTel's customers. Furthermore, FairPoint Communications Missouri, Inc., d/b/a FairPoint Communications, asks that it be designated as an eligible telecommunications carrier for purposes of receiving federal universal service support.

On January 25, the Commission issued an Order Directing Notice and Setting Date for Submission of Intervention Requests. That order directed that notice of the proposed transfer of assets be given to the public in Cass, Bates, and Johnson counties. Additionally, on January 27, the Commission ordered that notice be directed to the public in Henry County. Cass County Telephone Company currently provides local telephone service in those four counties. The Commission ordered that any person wishing to intervene in this case file an application to do so no later than February 14. No applications to intervene were filed.

Staff filed its recommendation regarding the application on April 21. Staff's recommendation and supporting memorandum indicate that Staff has closely examined the proposed transaction. Staff concludes that the proposed transfer of assets is not detrimental to the public interest and recommends that it be approved. In particular, Staff indicates that for regulatory purposes, the assets that FairPoint will acquire will be valued at the net original cost as of the date of acquisition with a corresponding acquisition adjustment to record the assets at fair market values for financial purposes. FairPoint has agreed that any acquisition adjustment will not be included in rate base or the regulatory

balances of CassTel, and has further agreed to make no request for rate recovery of any acquisition premium in any future rate proceedings. FairPoint has also agreed to forego the rate recovery of any transaction costs resulting from the acquisition of the CassTel assets.

Staff also recommends that FairPoint Communications Missouri, Inc., d/b/a FairPoint Communications, and ST Long Distance, Inc., d/b/a FairPoint Communications Long Distance, be granted the certificates of service authority they will need to provide basic local and interexchange services in Missouri. Furthermore, Staff recommends that FairPoint Communications Missouri, Inc., d/b/a FairPoint Communications, be designated as an eligible telecommunications carrier for the receipt of federal universal service fund support. Finally, Staff recommends that the Commission include twenty specific provisions in its order approving the proposed transaction.

The Applicants have not responded to Staff's recommendation, so the Commission will presume that they accept the provisions recommended by Staff. The Office of the Public Counsel, the other party to this case, has not filed a recommendation, and has not responded to Staff's recommendation. On May 24, the Commission conducted an on-the-record presentation regarding the application in this case, as well as Staff's complaint against CassTel in Case Number TC-2005-0357, and Staff's over-earnings investigation in Case Number IR-2006-0374. At that proceeding, the Applicants and Public Counsel urged the Commission to approve the application as part of the overall resolution of the CassTel problem.

On May 19, ST Long Distance, Inc., d/b/a FairPoint Communications Long Distance filed a motion requesting a variance from Commission Rule 4 CSR 240-33.150(4)(B), which requires that, when a change of carrier results from the sale of a company's assets, the

acquiring carrier provide notice to the affected customers through an insert in the customers bill at least 30 days before the change. Since this transaction is expected to close by July 3, the Applicants will not have time to provide that notice through a bill insert. Instead, they propose to provide the notice by a special mailing to those customers at least 30 days before the closing. In its recommendation, Staff agreed that the provision of notice through a special mailing was appropriate. The Commission will grant the requested variance.

Based on the information provided in the verified application and at the on-the-record presentation, and based upon the recommendation and verified memorandum of Staff, which are admitted into evidence, the Commission finds that the proposed transaction will not be detrimental to the public interest and that the application should be approved.

The Commission finds that the services ST Long Distance, Inc., d/b/a FairPoint Communications Long Distance, proposes to offer are competitive and ST Long Distance, Inc., d/b/a FairPoint Communications Long Distance, shall be classified as a competitive company. The Commission finds that waiving the statutes and Commission rules set out in the ordered paragraph below is reasonable and not detrimental to the public interest.

The Commission reminds FairPoint Communications Missouri, Inc., d/b/a FairPoint Communications, and ST Long Distance, Inc., d/b/a FairPoint Communications Long Distance, that failure to comply with their regulatory obligations may result in the assessment of penalties against them. 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 utility fails to comply, it is subject to penalties for noncompliance ranging from \$100 to \$2,000 per day of noncompliance, pursuant to Section 386.570, RSMo 2000.

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

Furthermore, FairPoint Communications Missouri, Inc., d/b/a FairPoint Communications, and ST Long Distance, Inc., d/b/a FairPoint Communications Long Distance, are reminded that, as corporations, non-attorneys may not represent them before the Commission. Instead, a corporation must be represented by an attorney licensed to practice law in Missouri.

In addition, FairPoint Communications Missouri, Inc., d/b/a FairPoint Communications, and ST Long Distance, Inc., d/b/a FairPoint Communications Long Distance, are reminded that Section 392.410.5, RSMo Supp. 2005, renders their certificates of service authority null and void one year from the date of this order unless they have exercised their authority under that certificate.

IT IS ORDERED THAT:

1. The Joint Application for approval of the transfer and acquisition of the Missouri facilities and systems of Cass County Telephone Company, L.P., and LEC Long

Distance, Inc., d/b/a CassTel Long Distance, by FairPoint Communications, Inc., FairPoint Communications Missouri, Inc., d/b/a FairPoint Communications, and ST Long Distance, Inc., d/b/a FairPoint Communications Long Distance, in accordance with the submitted Asset Purchase Agreement, is granted.

2. The Certificate of Service Authority granted to Cass County Telephone Company, L.P., in Case No. TM-95-163 is canceled, effective upon closing of the approved transaction.

3. The Certificates of Service Authority granted to LEC Long Distance, Inc., d/b/a CassTel Long Distance, in Case Nos. TA-99-182 and TA-99-330, are canceled, effective upon closing of the approved transaction.

4. FairPoint Communications Missouri, Inc., d/b/a FairPoint Communications, is granted a certificate of service authority to provide local telecommunications service, including basic local telecommunications service, in the exchanges currently served by Cass County Telephone Company, L.P.

5. FairPoint Communications Missouri, Inc., d/b/a FairPoint Communications, shall, upon closing of the approved transaction, file tariffs to adopt the following tariffs of Cass County Telephone Company, L.P.:

- PSC Mo No. 1, Local Exchange;
- PSC Mo No. 2, Access Services;
- PSC Mo No. 3, Long Distance;
- PSC Mo No. 4, WATTs;
- PSC Mo No. 5, Private Line;
- PSC Mo No. 6, Digital Services; and
- PSC Mo No. 7, Wireless Termination.

6. A) ST Long Distance, Inc., d/b/a FairPoint Communications Long Distance, is granted a certificate of service authority to provide intrastate interexchange telecommunications services to the public in the State of Missouri.

B) ST Long Distance, Inc., d/b/a FairPoint Communications Long Distance, is classified as a competitive telecommunications company. Application of the following statutes and regulatory rules shall be waived:

Statutes

- 392.210.2 - uniform system of accounts
- 392.240.1 - just and reasonable rates
- 392.270 - property valuation
- 392.280 - depreciation rates
- 392.290 - issuance of stocks and bonds
- 392.300.2 - transfer of capital stock
- 392.310 - issuance of stocks and bonds
- 392.320 - stock dividend payment
- 392.330 - issuance of stocks and bonds
- 392.340 - reorganization

Commission Rules

- 4 CSR 240-10.020 - depreciation fund income
- 4 CSR 240-30.040 - uniform system of accounts

7. ST Long Distance, Inc., d/b/a FairPoint Communications Long Distance, shall, upon closing of the approved transaction, file a tariff to adopt PSC Mo No. 1 of LEC Long Distance, Inc., d/b/a CassTel Long Distance.

8. FairPoint Communications Missouri, Inc., d/b/a FairPoint Communications, is authorized to commence providing local exchange telecommunications service, including basic local telecommunications service, effective upon closing of the approved transaction.

9. ST Long Distance, Inc., d/b/a FairPoint Communications Long Distance, is authorized to commence providing interexchange and non-switched local exchange telecommunications service, effective upon closing of the approved transaction.

10. ST Long Distance, Inc., d/b/a FairPoint Communications is granted a variance from Commission Rule 4 CSR 240-33.150(4)(B). The Joint Applicants shall notify all subscribers of the change in carrier through a notice in each subscriber's bill, or by a special mailing, at least 30 days before the change in service.

11. The Joint Applicants are authorized to do and perform, or cause to be done and performed, such other acts and things, as well as make, execute and deliver any and all documents as may be necessary, advisable and proper to the end that the intent and purposes of the approved transaction may be fully effectuated.

12. A) FairPoint Communications Missouri, Inc., d/b/a FairPoint Communications, is designated as an eligible telecommunications carrier eligible under the provisions of 47 CFR 54.201(d) to receive federal universal service fund support immediately upon the effective date of the close of the sale.

B) Within 60 days of the effective date of this order, the Commission's Staff shall file with the Federal Communications Commission the certification required pursuant to section 54.314(d)(6) of Title 47 of the Code of Federal Regulations.

13. Cass County Telephone Company, L.P., and FairPoint Communications Missouri, Inc., d/b/a FairPoint Communications, shall provide Staff with all closing entries to record the purchase and sale of CassTel's telecommunications properties that are the subject of this proceeding within six months of the final closing.

14. FairPoint Communications Missouri, Inc., d/b/a FairPoint Communications, within six months of the final closing of the approved transaction, shall submit to Staff a revised cost allocation manual that reflects the acquisition of Cass County Telephone Company, L.P. The cost allocation shall be considered Proprietary under the provisions of the protective order in this case.

15. Nothing in this order shall be considered a finding by the Commission of the value of these transactions for ratemaking purposes. The Commission reserves the right to consider the ratemaking treatment to be afforded these financing transactions and their results in cost of capital, in any later proceeding.

16. FairPoint Communications Missouri, Inc., d/b/a FairPoint Communications, is authorized to use the depreciation rates set forth in Attachment C to Staff's Recommendation.

17. FairPoint Communications Missouri, Inc., d/b/a FairPoint Communications, is directed to inspect the company's facilities for proper bonding and grounding in their normal work activities and immediately correct violations.

18. In any rate proceeding, FairPoint Communications Missouri, Inc., d/b/a FairPoint Communications' cost of capital shall be based upon its business risk and a reasonable amount of financial risk of its Missouri telephone properties. FairPoint Communications Missouri, Inc., d/b/a FairPoint Communications' cost of capital shall not be increased due to unnecessary increased risk because of FairPoint Communications, Inc.'s financial policies.

19. If FairPoint Communications, Inc.'s corporate rating falls below B+, then FairPoint Communications Missouri, Inc., d/b/a FairPoint Communications, must within 30

days provide a report to Staff demonstrating that this event was not caused by an increase in FairPoint Communications, Inc.'s financial risk. If FairPoint Communications Missouri, Inc., d/b/a FairPoint Communications, cannot demonstrate to Staff's satisfaction that this downgrade was due to factors other than an increase in FairPoint Communications, Inc.'s financial risk, then FairPoint Communications Missouri, Inc., d/b/a FairPoint Communications, must within 30 days provide a report to Staff demonstrating that the downgrade will not have a negative impact upon FairPoint Communications Missouri, Inc., d/b/a FairPoint Communications' continued quality of service to its Missouri customers or cause a reduction in its investment in its basic telecommunications services. In the event that FairPoint Communications Missouri, Inc., d/b/a FairPoint Communications, is unable to demonstrate the aforementioned items to Staff's satisfaction, FairPoint Communications, Inc., shall be required to take the necessary financial action to restore its credit rating within three months, or such other reasonable time if it can demonstrate that three months is unreasonable. FairPoint Communications Missouri, Inc., d/b/a FairPoint Communications, and FairPoint Communications, Inc., shall enter into a contract imposing this obligation upon FairPoint Communications, Inc., and a copy thereof shall be provided to Staff not later than 14 days prior to the closing of the approved transaction.

20. FairPoint Communications Missouri, Inc., d/b/a FairPoint Communications, shall provide the Staff's Financial Analysis Department within 30 days of receipt any credit agency report assigning a corporate credit rating to FairPoint Communications, Inc., until such time that FairPoint Communications, Inc., attains an investment grade rating.

21. Any acquisition adjustment and transaction costs that may result from the approved transaction shall not be recovered in rates.

22. So that the Commission may know when the approved transaction is completed and when the certificates of service authority of Cass County Telephone Company, L.P. and LEC Long Distance, Inc., may be canceled, the Commission will direct FairPoint Communications, Inc., to file an appropriate notice in this case upon the closing of the approved transaction.

23. This order shall become effective on June 9, 2006.

BY THE COMMISSION

A handwritten signature in black ink, appearing to read 'Colleen M. Dale', written over a horizontal line.

Colleen M. Dale
Secretary

(S E A L)

Davis, Chm., Murray, Clayton and Appling, CC., concur
Gaw, C., concurs, concurring opinion to follow

Woodruff, Deputy Chief Regulatory Law Judge