

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

In the Matter of the Application of )  
Network Innovations, Inc. for a Certificate )  
of Authority to Provide Interexchange )  
Telecommunications Service and to )  
Classify Such Services as Competitive. )

Case No. XA-2009-0114  
Tariff File No. YX-2009-0267

**STAFF RECOMMENDATION**

**COMES NOW** the Staff of the Missouri Public Service Commission (Staff) and for its recommendation respectfully states:

1. In the attached Memorandum, labeled Appendix A, Staff recommends that the Missouri Public Service Commission (Commission) grant Network Innovations, Inc. (Applicant) a certificate of service authority to provide interexchange telecommunications services and local exchange telephone services. Staff further recommends that the local exchange authority should be limited to dedicated private service lines. The Commission shall grant an application for a certificate of telecommunications service authority upon a finding that the grant of authority is in the public interest. Sections 392.430 and 392.440 RSMo (2000).

2. Staff recommends that the Commission classify Applicant and its services as competitive. The Commission may classify a telecommunications provider or its services as competitive if the Commission determines that “a telecommunications service is subject to sufficient 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. . .” Section 392.361.4 RSMo (2000) (Supp. 2008). “The commission may classify a telecommunications company as a competitive telecommunications company upon a finding that a majority of its telecommunications services offered by such company are competitive telecommunications services.” Section 392.361.3, RSMo (2000) (Supp. 2008).

3. Staff recommends that the Commission approve the waivers listed in the Notice of Applications. The Commission may waive the application of its rules and certain statutes if the Commission determines that waiver is consistent with the purposes of Chapter 392. Sections 392.185, 392.361.5 and 392.420.

4. Staff has no objection to Applicant's proposed tariff taking effect on November 17, 2008.

**WHEREFORE,** Staff recommends that the Commission grant Applicant a certificate of service authority to provide interexchange telecommunications services and local exchange telecommunications services and to classify Applicant and its services as competitive. Staff recommends that the Commission grant the waivers listed in the Notice of Application. Staff recommends that the Commission approve Applicant's tariff effective November 17, 2008.

Respectfully submitted,

/s/ Jennifer Heintz

Jennifer Heintz

Senior Counsel

Missouri Bar No. 57128

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**Certificate of Service**

I hereby certify that copies of the foregoing have been mailed, hand-delivered, transmitted by facsimile or electronically mailed to all counsel of record this 5th day of November 2008.

/s/ Jennifer Heintz

## MEMORANDUM

To: Missouri Public Service Commission Official Case File  
Case No: XA-2009-0114 File No: YX-2009-0267  
Applicant: Network Innovations, Inc.

From: Sara Buyak  
Telecommunications Department  
William Voight 10-30-08 Jennifer Heintz 10-30-08  
Utility Operations Division/Date General Counsel's Office/Date

Subject: Staff Recommendation for Approval of Certificate and/or Initial Tariff

Date: October 27, 2008  
Filing Deadline: November 6, 2008

The Telecommunications Department Staff (Staff) recommends the applicant be granted the following certificate(s), as indicated below, to be effective on the same date the tariff becomes effective:

☐ certificate to provide basic local exchange telecommunications services in the following service areas.

- ☐ All of AT&T Missouri
- ☐ All of Embark
- ☐ All of CenturyTel
- ☐ All of Spectra
- ☐ Other \_\_\_\_\_ (please describe)

☒ certificate to provide interexchange telecommunications services.

☒ certificate to provide local exchange telecommunications services.\*

\*local exchange authority should be restricted to dedicated, private line services.

Staff recommends the applicant and its services receive competitive classification. Staff further recommends a Commission order granting certification state that pursuant to Section 392.410 RSMo, unless exercised within a period of one year from the issuance thereof, authority conferred by a certificate of service authority shall be null and void. In addition, Staff recommends approval of the waivers listed in the Notice.

Granting a certificate to provide basic local exchange telecommunications services should be based on the following two conditions:

1. The applicant'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.
2. If the directly competing ILEC, in whose service area the applicant is operating, decreases its originating and/or terminating access service rates, the applicant 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.

- ☒ No objection to tariff taking effect: Missouri PSC Tariff No. 1 (Insert MO PSC number.) Effective Date: November 17, 2008.  
The Staff states that the tariff meets the requirements of all applicable statutes, specifically, one or more of the following: Sections 392.200(8), (12); 392.455(3), (4); and 392.500(2) RSMo. In addition, the tariff filing does not conflict with the following Commission rules: 4 CSR 240-3.545 (4), (6), (7), (8 C,G,H), (9), (15), (16), (19); 4 CSR 240-31.065(1), (2), (3); 4 CSR 240-32.150(5), 32.160(1), (2), 32.190; 4 CSR 240-33.040(4), 33.050(4) and 33.070(2).

- ☐ Tariff was not submitted with application. Pursuant to 4 CSR 240-3.510(1)(C), the applicant cannot lawfully provide service until tariffs are effective.

Additional Comments:

☒ The Company is not delinquent in filing an annual report, paying the PSC assessment, MoUSF, and Relay Missouri.

☐ The Company is delinquent. Staff recommends the Commission grant the requested relief/action on the condition the applicant corrects the delinquency. The applicant should be instructed to make the appropriate filing in this case after it has corrected the delinquency.

(☐ No annual report ☐ Unpaid PSC assessment. ☐ Unpaid MoUSF  
☐ Unpaid Relay Missouri Amount owed:     )

**Review Items for IXC, Non-switched Local and CLEC Certificate Applications (as required by 4 CSR 240-2.060):**

- ☒ Proper Secretary of State authorization
- ☒ Statement of character of business performed.
- ☒ Statement declaring no pending action or final unsatisfied judgments
- ☒ Statement declaring no overdue annual reports/assessment fees
- ☒ Application includes an affidavit.
  
- ☒ The applicant is requesting waivers of rules or statutes previously granted to a competitively classified company

(as required by 392.430/.440):

- ☒ Application shows that grant of authority is in the public interest.

**Additional Review Items for CLEC Applications (as required by 392.455 and/or 4 CSR 240-3.510):**

- ☐ Possesses sufficient technical, financial and managerial resources and abilities.
- ☐ Statement that the applicant will satisfy the minimum standards established by the commission.
- ☐ Identifies geographic area (no smaller than an exchange).
- ☐ Statement that applicant will offer basic local service as a separate and distinct service.
- ☐ Statement that applicant will give equitable access to all Missourians.

**Tariff Review Items (applicable for all competitively classified companies):**

- ☒ The tariff meets Staff's review for compliance with rules for competitive company tariff filings.

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OF THE STATE OF MISSOURI**

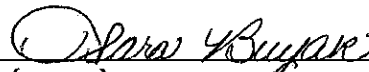
In the Matter of the Application of )  
Network Innovations, Inc., for a certificate )  
of service authority to provide )  
interexchange telecommunications services )  
and to classify such services and the )  
company as competitive. )

Case No. XA-2009-0114

**AFFIDAVIT OF Sara Buyak**

STATE OF MISSOURI )  
 ) ss:  
COUNTY OF COLE )

Sara Buyak, employee of the Missouri Public Service Commission, being of lawful age and after being duly sworn, states that she has participated in preparing the accompanying staff recommendation and that the facts therein are true and correct to the best of her knowledge and belief.

  
\_\_\_\_\_  
{NAME}

Subscribed and affirmed before me this 27<sup>th</sup> day of October 2008.



SUSAN L. SUNDERMEYER  
My Commission Expires  
September 21, 2010  
Callaway County  
Commission #06942086

  
\_\_\_\_\_  
NOTARY PUBLIC