

BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI

In the Matter of the Application of FairPoint Carrier)
Services, Inc. for a Certificate of Service Authority)
to Provide Interexchange and Non-Switched Local)
Exchange Telecommunications Services and to) **Case No. XA-2008-0284**
Classify Said Services and the Company as)
Competitive)

ORDER APPROVING INTEREXCHANGE AND
NONSWITCHED LOCAL EXCHANGE CERTIFICATES OF SERVICE
AUTHORITY

Issue Date: April 1, 2008

Effective Date: April 11, 2008

Syllabus: This order grants FairPoint Carrier Services, Inc. (“FairPoint”) certificates of service authority to provide interexchange and nonswitched local exchange telecommunications services, restricted to providing dedicated private line services.

On February 29, 2008, FairPoint Carrier Services, Inc. (“FairPoint”) applied to the Missouri Public Service Commission for certificates of service authority to provide switched interexchange and nonswitched local exchange telecommunications services in Missouri. FairPoint’s application, which was filed pursuant to Section 392.410, RSMo Cum. Supp. 2005 and Sections 392.420 through 392.450, RSMo 2000,¹ as well as the pertinent administrative regulations, did not (and was not required to) contain a proposed tariff.²

¹ Unless otherwise indicated, all statutory references are to RSMo 2000.

² See Commission Rule 4 CSR 240-3.510(1)(C), which provides that a proposed tariff may, but need not be, filed simultaneously with an application for a certificate of service authority to provide interexchange, local exchange, or basic local exchange telecommunications services. FairPoint has advised the Commission that it plans to file a tariff “forthwith” after it has been granted the requested certificates of service authority.

FairPoint asked the Commission to classify it and its services as competitive and to waive certain statutes and Commission rules as authorized by Sections 392.361 and 392.420. FairPoint, whose principal office is located at 521 E. Morehead, Suite 250, Charlotte, North Carolina 28202, is a Delaware corporation duly registered and authorized to do business in Missouri as a foreign corporation.

The Commission issued a Notice of Applications for Intrastate Certificates of Service Authority and Opportunity to Intervene on March 11, 2008, directing parties wishing to intervene to file their requests by March 26, 2008. No requests for intervention were filed.

FairPoint intends to provide switched interexchange and nonswitched local exchange telecommunications services limited to providing dedicated private line services to business customers throughout Missouri, including other telecommunications customers on a wholesale basis.

In its Memorandum filed on March 28, 2008, the Staff of the Commission recommended that the Commission grant FairPoint a certificate of intrastate, interexchange service authority and a certificate of service authority for local exchange telecommunications service on condition that this authority be restricted to providing dedicated private line services. Staff recommended that the Commission classify FairPoint and its services as competitive, and that the Commission waive the statutes and rules listed in the Notice.

The Commission finds that competition in the intrastate interexchange and nonswitched local exchange telecommunications markets is in the public interest and that FairPoint shall be granted certificates of service authority. The Commission finds that the

services FairPoint proposes to offer are competitive and that FairPoint 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 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. 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. Commission 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.

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, pursuant to Section 386.570.

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

The company is also reminded that, as it is a corporation, non-attorneys may not represent the company before the Commission. Instead, the corporation must be represented by an attorney licensed to practice law in Missouri.

Furthermore, as noted above, no tariff was submitted with the application. While

no tariff filing is required at this time, the Commission advises FairPoint that “[b]efore service can be provided, a tariff and any applicable interconnection agreements must be filed with the commission and approved.”³ Finally, the company is reminded that Section 392.410.5, RSMo Cum. Supp. 2005, renders the company’s certificates of service authority null and void one year from the date of this order unless it has exercised its authority under those certificates.

IT IS ORDERED THAT:

1. FairPoint Carrier Services, Inc. is granted a certificate of service authority to provide intrastate interexchange telecommunications services in the state of Missouri, subject to the conditions and recommendations contained in the Memorandum filed by the Commission’s Staff on March 28, 2008, and also subject to all applicable statutes and Commission rules except as specified in this order.

2. FairPoint Carrier Services, Inc. is granted a certificate of service authority to provide nonswitched local exchange telecommunications services in the state of Missouri, limited to providing dedicated private line services, subject to the conditions and recommendations contained in the Memorandum filed by the Commission’s Staff on March 28, 2008, and also subject to all applicable statutes and Commission rules except as specified in this order.

3. The certifications granted herein are conditioned upon FairPoint Carrier Services, Inc.’s compliance with the regulatory obligations in this order.

³ 4 CSR 240-3.510(1)(C). The tariff filed with the Commission must have “an effective date which is not fewer than forty-five (45) days after the tariff’s issue date.” *Id.*

4. FairPoint Carrier Services, Inc. is classified as a competitive telecommunications company. Application of the following statutes and administrative regulations shall be waived:

Statutes

- 392.210.2 - Uniform System of Accounts
- 392.240.1 - Rates-Rentals-Service & Physical Connections
- 392.270 - Valuation of Property (Ratemaking)
- 392.280 - Depreciation Accounts
- 392.290 - Issuance of Securities
- 392.300.2 - Acquisition of Stock
- 392.310 - Stock and Debt Issuance
- 392.320 - Stock Dividend Payment
- 392.330 - Issuance of Securities, Debts and Notes
- 392.340 - Reorganization(s)

Commission Rules

- 4 CSR 240-10.020 - Depreciation Fund Income
 - 4 CSR 240-30.040 - Uniform System of Accounts
5. This order shall become effective on April 11, 2008.
6. This case may be closed on April 12, 2008.

BY THE COMMISSION



Colleen M. Dale
Secretary

(S E A L)

Benjamin H. Lane, Regulatory
Law Judge, by delegation of authority
under section 386.240, RSMo 2000.

Dated at Jefferson City, Missouri,
on this 1st day of April, 2008.