

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

In the Matter of the Application of 3L Communications	)	
Missouri, LLC for a Certificate of Service Authority to	)	<b><u>File No. TA-2012-0201</u></b>
Provide Basic Local Exchange Services in Portions	)	Tariff No. YC-2012-0314
of the State of Missouri and to Classify Said Services	)	Tariff No. YC-2012-0315
as Competitive	)	

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

Issue Date: February 2, 2012

Effective Date: February 15, 2012

This order grants certificates of service authority to provide basic local, nonswitched local, and interexchange telecommunications services in the state of Missouri, classifies those services and the company as competitive, waives certain statutes and regulations, and approves the company's tariffs.

On December 30, 2011, 3L Communications Missouri, LLC ("Company") applied for certificates of service authority with the Missouri Public Service Commission ("Commission") 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 and non-switched local exchange services throughout the state and basic local service throughout all exchanges currently served by Southwestern Bell Telephone, L.P. d/b/a AT&T Missouri, CenturyTel of Missouri, LLC d/b/a Century Tel and Spectra Communications Group, LLC d/b/a CenturyTel. The Company is authorized to do business in Missouri by the Missouri Secretary of State.

On January 3, 2012, the Commission issued an Order Directing Notice of Application for Certificate of Service Authority and Setting Intervention Deadline, directing parties wishing to intervene to file their requests by January 18, 2012. No applications to intervene were received. On February 2, 2012, the Staff of the Commission recommended that the requested certificates, classifications and waivers 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,<sup>1</sup> and that the grant of authority is in the public interest.<sup>2</sup> Based on the verified application and Staff's uncontested recommendation, the Commission finds that the Company satisfies the requirements for certification and that granting such certificates is in the public interest.

The Company also requests that it and its services be classified as competitive and that the application of certain statutes and regulatory rules be waived. 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.<sup>3</sup> The Commission may only classify a telecommunications carrier as competitive if all of its services are so classified.<sup>4</sup> The Commission may waive the application of certain statutes and of its rules to a competitive carrier if it determines that such waiver is consistent with the purposes of Chapter 392.<sup>5</sup>

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<sup>1</sup> See Sections 392.450, 392.451 and 392.455, RSMo 2000. All statutory references, unless otherwise specified, are to the Revised Statutes of Missouri (RSMo), revision of 2000.

<sup>2</sup> Sections 392.430 and 392.440.

<sup>3</sup> Section 392.361.2.

<sup>4</sup> Section 392.361.3.

<sup>5</sup> See Sections 392.185, 392.361.3 and 392.420.

The Commission finds that the intrastate interexchange market is competitive and that the interexchange services the Company will offer are subject to competition. In addition, the Company 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 the Company will be subject to a sufficient level of competition to justify a lesser degree of regulation. Furthermore, all of the services the Company will offer are qualified for classification as competitive services.

The Commission may waive certain statutes and administrative rules for competitively classified carriers “if such waiver or modification is otherwise consistent with the other provisions of Section 392.361 to 392.520 and the purposes of this chapter.”<sup>6</sup> The Commission has developed a standard list of statutes and regulations that it waives for competitive local exchange and interexchange carriers. The Commission finds that the waiver of those statutes and regulations is consistent with the purposes of Chapter 392, and will waive those provisions for the Company.

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

Along with its application, the Company submitted proposed basic local, local exchange, and interexchange tariffs. The Company filed revised tariff pages on January

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<sup>6</sup> Sections 392.361.5 and 392.420.

20, 2012. The effective date of the proposed tariffs is February 15, 2012. Staff recommends that the tariffs be approved. The Commission finds that the Company's proposed tariffs should be approved to become effective on February 15, 2012.

The Commission places the Company 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. 2010, 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.

In addition, the Staff recommends that the Commission specifically condition certification on the Company ensuring that calls to certain areas are not unnecessarily blocked, which is also known as "call gapping". The Commission may impose conditions on telecommunications companies if those conditions are reasonable and necessary to protect the public interest. Sections 392.470.1 and 392.361.6, RSMo 2000. As a telecommunications company operating in Missouri, the Company will have a duty to "receive, transmit and deliver, without discrimination or delay, the conversations and messages of every other telecommunications company with whose facilities a connection may have been made." Section 392.200.6, RSMo 2000. Since the Company has agreed to the condition and the Commission finds that the condition is a reasonable and necessary action to protect the public interest, the certificate will be conditioned on the provision described in the ordered paragraph below.

The Commission notes that before providing telecommunications services in Missouri, a party shall possess the following: (1) an interconnection agreement approved by the Commission; (2) except for wireless providers, a certificate of service authority from the Commission to provide interexchange or basic local telecommunications services; and (3) except for wireless providers, a tariff approved by the Commission.

**THE COMMISSION ORDERS THAT:**

1. 3L Communications Missouri, LLC is granted a certificate of service authority to provide basic local telecommunications services throughout all exchanges currently served by Southwestern Bell Telephone, L.P. d/b/a AT&T Missouri, CenturyTel of Missouri,

LLC d/b/a Century Tel and Spectra Communications Group, LLC d/b/a CenturyTel., subject to the conditions and recommendations contained in the Staff's Memorandum.

2. 3L Communications Missouri, LLC is granted certificates of service authority to provide nonswitched local exchange and interexchange telecommunications services in the state of Missouri.

3. 3L Communications Missouri, LLC and its services are granted competitive classification.

4. Originating and terminating access rates for 3L Communications Missouri, LLC will be no greater than the lowest Commission-approved corresponding access rates in effect for each incumbent local exchange carrier within whose service area the Company seeks authority to provide service, unless authorized by the Commission pursuant to Section 392.220 and 392.230, RSMo.

5. If the directly competing incumbent local exchange carrier, in whose service area 3L Communications Missouri, LLC is operating, decreases its originating or terminating access service rates, the Company 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. Application of the following statutes and Commission rules is waived:

Statutes

392.210.2	Accounting requirements (system of accounts)
392.240.1	Reasonableness of rates
392.270	Accounting requirements (valuation of property)
392.280	Accounting requirements (depreciation rates/accounts)
392.290	Issuance of stocks, bonds and other indebtedness

- 392.300 Transfer of property and ownership of stock
- 392.310 Approval of issuing stocks, bonds and other indebtedness
- 392.320 Certificate of Commission to be recorded-stock dividends
- 392.330 Accounting requirements (proceeds of sales of stock, bonds, notes, etc.)
- 392.340 Company reorganization

Commission Rules

- 4 CSR 240-3.520 Applications to sell or transfer assets
- 4 CSR 240-3.525 Applications to merge or consolidate
- 4 CSR 240-3.530 Applications to issue stocks, obtain loans
- 4 CSR 240-3.535 Applications to acquire stock
- 4 CSR 240-3.545(8)(C) Listing of Waivers in Tariff
- 4 CSR 240-3.550 Telco Records and Reports (except (5)(B), (D) and (E))
- 4 CSR 240-3.555 Residential Customer Inquiries
- 4 CSR 240-3.560 Procedure for Ceasing Operations
- 4 CSR 240-10.020 Depreciation Records
- 4 CSR 240-30.020 Residential Telephone Underground Systems
- 4 CSR 240-30.040 Uniform System of Accounts
- 4 CSR 240-32.010 General Provisions
- 4 CSR 240-32.040 Metering, Inspections and Tests
- 4 CSR 240-32.050 Customer Services
- 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 240-32.090 Connection of equipment and Inside Wiring
- 4 CSR 240-32.100 Provision of Basic Local and Interexchange Services
- 4 CSR 240-32.130-170 Prepaid Calling Cards (except 32.140 and 32.150(1))
- 4 CSR 240-32.180-190 Caller ID blocking requirements
- 4 CSR 240-33.010 Service and Billing Practice General Provisions
- 4 CSR 240-33.040 Billing and Payment standards
- 4 CSR 240-33.045 Clear identification and placement of charges on bills
- 4 CSR 240-33.050 Deposits
- 4 CSR 240-33.060 Residential Customer Inquiries
- 4 CSR 240-33.070 Discontinuance of service
- 4 CSR 240-33.080 Disputes by Residential Customers
- 4 CSR 240-33.090 Settlement agreements with residential customers
- 4 CSR 240-33.130 Operator service requirements
- 4 CSR 240-33.140 Payphone requirements (except (2))
- 4 CSR 240-33.150 "Anti-slamming" requirements
- 4 CSR 240-33.160 Customer Proprietary Network Information

7. The following tariff, assigned file number YC-2012-0314, is approved to become effective on February 15, 2012:

**PSC Mo. No. 1**  
**Original Sheet 1 to Original Sheet 76**

8. The following tariff, assigned file number YC-2012-0315, as amended, is approved to become effective on February 15, 2012:

**PSC Mo. No. 2**  
**Original Sheet 1 to Original Sheet 67**

9. The certification granted herein is conditioned upon the company's compliance with the regulatory obligations set out in this order. In addition, the certification is conditioned on the Company undertaking 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 include, but are not limited to, prevention of call blocking and/or call gapping based on the cost of traffic termination; preventing the alteration or stripping of calling party number identification; and ensuring sufficient network capacity exists to process all traffic according to industry accepted practices.

10. This order and the Company's certificates shall become effective on February 15, 2012.



11. This file may be closed on February 16, 2012.

**BY THE COMMISSION**



Steven C. Reed  
Secretary

( S E A L )

Michael Bushmann, Regulatory Law Judge,  
by delegation of authority pursuant to  
Section 386.240, RSMo 2000.

Dated at Jefferson City, Missouri,  
on this 2nd day of February, 2012.