

BEFORE THE PUBLIC SERVICE COMMISSION OF THE STATE OF MISSOURI

In the Matter of the Application of BCN Telecom, Inc.)	
for a Certificate of Service Authority to Provide)	
Basic Local Telecommunications Services in Portions)	<u>File No. TA-2014-0345</u>
of the State of Missouri and for Competitive)	Tariff No. YC-2014-0493
Classification)	

ORDER GRANTING CERTIFICATE TO PROVIDE BASIC LOCAL TELECOMMUNICATIONS SERVICES

Issue Date: June 24, 2014

Effective Date: July 7, 2014

This order grants a certificate of service authority to provide basic local telecommunications services in the state of Missouri, classifies those services and the company as competitive, and waives certain statutes and regulations.

On May 15, 2014, BCN Telecom, Inc. applied for a certificate of service authority to provide basic local exchange telecommunications services within the state of Missouri, and for competitive classification. The company seeks certification to provide basic local service in portions of Missouri that are currently being served by Southwestern Bell Telephone Company, L.P. d/b/a AT&T Missouri. BCN is a New Jersey corporation and is authorized to do business in Missouri by the Missouri Secretary of State.

On May 21, the Commission issued notice of the application, setting June 20 as the deadline for intervention. No applications to intervene were received. On June 6, the Staff of the Commission recommended that the requested certificate, classification, 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, including relevant service standards,¹ and that the grant of authority is in the public interest.² Based on the verified application, including BCN's stated commitment to comply with all applicable rules, as well as Staff's uncontested recommendation, the Commission finds that BCN satisfies the requirements for certification and that granting such certificate is in the public interest.

BCN 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.³ The Commission may only classify a telecommunications carrier as competitive if all of its services are so classified.⁴ 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 392.⁵

The Commission finds that BCN will compete with an incumbent local exchange carrier in the exchanges in which it provides basic local telecommunications service. The Commission finds that BCN will be subject to a sufficient level of competition to justify a lesser degree of regulation. Furthermore, all of the services BCN will offer are qualified for classification as competitive services.

¹ See Sections 392.450, 392.451 and 392.455, RSMo.

² Sections 392.430 and 392.440.

³ Section 392.361.2.

⁴ Section 392.361.3.

⁵ See Sections 392.185, 392.361.3 and 392.420.

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.”⁶ The Commission has developed a standard list of statutes and regulations that it waives for competitive local exchange carriers. The Commission finds that waiving those statutes and regulations is consistent with the purposes of Chapter 392, and will waive those provisions for BCN.

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

The Commission places BCN on notice that failure to comply with certain obligations pursuant to law may result in penalties being 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.

⁶ Sections 392.361.5 and 392.420.

- 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.

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.

Soon after filing its application, BCN filed a proposed tariff. The Staff of the Commission recommends that the Commission either approve the tariff or allow it to go into effect by operation of law.

THE COMMISSION ORDERS THAT:

1. BCN Telecom, Inc. is granted a certificate of service authority to provide basic local telecommunications services in the exchanges of Southwestern Bell Telephone Company, L.P. d/b/a AT&T Missouri subject to the conditions and recommendations contained in the Staff's Recommendation.

2. BCN Telecom, Inc. and the services it offers are classified as competitive.

3. Application of the following statutes and Commission rule are 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 – transfer of property and 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 240-3.520 – 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 objective and surveillance levels
- 4 CSR 240-32.090 – connection of equipment and inside wiring
- 4 CSR 240-32.100 – provision of basic local interexchange services
- 4 CSR 240-32.130-170 – prepaid calling cards, except 32.140 and 150(1)
- 4 CSR 240-32.180-190 – calling ID blocking requirements
- 4 CSR 240-33.010 – service and billing practice general provisions
- 4 CSR 240-33.040 – billing and payment standard
- 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

4. BCN Telecom, Inc.'s originating and terminating access rates will be no greater than the lowest Commission-approved corresponding access rates in effect for each incumbent local exchange carrier within whose service area BCN Telecom, Inc. 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 BCN Telecom, Inc. is operating, decreases its originating or terminating access service rates, BCN Telecom, Inc. 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. BCN Telecom, Inc. will undertake 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:

- a) Prevention of call blocking or call gapping based on the cost of traffic termination.
- b) Preventing the alteration or stripping of Calling Party Number identification termination, and
- c) Ensuring sufficient network capacity exists to process all traffic according to industry accepted practices.

7. The certification granted herein is conditioned upon the company's compliance with the regulatory obligations set out in this order.

8. BCN Telecom, Inc.'s tariff, Tariff No. YC-2014-0493, is approved.

9. This order and BCN Telecom, Inc.'s certificate shall become effective on July 7, 2014

10. This file shall be closed on July 8, 2014.

BY THE COMMISSION



A handwritten signature in cursive script that reads "Morris L. Woodruff".

Morris L. Woodruff
Secretary

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 24th day of June, 2014.