

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

In the Matter of the Application of S-GO Leasing )  
Company, d/b/a S-GO Local, for a Certificate of )  
Service Authority to Provide Basic Local )  
Telecommunications Services in Portions of the ) **File No. CA-2009-0217**  
State of Missouri and to Classify Said Services )  
and the Company as Competitive. )

**ORDER GRANTING CERTIFICATE TO PROVIDE  
BASIC LOCAL TELECOMMUNICATIONS SERVICES**

Issue Date: February 25, 2009

Effective Date: March 7, 2009

**Syllabus:** 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.

**Procedural History**

On November 20, 2008, S-GO Leasing Company, d/b/a S-GO Local, 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, L.P., d/b/a AT&T Missouri; Embarq Missouri, Inc., d/b/a Embarq; CenturyTel of Missouri LLC, d/b/a CenturyTel; and Spectra Communications Group, LLC, d/b/a CenturyTel.

On November 25, 2008, the Commission issued its Notice of Applications, establishing a 15-day deadline for intervention. No applications to intervene were received. On February 11, 2009, the Staff of the Commission filed its recommendation.

## Findings of Fact

The Missouri Public Service Commission has considered all of the relevant factors and makes the following findings of fact. Failure to specifically address a piece of evidence, position or argument of any party does not indicate that the Commission has failed to consider relevant evidence, but indicates rather that the omitted material was not dispositive of this decision.

1. S-GO Local is a corporation organized under the laws of the State of Missouri.<sup>1</sup>
2. S-GO Local applied to the Missouri Public Service Commission on November 20, 2008, for a certificate of service authority to provide basic local exchange telecommunications services in each of the exchanges currently served by Southwestern Bell Telephone, L.P., d/b/a AT&T Missouri; Embarq Missouri, Inc., d/b/a Embarq; CenturyTel of Missouri LLC, d/b/a CenturyTel; and Spectra Communications Group, LLC, d/b/a CenturyTel. S-GO Local is qualified to do business in the State of Missouri as evidenced by its Certificate of Authority from the Missouri Secretary of State.<sup>2</sup>
3. S-GO Local provided names and addresses for contact purposes.<sup>3</sup>
4. S-GO Local has no pending actions or final unsatisfied judgments or decisions against it from any state or federal agency or court involving customer service or rates.<sup>4</sup>

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<sup>1</sup> *Application for Certificate of Service Authority to Provide Basic Local Exchange Telecommunications Service and for Competitive Classification*, (filed Nov. 20, 2008), hereinafter "Application," para. 1.

<sup>2</sup> *Application*, para. 3.

<sup>3</sup> *Application*, para. 2.

<sup>4</sup> *Application*, para. 13.

5. S-GO Local intends to file a tariff prior to providing service and subsequent to obtaining approved interconnection agreements in each incumbent's service area.<sup>5</sup>
6. S-GO Local is financially, managerially, and technically qualified to provide telecommunications services in the state of Missouri.<sup>6</sup>
7. S-GO Local has successfully provided interstate telecommunications services since 2005.<sup>7</sup>
8. S-GO Local will comply with all applicable Commission rules, except those that are waived, will file and maintain tariffs, and meet applicable minimum standards.<sup>8</sup>
9. S-GO Local will offer basic local service as a separate and distinct service.<sup>9</sup>
10. S-GO Local will compete with all incumbent local exchange carriers in their respective service territories.<sup>10</sup>
11. The services S-GO Local proposes to offer have previously been classified as competitive services.<sup>11</sup>
12. Granting the certificate will benefit the public by creating and enhancing competition, expanding customer service options, and increasing customer choice for telecommunications in the area.<sup>12</sup>

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<sup>5</sup> *Application*, para. 10.

<sup>6</sup> File No. XA-2005-0412; and *Application*, paras. 5 and 6.

<sup>7</sup> *Application*, para. 6.

<sup>8</sup> *Application*, paras. 8-10.

<sup>9</sup> *Application*, para. 8.

<sup>10</sup> *Application*, para. 3.

<sup>11</sup> *Application*, para. 4.

<sup>12</sup> *Application*, para. 11.

13. Staff recommended that the Commission grant S-GO Local's basic local certificate, grant competitive classification, and grant the waivers requested.<sup>13</sup>
14. Staff recommended that the Commission grant S-GO Local's basic local certificate subject to the following conditions:
  - A. 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.
  - B. 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.
15. S-GO Local acknowledged in its application that it will not exceed the corresponding exchange access rates in effect for the incumbent local exchange companies in its service area. S-GO Local also agreed that if one of those incumbents decreases its current originating and/or terminating access service rates, in accordance with the Commission's Report and Order in File No. TO-99-596, S-GO Local will file a tariff amendment to reduce its corresponding access rates in that service area within thirty days.<sup>14</sup>
16. S-GO Local is not delinquent in filing an annual report or in paying the PSC assessment, the Missouri Universal Service Fund, and Relay Missouri surcharges.<sup>15</sup>

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<sup>13</sup> *Staff Recommendation*, (filed February 11, 2009).

<sup>14</sup> *Application*, para. 12.

<sup>15</sup> *Staff Recommendation*, Memorandum p. 2; See also, *Application*, para. 13.

## Conclusions of Law

The Missouri Public Service Commission has reached the following conclusions of law:

1. The requirement for a hearing is met when the opportunity for a hearing was provided and no proper party requested the opportunity to present evidence.<sup>16</sup> Notice was issued in this case and no hearing has been requested.
2. S-GO Local is an “alternative local exchange telecommunications company” as that term is defined by Section 386.020, RSMo.
3. The Commission is authorized to create a process by which to certify new entrants to provide local exchange telecommunications services in Missouri as common carriers, and is further authorized to grant such certificates where it is in the public interest.<sup>17</sup>
4. S-GO Local has requested that the Commission grant it a certificate to provide basic local exchange telecommunications services to include all exchanges that are currently being served by Southwestern Bell Telephone, L.P., d/b/a AT&T Missouri; Embarq Missouri, Inc., d/b/a Embarq; CenturyTel of Missouri LLC, d/b/a CenturyTel; and Spectra Communications Group, LLC, d/b/a CenturyTel. S-GO Local has satisfied the requirements of the Commission’s regulations and of Section 392.455, and consequently, the Commission concludes that S-GO Local has complied with the certification process established by the Commission in satisfaction of Section 392.450.1.

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<sup>16</sup> *State ex rel. Deffenderfer Enterprises, Inc. v. Public Service Comm’n*, 776 S.W.2d 494, 495-496 (Mo. App. 1989).

<sup>17</sup> Sections 392.430, 392.450 and 392.455, RSMo.

5. 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,<sup>18</sup> and that the grant of authority is in the public interest.<sup>19</sup> Based on the verified application, including S-GO Local's stated commitment to comply with all applicable rules, as well as Staff's uncontested recommendation, the Commission finds that S-GO Local satisfies the requirements for certification and that granting such certificate is in the public interest. Therefore, the Commission shall grant the certificate expansion.
6. S-GO Local requests that it and its basic local services be classified as competitive. The Commission may classify a telecommunications service as competitive if the Commission determines that it is subject to a sufficient degree of 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.<sup>20</sup> The Commission may classify a telecommunications carrier as competitive if the Commission finds that a majority of its services are so classified.<sup>21</sup>
7. S-GO Leasing Company has been found to be a competitive company in Commission File No. XA-2005-0412 with regard to its interstate service. Furthermore, all the services to be provided by S-GO Local in the state will be competitive. The Commission also found that the grant of S-GO Local's certificate will benefit the public and will be in direct competition with the incumbent basic local provider. Considering

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<sup>18</sup> See Sections 392.450 and 392.451, RSMo (Cum. Supp. 2008) and 392.455, RSMo 2000. All statutory references, unless otherwise specified, are to the Revised Statutes of Missouri (RSMo), revision of 2000.

<sup>19</sup> Sections 392.430 and 392.440.

<sup>20</sup> Section 392.361.2 and 4, RSMo (Cum. Supp. 2008).

<sup>21</sup> Section 392.361.3, RSMo (Cum. Supp. 2008).

these findings, the Commission concludes that S-GO Local will be subject to a sufficient level of competition to justify a lesser degree of regulation and its services and the company shall be classified as competitive.

8. 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>22</sup> The Commission has developed a standard list of statutes and regulations that it waives for competitive local exchange carriers. The Commission finds that the waiver of those statutes and regulation is consistent with the purposes of Chapter 392, and will waive those provisions for S-GO Local.
9. In addition to the Commission’s “standard waivers,” S-GO Local requests that the Commission waive all of Section 392.300, RSMo, 4 CSR 240-3.550(4) and (5)(A), 32.060, 32.070, 32.080, 33.040 (except (4)), 33.045, 33.080(1), and 33.130(1), (4), and (5).<sup>23</sup> The Commission shall waive, at a minimum, the application and enforcement of its quality of service and billing standards rules, as well as the provisions of Subsection 2 of Section 392.210, Subsection 1 of Section 392.240, and Sections 392.270, 392.280, 392.290, 392.300, 392.310, 392.320, 392.330, and 392.340, RSMo.<sup>24</sup> In accordance with Section 392.420, RSMo, the Commission shall grant the requested waivers.

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<sup>22</sup> Sections 392.361.5 and 392.420.

<sup>23</sup> *Application*, para. 9.

<sup>24</sup> Subsection 392.420, RSMo (Cum. Supp. 2008).

10. An applicant for a basic local certificate must meet the minimum service standards that the Commission requires of the competing incumbent local exchange carriers.<sup>25</sup>  
S-GO Local has agreed to provide services that will meet the minimum basic local service standards required by the Commission. The Commission concludes that S-GO Local has met the requirements of Section 392.450.2(2).
11. S-GO Local has complied with each of the Commission's application requirements.<sup>26</sup>  
S-GO Local has successfully operated as a telecommunications company since 2005, and the Commission has examined S-GO Local's qualifications in a previous certificate case.
12. The Commission may also "require a telecommunications company to comply with any conditions reasonably made necessary to protect the public interest by the suspension of the statutory requirement."<sup>27</sup> Staff recommends that S-GO Local's application be granted subject to the conditions set out above. S-GO Local has agreed to these conditions. The Commission has considered the conditions proposed by Staff and concludes that they are reasonably necessary to protect the public interest and shall be adopted.
13. Prior to providing telecommunications service in the expanded area, S-GO Local shall have in effect a tariff authorizing it to provide service in the area.<sup>28</sup>

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<sup>25</sup> Section 392.450.2(2), RSMo.

<sup>26</sup> *Application*, para. 11.

<sup>27</sup> Section 392.361.6, RSMo.

<sup>28</sup> Section 392.450.2(1).



14. The certificate of service authority granted in this order becomes null and void one year from the date of this order unless S-GO Local has exercised its authority under that certificate.<sup>29</sup>
15. 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, 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 company fails to comply it is subject to penalties for noncompliance ranging from \$100 to \$2000 per day of noncompliance, pursuant to Section 386.570, RSMo 2000.
  - D) The obligation to keep the Commission informed of its current address and telephone number.
16. 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.

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<sup>29</sup> Section 392.410.5, RSMo Cum. Supp. 2008.

17. 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. S-GO Leasing Company, d/b/a S-GO Local, is granted a certificate of service authority to provide basic local telecommunications services in the exchanges of Southwestern Bell Telephone, L.P., d/b/a AT&T Missouri; Embarq Missouri, Inc., d/b/a Embarq; CenturyTel of Missouri LLC, d/b/a CenturyTel; and Spectra Communications Group, LLC, d/b/a CenturyTel, subject to the conditions and recommendations contained in the Staff's Memorandum.

2. S-GO Leasing Company, d/b/a S-GO Local, and the services it offers are classified as competitive.

3. S-GO Leasing Company, d/b/a S-GO Local's originating and terminating access rates shall not exceed the access rates of the incumbent local exchange company against whom S-GO Leasing Company, d/b/a S-GO Local, is competing pursuant to Sections 392.361.6 and 392.370, RSMo.

4. If the directly competing ILEC, in whose service area S-GO Leasing Company, d/b/a S-GO Local, 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.

5. Application of the following statutes and Commission rules is waived:

**Statutes**

- 392.210.2 - uniform system of accounts
- 392.240(1) - just and reasonable rates
- 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 240-3.550(4) - records of applications
- 4 CSR 240-3.550(5)(A) - quality of service quarterly report
- 4 CSR 240-3.550(5)(C) - exchange boundary maps
- 4 CSR 240-10.020 - depreciation fund income
- 4 CSR 240-30.040 - uniform system of accounts
- 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 240-33.040(1)-(3) and (5)-(10) - billing and payment standards
- 4 CSR 240-33.045 - customer bills
- 4 CSR 240-33.080(1) - company name for billing disputes
- 4 CSR 240-33.130(1), (4), and (5) - operator service

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

7. S-GO Leasing Company, d/b/a S-GO Local, is advised that the grant of authority contained in this order may not, by itself, be sufficient to permit it to lawfully provide telecommunications services in Missouri. Specifically, S-GO Local cannot lawfully

provide telecommunications services until it has a tariff in effect for such services. When S-GO Local submits such a tariff, it shall do so by filing a non-case tariff submission. The tariff submission shall not be filed in this case.

8. This order and S-GO Leasing Company, d/b/a S-GO Local's certificate shall become effective on March 7, 2009.

9. This file shall be closed on March 8, 2009.

**BY THE COMMISSION**



Colleen M. Dale  
Secretary

( S E A L )

Nancy Dippell, Deputy Chief Regulatory  
Law Judge, by delegation of authority pursuant  
to Section 386.240, RSMo 2000.

Dated at Jefferson City, Missouri,  
on this 25th day of February, 2009.