

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

In the Matter of the Application of Giant	)	
Communications, Inc. for Certificate of Service	)	
Authority to Provide Interexchange and	)	<b><u>File No. CA-2013-0492</u></b>
Non-Switched Local Exchange Telecommunications	)	
Service in the State of Missouri	)	

**ORDER GRANTING CERTIFICATES TO PROVIDE  
NONSWITCHED LOCAL AND INTEREXCHANGE  
TELECOMMUNICATIONS SERVICES**

Issue Date: June 6, 2013

Effective Date: July 6, 2013

This order grants certificates of service authority to provide non-switched local and interexchange telecommunications services in the state of Missouri, classifies those services and the company as competitive and waives certain statutes and regulations.

On May 9, 2013, Giant Communications, Inc., applied for certificates of service authority to provide non-switched local and interexchange telecommunications services within the state of Missouri, and for competitive classification. The company seeks certification to provide service throughout the State of Missouri. Giant is authorized to do business in Missouri by the Missouri Secretary of State.

On May 10, the Commission issued its Notice of Applications, establishing May 27 as the deadline for intervention. No applications to intervene were received. On June 6 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 Giant satisfies the requirements for certification and that granting such certificates is in the public interest.

Giant 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>

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

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<sup>1</sup> See Sections 392.450, 392.451 and 392.455, RSMo 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 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 non-switched 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 Giant.

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

Giant did not file a tariff along with its application but may rely on Section 392.461 RSMo and publish its rates, terms and conditions of service on its publicly available website or it may submit a tariff for approval by the Commission prior to providing service in Missouri.

The Commission places Giant 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.

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<sup>6</sup> 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; and (2) except for wireless providers, a certificate of service authority from the Commission to provide interexchange or basic local telecommunications services.

**THE COMMISSION ORDERS THAT:**

1. Giant Communications, Inc. is granted a certificate of service authority to provide non-switched local telecommunications services throughout the state subject to the conditions and recommendations contained in the Staff's Memorandum.

2. Giant Communications, Inc. is granted a certificate of service authority to provide interexchange telecommunications services in the state of Missouri.

3. Giant Communications, Inc. and its services are granted competitive classification.

4. Because Giant Communications, Inc. did not file a tariff, the company may rely on Section 392.461, RSMo, and publish rates, terms and conditions of service on its publicly available web site or it may submit a tariff for approval by the Commission prior to providing service in Missouri.

5. Giant Communications, Inc.'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.

6. If the directly competing incumbent local exchange carrier, in whose service area Giant Communications, Inc. is operating, decreases its originating or terminating access service rates, Giant Communications, Inc. shall 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.

7. The company 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, and

- c) Ensuring sufficient network capacity exists to process all traffic according to industry accepted practices.

8. Application of the following statutes and Commission rules is 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 objectives 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 – 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

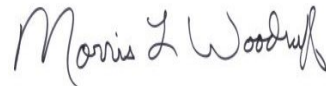
- 4 CSR 240-33.140 – Payphone requirements, except (2)
- 4 CSR 240-33.150 – Anti-slamming requirements
- 4 CSR 240-33.160 – Customer Proprietary Network Information

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

10. This order and Giant Communications, Inc.'s certificates shall become effective on July 6, 2013.

11. This file shall be closed on July 7, 2013.

**BY THE COMMISSION**



Morris Woodruff  
Secretary

( S E A L )

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 6<sup>th</sup> day of June, 2013.