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West Palm Beach*

December 21, 2005

**VIA OVERNIGHT MAIL**

Ms. Colleen M. Dale  
Secretary / Chief Regulatory Law Judge  
MISSOURI PUBLIC SERVICE  
COMMISSION  
200 Madison Street, Suite 100  
Jefferson City, Missouri 65101

**RE: In the Matter of the Application of CLEC, Inc. for a Certificate of Service  
Authority to Provide Basic Local, Local Exchange, and Interexchange  
Telecommunications Services and for Competitive Classification**

Dear Ms. Dale:

Please find enclosed for filing with the Commission the Application of CLEC, Inc. for a Certificate of Service Authority to Provide Basic Local, Local Exchange, and Interexchange Telecommunications Services and for Competitive Classification in Missouri and an Application for a Protective Order.

Exhibit D to the Application for Certificate Authority contains competitive sensitive information. The original and eight copies are in a sealed envelope. CLEC, Inc. requests that pending the Commission's ruling on the application for a protective order, the documents in the sealed envelop not be made available for public inspection.


Thank you for bringing this Application to the Commission's attention.

Enclosed is a self-addressed, stamped envelope for returning a file-stamped copy of the above applications to me. If you have any questions, please give me a call.

Sincerely,

SONNENSCHN NATH & ROSENTHAL LLP

By:

  
Mark P. Johnson

MPJ:db  
Enclosures

FILED<sup>2</sup>

DEC 23 2005

BEFORE THE PUBLIC SERVICE COMMISSION  
OF THE STATE OF MISSOURI

Missouri Public  
Service Commission

In the Matter of the Application of CLEC,  
Inc., for Certificate of Service Authority to  
Provide Basic Local, Local Exchange, and  
Interexchange Telecommunications Services  
Throughout the State of Missouri and to  
Classify the Company as Competitive

Case No. \_\_\_\_\_

**APPLICATION FOR CERTIFICATE OF SERVICE AUTHORITY TO PROVIDE  
BASIC LOCAL, LOCAL EXCHANGE, AND INTEREXCHANGE  
TELECOMMUNICATIONS SERVICES AND FOR COMPETITIVE CLASSIFICATION**

Comes now CLEC, Inc. ("CLEC" or "Applicant"), by its undersigned counsel, and hereby applies pursuant to Chs. 392.361, 392.410, 392.420, 392.430, 392.450, and 392.455, RSMo, the federal Telecommunications Act of 1996, and 4 CSR 240-2.060 and 3.510, for certificates of service authority to provide basic local, local exchange, and interexchange telecommunications services throughout the State of Missouri, and for designation as a competitive telecommunications carrier. In support of its Application, Applicant states as follows:

1. CLEC, Inc., is a corporation duly organized and existing under and by virtue of the laws of the State of Missouri. Its headquarters and principal place of business are located at 2808 East 18<sup>th</sup> Street, Kansas City, Missouri, and its telephone number is 816/483-6666 and fax number is 816/483-9353. A copy of the Applicant's Certificate of Incorporation is attached hereto as *Exhibit A*. A copy of its Certificate of Good Standing is attached hereto as *Exhibit B*.

2. CLEC intends to provide retail and wholesale telecommunications support and services, including switching functions, to other members of the Missouri telecommunications

industry, and intends to provide local exchange and interexchange telecommunications services on a resold basis.

3. All inquiries, correspondence, communications, pleadings, notices, orders, and decisions relating to the case should be addressed to:

Mark P. Johnson  
Roger W. Steiner  
Sonnenschein Nath & Rosenthal  
4520 Main Street, Suite 1100  
Kansas City, MO 64111  
816/460-2400  
816/531-7545 (facsimile)  
mjohnson@sonnenschein.com  
rsteiner@sonnenschein.com

4. The Applicant seeks Commission certification to provide the telecommunications services described herein on a facilities and resold basis throughout all exchanges currently served in Missouri by the following incumbent local exchange telecommunications companies: SBC Missouri (SBC); Sprint; CenturyTel of Missouri, LLC, and Spectra Communications Group LLC dba CenturyTel. The specific SBC, Sprint, CenturyTel, and Spectra exchanges within which CLEC proposes to offer service are listed in those incumbent providers' respective local exchange tariffs.

5. Pursuant to this application, CLEC seeks authorization to offer and provide basic local, local exchange, and interexchange telecommunications services, pursuant Ch. 392.430, 392.440, 392.450, and 392.455, RSMo.

6. CLEC possesses the technical, financial, and managerial resources and abilities necessary to provide the proposed services. Description of the backgrounds of CLEC management who will be involved in its business operations are attached hereto and incorporated herein by reference as *Exhibit C*. CLEC also possesses the necessary financial resources to support provision of the proposed services. Its financial projections and balance sheet are found

in *Exhibit D*. Applicant is filing an application for a protective order concerning the information contained in Exhibit D, in light of the competitively sensitive information contained therein. The original and eight copies of Exhibit D are filed in a sealed envelope. Applicant requests that pending the Commission's ruling on the application for a protective order, the documents in the sealed envelope not be available for public inspection.

7. CLEC seeks local exchange and interexchange certification. The Commission may grant CLEC a certificate of service authority to provide local exchange and interexchange telecommunications service if the Commission finds such authority to be in the public interest. Ch. 392.440, RSMo. Competition in the intrastate local exchange and interexchange telecommunications markets is in the public interest.

8. CLEC will offer basic local telecommunications service as a separate and distinct service that satisfies the minimum standards established by the Commission, will provide service in a service area that follows exchange boundaries of the incumbent LEC, and will be no smaller than an exchange, and will give due consideration to equitable access for all Missourians to affordable telecommunications services regardless of their income or place of residence.

9. CLEC seeks classification of itself and its services as competitive. Pursuant to Ch. 392.361.3, RSMo, the Commission may designate a company as competitive if it finds that all of the services the company provides are subject to sufficient 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. As the services which CLEC proposes to provide are local exchange and interexchange services in the service areas of SBC, Sprint, CenturyTel, and Spectra, in which those companies and many others provide the same or similar services, there is sufficient competition to justify designation of those services as competitive. As all of

the services which CLEC proposes to provide should be designated as competitive, CLEC should be designated as a competitive telecommunications company.

10. CLEC commits that it will comply with all applicable Commission rules and will meet all relevant service standards, including, but not limited to billing, quality of service, tariff filing, and maintenance standards, in a manner consistent with the Commission's requirements for incumbent local exchange carrier(s) with whom CLEC seeks authority to compete. Consistent with the Commission's treatment of other certificated competitive local exchange telecommunications companies, CLEC requests that the following statutes and regulations be waived for CLEC with respect to its local exchange and interexchange service offerings, pursuant to Ch. 392.361.5 and 392.420, RSMo:

<u>Statutes</u>	<u>Missouri Public Service Commission Rules</u>
392.210.2	4 CSR 240-10.020
392.240.1	4 CSR 240-30.040
392.270	4 CSR 240-3.550(5) (C)
392.280	
392.290	
392.300.2	
392.310	
392.320	
392.330	
392.340	

11. CLEC further requests a temporary waiver of 4 CSR 240-3.510(1)(C). This rule requires that an application for a certificate of service authority to provide telecommunications service shall include a proposed tariff with a forty-five day effective date. However, as the rule states, filing a tariff with the Application is optional. At such time as all facts necessary for the development of such tariffs are known to CLEC, it will promptly file said tariffs with the Commission in a manner consistent with the Commission's practice in similar cases, and will not provide telecommunications services until its tariffs have been approved by the Commission.

12. CLEC submits that the public interest will be served by Commission approval of this application because CLEC's proposed services will create and enhance competition and expand customer service options consistent with the legislative goals set forth in the federal Telecommunications Act of 1996 and Chapter 392 RSMo. Prompt approval of this application also will expand the availability of innovative, high quality, and reliable telecommunications services within the State of Missouri.

13. Consistent with 4 CSR 240-2.060(1)(K), CLEC does not have any pending action or final unsatisfied judgment or decisions against it from any state or federal agency or court which involves customer service or rates, which action, judgment or decision has occurred within 3 years of the date of application.


14. Consistent with 4 CSR 240-2.060(1)(L), CLEC does not have any overdue annual reports or assessment fees.

15. Notwithstanding the provisions of Ch. 392.500, RSMo., as a condition of certification and competitive classification, CLEC agrees that, unless otherwise ordered by the Commission, its originating and terminating switched exchange access rates will be no greater than the lowest Commission-approved corresponding access rates in effect for each ILEC within whose service area(s) CLEC seeks authority to provide service. Additionally, pursuant to the Commission's Report and Order in Case No. TO-99-596, CLEC agrees that if the ILEC in whose service area CLEC is operating decreases its originating and/or terminating access service rates, CLEC shall file an appropriate tariff amendment to reduce its originating and/or terminating access rates within thirty (30) days of the ILEC's reduction of its originating and/or terminating access rates in order to maintain the cap on switched exchange access rates.

WHEREFORE, applicant CLEC respectfully requests that the Commission grant it a certificate of service authority to provide basic local, local exchange, interexchange

telecommunications services as herein requested, classify CLEC as a competitive telecommunications company, grant a waiver of the aforesaid statutes and regulations, and for such other relief as the Commissions deems appropriate.

Respectfully submitted,



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Mark P. Johnson Mo. Bar 30740  
Roger W. Steiner Mo. Bar 39586  
Sonnenschein Nath & Rosenthal  
4520 Main Street, Suite 1100  
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816/460-2400  
816/531-7545 (facsimile)  
mjohnson@sonnenschein.com  
rsteiner@sonnenschein.com

ATTORNEYS FOR APPLICANT  
CLEC, INC.

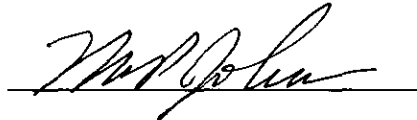
**VERIFICATION**

STATE OF MISSOURI     )  
                                  )  
COUNTY OF JACKSON    )     ss.

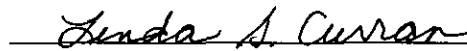
Comes now Mark P. Johnson, being of lawful age and duly sworn, who swears and affirms as follows:

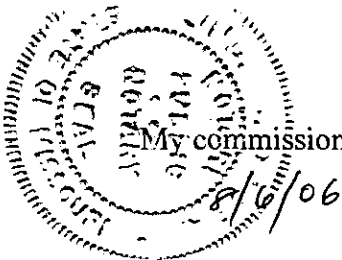
1.     My name is Mark P. Johnson, and I am an attorney for CLEC, Inc., the Applicant herein. I have been authorized by the Applicant to verify this Application on its behalf.
2.     I have read the foregoing Application, and its contents are true and correct to the best of my knowledge and belief.

Further affiant sayeth not.

  
Mark P. Johnson

Subscribed and sworn to before me this 20th day of December, 2005.

  
Notary Public



<p style="text-align: center;">LINDA S. CURRAN Notary Public - Notary Seal STATE OF MISSOURI Platte County My Commission Expires: Aug. 6, 2006</p>
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# State of Missouri

EXHIBIT A



Matt Blunt  
Secretary of State

## CERTIFICATE OF INCORPORATION

WHEREAS, duplicate originals of Articles of Incorporation of

*CLEC, INC.*  
00571864

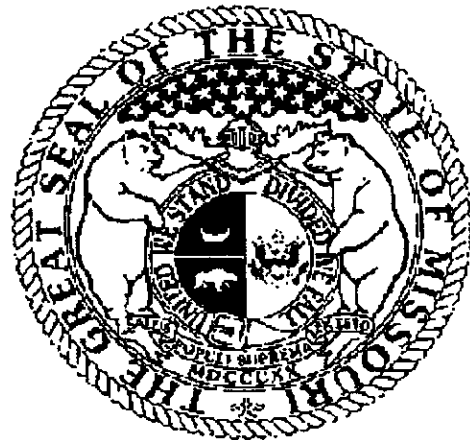
have been received and filed in the Office of the Secretary of State, which Articles, in all respects, comply with the requirements of General and Business Corporation Law.

NOW, THEREFORE, I, MATT BLUNT, Secretary of State of the State of Missouri, do by virtue of the authority vested in me by law, do hereby certify and declare this entity a body corporate, duly organized this date and that it is entitled to all rights and privileges granted corporations organized under the General and Business Corporation Law.

IN TESTIMONY WHEREOF, I have set  
my hand and imprinted the GREAT SEAL  
of the State of Missouri, on this, the 3rd day  
of March, 2004.

*Matt Blunt*

Secretary of State



# STATE OF MISSOURI



Robin Carnahan  
Secretary of State

CORPORATION DIVISION  
CERTIFICATE OF GOOD STANDING

I, ROBIN CARNAHAN, Secretary of the State of Missouri, do hereby certify that the records in my office and in my care and custody reveal that

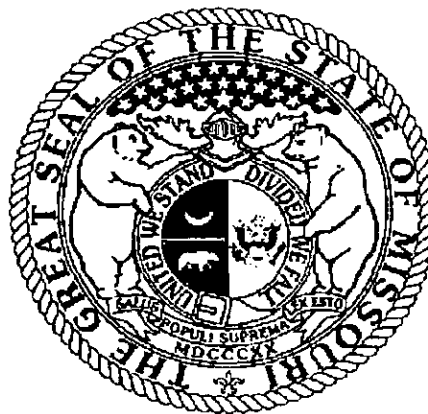
CLEC, INC.  
00571864

was created under the laws of this State on the 3rd day of March, 2004, and is in good standing, having fully complied with all requirements of this office.

IN TESTIMONY WHEREOF, I have set my hand and imprinted the GREAT SEAL of the State of Missouri, on this, the 3rd day of November, 2005

*Robin Carnahan*

Secretary of State



Certification Number: 8152574-1    Reference:  
Verify this certificate online at <http://www.sos.mo.gov/businessentity/verification>

## **EXHIBIT C**

### **MANAGEMENT QUALIFICATIONS AND EXPERIENCE**

#### **STEVE GAUL, PRESIDENT**

Steve Gaul is the president of CLEC, Inc. Steve has been involved in the telecommunications industry in the greater Kansas City metropolitan area for over 19 years. Among other positions he has held, Steve was general manager of Brooks Fiber in Kansas City, where he was responsible for the engineering, layout, construction, operation, and maintenance of a fiber optic network throughout the Kansas City area. After Brooks Fiber was acquired by MCI, Steve helped to start Everest Connections in the Kansas City area. Everest is a provider of competitive cable television, local exchange telecommunications, interexchange telecommunications and interstate access services in Kansas City and several Kansas suburbs. Steve was general manager of Everest from its inception until 2003, and was responsible for overall supervision of an area-wide fiber optic and coaxial cable network, and for the sales and marketing of the services provided on that network. Since leaving Everest, Steve has provided free-lance service to a major local exchange provider in Kansas City.

#### **PAUL HICKS, SECRETARY**

Paul Hicks is the Secretary of CLEC, Inc. Paul has over 12 years experience in the telecommunications industry working for a switchless CLEC provider in Missouri. Paul's background is in information technology and is responsible for billing and back office systems.

**EXHIBIT D**

**Exhibit D is HIGHLY CONFIDENTIAL in its entirety.**