

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

|  |   |                              |
|--|---|------------------------------|
| In the Matter of the Application of Broadband        | ) |                              |
| Dynamics, L.L.C. for a Certificate of Authority to   | ) |                              |
| Provide Basic Local Telecommunications               | ) | <u>File No. CA-2013-0113</u> |
| Services in Portions of the State of Missouri and to | ) |                              |
| Classify Such Services and the Company as            | ) |                              |
| Competitive  | ) |                              |

**STAFF RECOMMENDATION**

**COMES NOW** the Staff of the Missouri Public Service Commission (“Staff”) and for its recommendation, states as follows:

1. On September 20, 2012, Broadband Dynamics, LLC (“the Company”) filed an application with the Missouri Public Service Commission (“Commission”) seeking Certificate of Authority to Provide Basic Local Telecommunications Services in Portions of the State of Missouri and to Classify Such Services and the Company as Competitive.

2. The Application included sufficient information for the Staff to conclude that the Company possesses sufficient financial, technical and managerial resources to be certificated. In addition, the Staff notes that granting the requested waivers complies with §392.420 RSMo 2009.

3. In the attached Memorandum, the Staff recommends that the Commission grant the Company’s request for basic local telecommunications service authority. The Commission shall grant an application for a certificate of telecommunications service authority upon a finding that the grant of authority is in the public interest. §§ 392.430 and 392.440 RSMo 2000.

4. Staff also recommends that the Commission classify the Company’s services as competitive. The Commission may classify a telecommunications provider or its services as competitive if the Commission determines it is 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 public interest. §392.361.4 RSMo Supp. 2009. A majority of the services a competitive company provides must be classified as competitive. §392.361.3 RSMo Supp. 2009.

5. The Staff further recommends that the Commission state in its order that, pursuant to §392.410, the authority conferred by the certificate of service authority shall be null and void unless it is exercised within one year of its issuance.

6. No tariffs were submitted with the application. As the Company does not publish its rates, terms and conditions of service on its publically available web site, it must file and have approved tariffs prior to offering telecommunications service in Missouri.

7. The Company is not delinquent in filing an annual report, paying the PSC assessment, MoUSF, and Relay Missouri.

8. The Staff recommends that the application be granted with 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 §§ 392.361.6 and 392.370 RSMo Supp. 2009.
- 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.
- c. The Applicant 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:
  - 1) Prevention of call blocking and/or call gapping based on the cost of traffic termination,
  - 2) Preventing the alteration or stripping of Calling Party Number identification, and

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

9. The Staff recommends that the Commission grant the waivers listed below:

- 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
- 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

**WHEREFORE**, the Staff recommends that the Commission grant Broadband Dynamics, LLC's Application for basic local telecommunications service authority, classify the Company and its services as competitive, grant the listed waivers and remind it that it may not offer its proposed services to retail end-user customers without a tariff.

Respectfully submitted,



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**CERTIFICATE OF SERVICE**

I hereby certify that copies of the foregoing have been mailed, hand-delivered, transmitted by facsimile or electronically mailed to all counsel of record this 26<sup>th</sup> day of October, 2012.



## MEMORANDUM

To: Missouri Public Service Commission Official Case File  
Case No: CA-2013-0113  
Applicant: Broadband Dynamics, LLC

From: Kari Salsman  
Telecommunications Unit

William Voight 10-17-12  
Tariff, Safety, Economic and Engineering Analysis/Date

Subject: Staff Recommendation for Approval of Certificate and/or Initial Tariff

Date: 10-17-12

The Telecommunications Department Staff (Staff) recommends the applicant be granted the following certificate(s), as indicated below, to be effective on the same date the tariff becomes effective:

☒ certificate to provide basic local exchange telecommunications services in the following service areas.

- ☒ All of AT&T Missouri
- ☒ All of CenturyLink
- ☒ All of Spectra
- ☐ Statewide
- ☐ Other \_\_\_\_\_ (please describe)

☐ certificate to provide interexchange telecommunications services.

☐ certificate to provide local exchange telecommunications services.\*

\*local exchange authority should be restricted to dedicated, private line services.

Staff recommends the applicant and its services receive competitive classification. Staff further recommends a Commission order granting certification state that pursuant to Section 392.410 RSMo, unless exercised within a period of one year from the issuance thereof, authority conferred by a certificate of service authority shall be null and void. In addition, Staff recommends approval of the waivers listed in the Notice.

Granting a certificate to provide basic local exchange telecommunications services should be based on the following two conditions:

1. 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.
2. 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.

☐ No objection to tariff MO PSC No. ## taking effect. Effective Date: ###  
The Staff states that the tariff meets the requirements of all applicable statutes, specifically, one or more of the following: Sections 392.200(8), (12); 392.455(3), (4); and 392.500(2) RSMo. In addition, the tariff filing does not conflict with the following Commission rules: 4 CSR 240-3.545 (4), (6), (7), (8 C,G,H), (9), (15), (16), (19); 4 CSR 240-31.065(1), (2), (3); 4 CSR 240-32.150(5), 32.160(1), (2), 32.190; 4 CSR 240-33.040(4), 33.045(2), 33.050(4) and 33.070(2).

☒ Tariff was not submitted with application. Pursuant to 4 CSR 240-3.510(1)(C), the applicant cannot lawfully provide service until tariffs are effective.

Additional Comments:

☒ The Company is not delinquent in filing an annual report, paying the PSC assessment, MoUSF, and Relay Missouri.

☐ The Company is delinquent. Staff recommends the Commission grant the requested relief/action on the condition the applicant corrects the delinquency. The applicant should be instructed to make the appropriate filing in this case after it has corrected the delinquency.

(☐ No annual report ☐ Unpaid PSC assessment. Amount owed:  
☐ Unpaid MoUSF ☐ Unpaid Relay Missouri)

**Review Items for IXC, Non-switched Local and CLEC Certificate Applications (as required by 4 CSR 240-2.060):**

- ☒ Proper Secretary of State authorization
  - ☒ Statement of character of business performed.
  - ☒ Statement declaring no pending action or final unsatisfied judgments
  - ☒ Statement declaring no overdue annual reports/assessment fees
  - ☒ Application includes an affidavit.
  - ☒ The applicant is requesting waivers of rules or statutes previously granted to a competitively classified company
- (as required by 392.430/.440):
- ☒ Application shows that grant of authority is in the public interest.

**Additional Review Items for CLEC Applications (as required by 392.455):**

- ☒ Possesses sufficient technical and managerial resources and abilities.
- ☒ Applicant has provided an affidavit attesting that the company possesses sufficient financial resources.
- ☒ Statement that the applicant will satisfy the minimum standards established by the commission.
- ☒ Identifies geographic area (no smaller than an exchange).
- ☒ Statement that applicant will give equitable access to all Missourians.

**Tariff Review Items (applicable for all competitively classified companies):**

- ☐ The tariff meets Staff's review for compliance with rules for competitive company tariff filings.

Under penalty of perjury, I affirm that the above statement is true and correct.



KARI SALSMAN