

BEFORE THE PUBLIC SERVICE COMMISSION OF THE STATE OF MISSOURI

In the Matter of the Application of Zayo Group, LLC)	
for a Certificate of Service Authority to Provide)	
Resold and Facilities-Based Basic Local Exchange)	<u>File No. LA-2011-0259</u>
and Interexchange and Non-Switched Local)	Tariff No. YL-2011-0468
Exchange Telecommunications Services in the)	
State of Missouri and to Classify those Services)	
and the Company as Competitive)	

ORDER GRANTING CERTIFICATES OF SERVICE AUTHORITY AND APPROVING TARIFF

Issue Date: April 26, 2011

Effective Date: April 30, 2011

On February 14, 2011, Zayo Group, LLC applied for certificates of service authority to provide basic, non-switched local exchange and interexchange telecommunications services in Missouri, for competitive classification, and for certain standard waivers. The company seeks certification to provide resold and facilities-based local service in the territories 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. Zayo is a Delaware company authorized to do business in Missouri.

On February 14, the Commission issued its Notice of Applications, establishing March 1 as the deadline for applications to intervene to be filed. The Commission received no such applications. On April 13, 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 services upon a showing that the applicant has met the

statutory requirements,¹ and that the grant of authority is in the public interest.² The Commission may waive the application of certain statutes and rules with regard to competitive carriers if the Commission determines that such waivers are consistent with the purposes of Chapter 392, RSMo.³ The Commission may classify a telecommunications carrier and its services as competitive if the Commission determines that the applicant is subject to a sufficient degree of competition to justify a lesser degree of regulation.⁴

The Commission finds that the intrastate interexchange market is competitive and that the interexchange services Zayo will offer are subject to competition. Additionally, Zayo 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 Zayo will be subject to a sufficient level of competition to justify a lesser degree of regulation. Furthermore, all of the services Zayo will offer are qualified for classification as competitive services.

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

The Commission places Zayo 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:

¹ Sections 392.450, 392.451 and 393.455, RSMo.

² Sections 392.430 and 392.440, RSMo.

³ Sections 392.185, 385.361.3 and 392.420, RSMo.

⁴ Section 392.361.2, RSMo.

- A) The obligation to file an annual report, as established by Section 392.210, RSMo. 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.
- B) The obligation to pay an annual assessment fee established by the Commission, as required by Section 386.370, RSMo.
- 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.
- D) The obligation to keep the Commission informed of the company's 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 2008, 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 provider must 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. Zayo Group, LLC 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 Staff's Memorandum.

2. Zayo Group, LLC is granted certificates of service authority to provide non-switched local exchange and interexchange telecommunications services in Missouri.

3. Zayo Group, LLC and its service are granted competitive classification.

4. Zayo Group, LLC'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 Zayo Group, LLC seeks authority to provide service, unless authorized by the Commission pursuant to Sections 392.220 and 392.230, RSMo.

5. The certificates and competitive service classification for switched exchange access are granted conditioned on the continued applicability of Section 392.200, RSMo. And the requirement that any increase in switched access service rates above the maximum switched access service rates set forth herein shall be made pursuant to Sections 392.200 and 392.230, RSMo, and not Sections 392.500 and 392.510, RSMo.

6. If the directly-competing incumbent local exchange carrier, in whose service area Zayo Group, LLC is operating, decreases its originating or terminating access service rates, Zayo Group, LLC 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.

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

Statutes

392.210.2	–	uniform system of accounts
392.240.1	–	reasonableness of rates
392.270	–	valuation of property
392.280	–	depreciation accounts
392.290	–	issuance of securities
392.300	–	acquisition of stock
392.310	–	stock and debt issuance
392.320	–	stock dividend payment
392.330	–	accounting requirements
392.340	–	reorganization

Commission Rules

4 CSR 240-3.550(4) and (5)(A)	–	Quality of Service reports
4 CSR 240-10.020	–	depreciation records
4 CSR 240-30.040	–	Uniform System of Accounts
4 CSR 240-32.050(4)(B)	–	limited white pages waiver
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	–	appearance of charges on bills
4 CSR 240-33.080(1)	–	appearance of company name and toll-free number on bills
4 CSR 240-33.130(1), (4) and (5)	–	operator service requirements

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

9. This order and the company's tariff, Tariff File No. YL-2011-0468, shall become effective on April 30, 2011.

10. This file shall be closed on May 1, 2011.

BY THE COMMISSION

A handwritten signature in black ink, appearing to read 'S. Reed', is positioned above the printed name.

Steven C. Reed
Secretary

(S E A L)

Kennard L. Jones, Senior Regulatory
Law Judge, by delegation of authority
pursuant to Section 386.240, RSMo.

Dated at Jefferson City, Missouri,
on this 26th day of April, 2011.