

BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI

In the Matter of the Application of US Cable Telecom)
of Missouri, LLC, for Certificates of Service Authority)
to Provide Basic Local Exchange and Resold and)
Facilities-Based Intrastate Interexchange and) **Case No. LA-2007-0453**
Nonswitched Local Exchange Telecommunications)
Services in the State of Missouri and to Classify those)
Services and the Company as Competitive.)

ORDER GRANTING CERTIFICATE TO PROVIDE
BASIC LOCAL, INTEREXCHANGE AND LOCAL EXCHANGE
TELECOMMUNICATIONS SERVICES

Issue Date: August 8, 2007

Effective Date: August 18, 2007

This order grants a certificate of service authority to provide basic local telecommunications services in the state of Missouri, and a certificate of service authority to provide interexchange telecommunications services and local exchange services in Missouri restricted to dedicated, private line services, classifies those services and the company as competitive, waives certain statutes and regulations, and denies the requested waiver of 4 CSR 240-3.510(1)(C).

On May 29, 2007, US Cable Telecom of Missouri, LLC, 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. (f/k/a Sprint), Century Tel of Missouri, LLC, and Spectra Communications Group, LLC, d/b/a/

Century Tel and interexchange telecommunications services to and from all points in the State of Missouri. US Cable Telecom is a Missouri limited liability corporation, whose sole member is US Cable of Coastal Texas, LP, a New Jersey limited partnership.

On June 1, 2007, the Commission issued its Notice of Applications, establishing a 15-day deadline for intervention. No applications to intervene were received. On July 18, 2007, the Staff of the Commission recommended that the requested certificates, classifications, and waivers be granted. Staff, however, recommended that the certificate to provide local exchange telecommunications services be restricted to dedicated private line services. Staff further recommended that US Cable Telecom's request for a temporary waiver of 4 CSR 240-3.510(1)(C) be denied. More than ten days have passed since Staff filed its recommendation and US Cable Telecom has not responded or objected to Staff's recommendations.

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,¹ and that the grant of authority is in the public interest.² Based on the verified application, including US Cable Telecom's stated commitment to comply with all applicable rules, as well as Staff's uncontested recommendation, the Commission finds that US Cable Telecom satisfies the requirements for certification and that granting such certificate is in the public interest.

The Commission will now address US Cable Telecom's request for a waiver of Commission Rule 4 CSR 240-3.510(1)(C). Commission Rule 4 CSR 240-3.510(1)(C)

¹ See Sections 392.450, 392.451 and 392.455, RSMo 2000. All statutory references, unless otherwise specified, are to the Revised Statutes of Missouri (RSMo), revision of 2000.

² Sections 392.430 and 392.440.

prohibits a certificated telecommunications company from providing service until it has a Commission approved tariff in effect. US Cable Telecom requested a temporary waiver of this provision because it did not file a tariff with its application. The Commission agrees with its Staff that such a waiver is not necessary and would not be appropriate. US Cable Telecom is not required to file a tariff along with its application but is not authorized to provide any telecommunications service in Missouri until it has a Commission approved tariff in effect for that service.

US Cable Telecom 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.³ The Commission may only classify a telecommunications carrier as competitive if all of its services are so classified.⁴ 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 392.⁵

The Commission finds that US Cable Telecom 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 US Cable Telecom will be subject to a sufficient level of competition to justify a lesser

³ Section 392.361.2.

⁴ Section 392.361.3.

⁵ See Sections 392.185, 392.361.3 and 392.420.

degree of regulation. Furthermore, all of the services US Cable Telecom 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 the other provisions of Section 392.361 to 392.520 and the purposes of this chapter.”⁶ 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 US Cable Telecom.

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

The Commission places US Cable Telecom 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.

⁶ Sections 392.361.5 and 392.420.

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 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. 2006, 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; (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.

US Cable Telecom did not file a proposed tariff as part of its application. The Commission's regulations do not require that such a tariff be filed along with an application

for a certificate, but US Cable Telecom is reminded that it cannot provide service in Missouri until its tariff is approved by this Commission.

IT IS ORDERED THAT:

1. US Cable Telecom of Missouri, 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. (f/k/a Sprint), Century Tel of Missouri, LLC, and Spectra Communications Group, LLC, d/b/a Century Tel; subject to the conditions and recommendations contained in the Staff's Memorandum.

2. US Cable Telecom of Missouri, LLC, is granted a certificate of service authority to provide interexchange telecommunications services and local exchange services restricted to dedicated, private line services.

3. US Cable Telecom of Missouri, LLC's request for a temporary waiver of Commission Rule 4 CSR 240-3.510(1)(C) is denied.

4. US Cable Telecom of Missouri, LLC, and the services it offers are classified as competitive.

5. US Cable Telecom of Missouri, LLC's originating and terminating access rates shall be no greater than the lowest Commission-approved corresponding access rates in effect for each incumbent local exchange carrier within whose service area US Cable Telecom of Missouri, LLC, seeks authority to provide service, unless authorized by the Commission pursuant to Section 392.220 and 392.230, RSMo.

6. 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 Section 392.200 and 392.230, RSMo, and not Section 392.500 and 392.510, RSMo.

7. If the directly competing incumbent local exchange carrier, in whose service area US Cable Telecom of Missouri, LLC, is operating, decreases its originating or terminating access service rates, US Cable Telecom of Missouri, 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.

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
- 392.300.2 - 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(5)(C) - exchange boundary map
- 4 CSR 240-10.020 - depreciation fund income
- 4 CSR 240-30.040 - uniform system of accounts

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

10. US Cable Telecom of Missouri, LLC, 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, US Cable Telecom of Missouri, LLC, cannot lawfully provide telecommunications services until it has a tariff in effect for such services. When US Cable Telecom of Missouri, LLC, 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.

11. This order and US Cable Telecom of Missouri, LLC's, certificate shall become effective on August 18, 2007.

12. This case shall be closed on August 19, 2007.

BY THE COMMISSION

A handwritten signature in black ink, appearing to read 'Colleen M. Dale', is written over a horizontal line.

Colleen M. Dale
Secretary

(S E A L)

Cherlyn Voss, Regulatory Law Judge,
by delegation of authority pursuant
to Section 386.240, RSMo 2000.

Dated at Jefferson City, Missouri,
on this 8th day of August, 2007.