

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

In the Matter of the Application of Liberty-Bell)	
Telecom, LLC dba DISH Network Phone & Internet)	
for Certificates of Service Authority to Provide Basic)	
Local Exchange, Non-Switched Local Exchange)	<u>File No. LA-2012-0090</u>
and Interexchange Telecommunications Services)	Tariff No. YL-2012-0128
in the State of Missouri and to Classify Said)	
Services and the Company as Competitive)	

**ORDER GRANTING CERTIFICATES TO PROVIDE
BASIC LOCAL, NONSWITCHED LOCAL, AND INTEREXCHANGE
TELECOMMUNICATIONS SERVICES, AND APPROVING TARIFFS**

Issue Date: October 26, 2011

Effective Date: November 10, 2011

This order grants certificates of service authority to provide basic local, nonswitched local, and interexchange telecommunications services in the state of Missouri, classifies those services and the company as competitive, waives certain statutes and regulations, and approves the company's tariffs.

On September 26, 2011, Liberty-Bell Telecom, LLC dba DISH Network Phone & Internet applied for certificates of service authority to provide basic and nonswitched local exchange, as well as interexchange telecommunications services throughout the state of Missouri, and for competitive classification. Liberty-Bell is authorized to do business in Missouri by the Missouri Secretary of State.

On September 27, the Commission issued its Notice of Applications, establishing October 11 as the deadline for intervention. No applications to intervene were received. On October 21, the Staff of the Commission recommended that the requested certificates, classifications and waivers be granted. 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 392.¹

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,² and that the grant of authority is in the public interest.³ Based on the verified application and Staff's uncontested recommendation, the Commission finds that Liberty-Bell satisfies the requirements for certification and that granting such certificates is in the public interest.

Liberty-Bell 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.⁴ The Commission may only classify a telecommunications carrier as competitive if all of its services are so classified.⁵

The Commission finds that the intrastate interexchange market is competitive and that the interexchange services Liberty-Bell will offer are subject to competition. In addition, Liberty-Bell 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 Liberty-Bell will be subject to a

¹ See Sections 392.185, 392.361.3 and 392.420.

² 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.

³ Sections 392.430 and 392.440.

⁴ Section 392.361.2.

⁵ Section 392.361.3.

sufficient level of competition to justify a lesser degree of regulation. Furthermore, all of the services Liberty-Bell 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 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 Liberty-Bell.

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

Along with its application, Liberty-Bell submitted a proposed tariff. The company filed substitute tariff pages on October 19. The effective date of the proposed tariff is November 10. Staff recommends that the tariff be approved. The Commission finds that Liberty-Bell’s proposed tariff should be approved to become effective on November 10.

The Commission places Liberty-Bell 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:

⁶ Sections 392.361.5 and 392.420.

- 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.
- 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. 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 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.

THE COMMISSION ORDERS THAT:

1. Liberty-Bell Telecom, LLC dba DISH Network Phone & Internet is granted a certificate of service authority to provide basic local telecommunications services throughout the state of Missouri, subject to the conditions and recommendations contained in the Staff's Memorandum.

2. Liberty-Bell Telecom, LLC dba DISH Network Phone & Internet is granted certificates of service authority to provide nonswitched local exchange and interexchange telecommunications services in the state of Missouri.

3. Liberty-Bell Telecom, LLC dba DISH Network Phone & Internet and its services are granted competitive classification.

4. Liberty-Bell Telecom, LLC dba DISH Network Phone & Internet'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 Liberty-Bell seeks authority to provide service, unless authorized by the Commission pursuant to Section 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 Section 392.200 and 392.230, RSMo, and not Section 392.500 and 392.510, RSMo.

6. If the directly-competing incumbent local exchange carrier, in whose service area Liberty-Bell Telecom, LLC dba DISH Network Phone & Internet is operating, decreases its originating or terminating access service rates, Liberty-Bell 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 - 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 ownership 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(4)
and (5)(A) - quality of service reports
- 4 CSR 240-10.020 - depreciation fund income
- 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) - company name and toll-free number on bills
- 4 CSR 240-33.130(1),
(4) and (5) - operator service requirements

8. The following tariff, assigned file number YL-2012-0128, is approved, as amended, to become effective on November 10, 2011:

Missouri P.S.C. Tariff No. 1
Original Sheet No. 1 through Original Sheet No. 80

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 Liberty-Bell Telecom, LLC dba DISH Network Phone & Internet's certificates shall become effective on November 10, 2011.

11. This file shall be closed on November 11, 2011.

BY THE COMMISSION



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 2000.

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