

BEFORE THE PUBLIC SERVICE COMMISSION OF THE STATE OF MISSOURI

In the Matter of the Application of WiMacTel, Inc.)	
for Certificate of Service Authority to Provide Basic)	
Local Exchange, Non-Switched Local Exchange)	<u>File No. LA-2011-0172</u>
and Interexchange Telecommunications Services)	Tariff File Nos. YL-2011-0313
in the State of Missouri and to Classify Said)	and YL-2011-0314
Services and the Company as Competitive)	

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

Issue Date: January 20, 2011

Effective Date: February 5, 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 December 16, 2010, WiMacTel, Inc. applied for certificates of service authority to provide basic and nonswitched local exchange, as well as interexchange telecommunications services within the state of Missouri, and for competitive classification. The company seeks certification to provide interexchange service throughout the state and basic local service in all exchanges in the State of Missouri. WiMacTel is authorized to do business in Missouri by the Missouri Secretary of State.

On December 20, 2010, the Commission issued its Notice of Applications. No applications to intervene were received. On January 14, 2011, the Staff of the Commission recommended that the requested certificates, classifications and waivers be granted. Staff filed an amended recommendation on January 18.

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,¹ and that the grant of authority is in the public interest.² Based on the verified application and Staff's uncontested recommendation, the Commission finds that WiMacTel satisfies the requirements for certification and that granting such certificates is in the public interest.

WiMacTel 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 the intrastate interexchange market is competitive and that the interexchange services WiMacTel will offer are subject to competition. In addition, WiMacTel 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 WiMacTel will be subject to a

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.

³ Section 392.361.2.

⁴ Section 392.361.3.

⁵ See Sections 392.185, 392.361.3 and 392.420.

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

The Commission may also require a telecommunications company to comply with any conditions reasonably necessary to protect the public interest. Staff recommends that WiMacTel’s application be granted subject to certain restrictions regarding switched access rates. These conditions are routinely recommended by Staff and WiMacTel 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, WiMacTel submitted proposed tariffs. The company filed revised tariffs on January 11, 2011. The effective date of the proposed tariff is February 5, 2011. Staff recommends that the tariffs be approved. The Commission finds that WiMacTel’s proposed tariff should be approved to become effective on February 5, 2011.

The Commission places WiMacTel 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. WiMacTel, Inc. is granted a certificate of service authority to provide basic local telecommunications services in the exchanges of all exchanges in the State of Missouri, subject to the conditions and recommendations contained in the Staff's Memorandum.
2. WiMacTel, Inc. is granted certificates of service authority to provide nonswitched local exchange and interexchange telecommunications services in the state of Missouri.
3. WiMacTel, Inc. and its services are granted competitive classification.
4. WiMacTel, Inc.'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 WiMacTel 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 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 WiMacTel, Inc. is operating, decreases its originating or terminating access service rates, WiMacTel 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) – company records and reports
- 4 CSR 240-3.550(5)(A) – company records and 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) – provide telephone directories
- 4CSR 240-32.060 – engineering and maintenance standards
- 4 CSR 240-32.070 – quality of service
- 4CSR 240-32.080 – service objectives and surveillance levels
- 4CSR 240-33.040(1)
 - (3), and (5) – (10) – billing and payment standards
- 4CSR 240-33.045 – customer bills
- 4CSR 240-33.080(1) – disputes by residential customers
- 4 CSR 240-33.130(1),
 - (4) and (5) – operator service

8. The following tariffs, assigned Tariff File No. YL-2011-0313 and Tariff File No. YL-2011-0314, are approved to become effective on February 5, 2011:

P.S.C. MO Tariff No. 1

Original Sheet 1 to Original Sheet 45

And

Missouri Tariff No. 2

Original Title Page – Original Page 7

Section 1, Original Page – Section 1, Original Page 5

Section 2, Original Page 1 – Section 2, Original Page 41
Section 3, Original Page 1 – Section 3, Original Page 2
Section 4, Original Page 1 – Section 4, Original Page 7
Section 5, Original Page 1 – Section 5, Original Page 1
Section 6, Original Page 1 – Section 6, Original Page 4
Section 7, Original Page 1 – Section 7, Original Page 1
Section 8, Original Page 1 – Section 8, Original Page 1
Section 9, Original Page 1 – Section 9, Original Page 1
Section 10, Original Page 1 – Section 10, Original Page 11

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 WiMacTel, Inc.'s certificates shall become effective on February 5, 2011.

11. This file shall be closed on February 6, 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 20th day of January, 2011.