

BEFORE THE PUBLIC SERVICE COMMISSION OF THE STATE OF MISSOURI

In the Matter of the Application of Pac-West Telecomm, Inc.)
for a Certificate of Service Authority to Provide) File No. LA-2011-0283
Local and Interexchange Telecommunications Services)
in the State of Missouri and to) Tariff No. YL-2011-0451
Classify said Services and the Company as Competitive)

ORDER GRANTING APPLICATION

Issue Date: May 16, 2011

Effective Date: May 23, 2011

The Missouri Public Service Commission is granting the application for telecommunications service authority, competitive classification, and waiver of certain provisions of law.

I. Procedure

Applicant is a California corporation with its principal office located at 4210 Coronado Avenue, Stockton, CA 95204. Applicant filed the original application on March 7, 2011.¹ On April 5, 2011, the Commission issued notice and set a deadline for motions to intervene. The Commission received no motion to intervene. Staff filed its *Staff Recommendation* on May 13, 2011. Staff recommends granting the application subject to conditions set forth below. No law requires a hearing,² so this action is not a contested case³ and the Commission need not separately state its findings of fact.

II. Certification

Applicant asks that the Commission certify applicant to provide telecommunications services as described in the caption of this order. The Commission finds and concludes that

¹ Applicant filed an amended application on April 14, 2011; and a further amendment on May 4, 2011; (together, the "application").

² *State ex rel. Rex Deffenderfer Ent., Inc. v. Public Serv. Comm'n*, 776 S.W.2d 494, 496 (Mo. App., W.D. 1989).

the public interest supports granting that request.⁴ Therefore, the Commission will grant the authority requested in the application.

III. Competitive Classification

Applicant asks the Commission to classify applicant and its services as competitive. The Commission finds that competition in the relevant markets is in the public interest, and that the services that applicant proposes to offer are competitive.⁵ Therefore, the Commission will classify applicant and its services as competitive.

IV. Waivers

Applicant asks the Commission to waive certain statutes and regulations. The Commission finds and concludes that waiving the statutes and regulations set out in the ordered paragraphs below is not detrimental to the public interest.⁶ Therefore, the Commission will waive those provisions of law.

V. Other Matters

The Commission reminds the applicant that failure to comply with its regulatory obligations may result in the assessment of penalties against it. These regulatory obligations include, but are not limited to, the obligation to:

A) File an annual report, as established by Section 392.210, RSMo 2000. Failure to comply with this obligation will make the applicant liable to a penalty of \$100 per day for each day that the violation continues. 4 CSR 240-3.540 requires telecommunications utilities to file their annual report on or before April 15 of each year.

³ Section 536.010(4), RSMo Supp. 2010.

⁴ Sections 392.430, RSMo 2000.

⁵ Sections 392.420 and 392.361.3 and .4, RSMo Supp. 2010.

B) Pay an annual assessment fee established by the Commission, as required by Section 386.370, RSMo 2000.

C) 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, pursuant to Section 386.570, RSMo 2000.

D) Keep the Commission informed of its current address and telephone number.

Also, the applicant is reminded that, if it is any entity other than an individual, non-attorneys may not represent the applicant before the Commission, and the applicant must be represented by an attorney licensed to practice law in Missouri. In addition, the applicant is reminded that Section 392.410.5, RSMo Supp. 2010, renders any certificate of service authority null and void one year from the date of this order unless it has exercised its authority under that certificate.

THE COMMISSION ORDERS THAT:

1. Applicant is granted a certificate of service authority to provide interexchange telecommunications services subject to all applicable statutes and Commission regulations except as specified in this order.

2. Applicant is granted a certificate of service authority to provide non-switched local exchange authority, restricted to dedicated private line service, subject to all applicable statutes and Commission regulations except as specified in this order.

3. Applicant is granted a certificate of service authority to provide basic local exchange authority, subject to all applicable statutes and Commission regulations except as specified in this order.

⁶ Sections 392.245.5(8) and 392.361, RSMo Supp. 2010.

- 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. 2010.
 - 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.
4. Applicant is classified as a competitive telecommunications company and applicant's services are classified as competitive.
 5. The following statutes and Commission regulations shall be waived:

Statutes (Sections, RSMo)

Section 392.210.2, RSMo	uniform system of accounts
Section 392.240.1, RSMo	rates-rentals-service & physical connections
Section 392.270, RSMo	valuation of property (ratemaking)
Section 392.280, RSMo	depreciation accounts
Section 392.290, RSMo	issuance of securities
Section 392.300, RSMo	transfer of property and stock
Section 392.310, RSMo	stock and debt issuance
Section 392.320, RSMo	stock dividend payment
Section 392.330, RSMo	issuance of securities, debts and notes
Section 392.340, RSMo	reorganization(s)

Regulations

4 CSR 240-3.550(4) and (5)(A)	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
4 CSR 240-32.060	Engineering, Maintenance

4 CSR 240-32.070	Quality of Service
4 CSR 240-32.080	Service Levels
4 CSR 240-33.040(1)-(3) and (5)-(10)	Billing and Payment
4 CSR 240-33.045	Charge on Bills
4 CSR 240-33.080(1)	Billing
4 CSR 240-33.130(1), (4) and (5)	Operator Service

6. This order shall become effective May 23, 2011.

7. This file shall close on May 24, 2011.

(S E A L)

BY THE COMMISSION



Steven C. Reed
Secretary

Daniel Jordan, Senior Regulatory Law Judge,
by delegation of authority under
Section 386.240, RSMo 2000.

Dated at Jefferson City, Missouri,
on this 16th day of May 2011.