

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

In the matter of the Application of Talk America
Services, LLC for a Certificate of Service Authority
to Provide Interexchange and Resold Local
Exchange Telecommunications Services in the
State of Missouri

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File No. LA-2015-0069

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

Issue Date: November 17, 2014

Effective Date: November 27, 2014

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 and waives certain statutes and regulations.

On September 12, 2014, Talk America Services, LLC, 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 portions of Missouri that are currently being served by: McLeod USA Telecommunications Services, LLC; Paetec Communications, Inc.; Talk America, Inc.; Windstream KDL, Inc.; Windstream Norlight, Inc.; and, Windstream NuVox Missouri, Inc. The company is authorized to do business in Missouri by the Missouri Secretary of State.

On September 23, the Commission issued its Notice of Applications and established a deadline for intervention. There were no applications to intervene. On October 24, the

Staff of the Commission recommended that the requested certificates and classifications be granted.

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 recommendation, the Commission finds that the company satisfies the requirements for certification and that granting such certificates is in the public interest.

The company 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 the company will offer are subject to competition. Also, the company 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 the company will be subject to a

¹ See Sections 392.450, 392.451 and 392.455, RSMo.

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 the company 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 the company.

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

The Commission places the company 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. Rule 4 CSR 240-3.540 requires telecommunications utilities to file their annual report on or before April 15 of each year.

⁶ Sections 392.361.5 and 392.420.

- 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, 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 company did not file a tariff along with its application but may rely on Section 392.461 RSMo and publish its rates, terms and conditions of service on its publicly available website or it may submit a tariff for approval by the Commission prior to providing service in Missouri.

The Commission notes that before providing telecommunications services in Missouri, a party shall possess the following: (1) an interconnection agreement approved by the Commission; and (2) except for wireless providers, a certificate of service authority from the Commission to provide interexchange or basic local telecommunications services.

THE COMMISSION ORDERS THAT:

1. Talk America Services, LLC is granted a certificate of service authority to provide basic local telecommunications services in the exchanges set out in its application, subject to the conditions and recommendations contained in the Staff's Memorandum.

2. The company is granted certificates of service authority to provide nonswitched local exchange and interexchange telecommunications services in the state of Missouri and its services are granted competitive classification.

2. The company'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 it seeks authority to provide service.

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

4. The company will undertake all necessary measures to ensure its contracts with underlying carriers do not contain provisions preventing delivery of traffic to any telephone exchange area of Missouri. Such measures include but are not limited to:

- a) Prevention of call blocking or call gapping based on the cost of traffic termination.
- b) Preventing the alteration or stripping of Calling Party Number identification, and

c) Ensuring sufficient network capacity exists to process all traffic according to industry accepted practices.

5. The company's request for waivers of certain statutes and Commission rules, as set out in the application, is granted.

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

7. This order and the company's certificates shall become effective on November 27, 2014.

8. This file shall be closed on November 28, 2014.

BY THE COMMISSION



A handwritten signature in dark ink, reading "Morris L. Woodruff".

Morris L. Woodruff
Secretary

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 17th day of November, 2014.