

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

In the Matter of the Application of Rosebud Telephone,)
LLC, for Certificates of Service Authority to Provide)
Resold and Facilities-Based Local Exchange and)
Interexchange Telecommunications Services in the)
State of Missouri and to Classify Those Services and)
The Company as Competitive)

File No. LA-2010-0298

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

Issue Date: June 14, 2010

Effective Date: June 24, 2010

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 April 27, 2010, Rosebud Telephone, 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 and basic local service throughout the state. Rosebud is authorized to do business in Missouri by the Missouri Secretary of State.

On April 28, the Commission issued its Notice of Applications, establishing a 15-day deadline for intervention. No applications to intervene were received. On June 2, the Staff

of the Commission recommended that the requested certificates, classifications, and waivers 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 uncontested recommendation, the Commission finds that Rosebud satisfies the requirements for certification and that granting such certificates is in the public interest.

Rosebud 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 a majority of its services is 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 Rosebud will offer are subject to competition. In addition, Rosebud will compete with incumbent local exchange carriers, as well as other competitive

¹ See Sections 392.450, Supp. 2009, 392.451, Supp. 2009, 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, Supp. 2009.

⁴ Section 392.361.3, Supp. 2009.

local exchange carriers in the exchanges in which it provides basic local telecommunications service. The Commission finds that Rosebud will be subject to a sufficient level of competition to justify a lesser degree of regulation. Furthermore, all the services Rosebud 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 Rosebud has requested that the Commission waive certain statutes and regulations. The Commission has waived those statutes and regulations for other competitive local exchange and interexchange carriers, and finds that the waiver of those statutes and regulations is consistent with the purposes of Chapter 392. The Commission will waive those provisions for Rosebud.

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

The Commission places Rosebud 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:

⁵ See Sections 392.185, 392.361.3, Supp. 2009, and 392.420, Supp. 2009.

⁶ Sections 392.361.5 and 392.420, Supp. 2009.

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 Supp. 2009, 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.

Rosebud 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 Rosebud is reminded that it cannot provide service in Missouri until its tariff is approved by this Commission. When Rosebud files its tariff, that tariff shall list the waivers granted in this order.

THE COMMISSION ORDERS THAT:

1. Rosebud Telephone, LLC, is granted a certificate of service authority to provide basic local telecommunications services in the state of Missouri, subject to the conditions and recommendations contained in Staff's Memorandum.

2. Rosebud Telephone, LLC, is granted certificates of service authority to provide nonswitched local exchange and interexchange telecommunications services in the state of Missouri.

3. Rosebud Telephone, LLC, and its services are granted competitive classification.

4. Rosebud Telephone, LLC's originating and terminating access rates shall not exceed the access rates of the incumbent local exchange company against whom Rosebud is competing pursuant to Sections 392.361.6 and 392.370, RSMo Supp. 2009.

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

6. Application of the following statutes and Commission rules is waived:

Statutes

392.210.2
392.240.1
392.270
392.280
392.290
392.300.
392.310
392.320
392.330
392.340

Commission Rules

4 CSR 240-3.550(4), (5)(A), and (5)(C)
4 CSR 240-10.020
4 CSR 240-30.040
4 CSR 240-32.060
4 CSR 240-32.070
4 CSR 240-32.080
4 CSR 240-33.040 (excluding (4))
4 CSR 240-33.045
4 CSR 240-33.080(1)
4 CSR 240-33.130(1), (4), and (5)

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

8. This order and Rosebud Telephone, LLC's certificates shall become effective on June 24, 2010.

9. This file shall be closed on June 25, 2010.

(S E A L)

BY THE COMMISSION



Steven C. Reed
Secretary

Morris L. Woodruff, Chief Regulatory Law Judge,
by delegation of authority pursuant
to Section 386.240, RSMo 2000.

Dated at Jefferson City, Missouri,
on this 14th day of June, 2010.