

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

In the Matter of the Application of WiMacTel,            )	
Inc. for a Certificate of Service Authority to Provide)	
Basic Local Exchange, Non-switched Local            )	<b>File No. LA-2010-0172</b>
Exchange and Interexchange Telecommunications    )	Tariff No. YL-2011-0313
Services in the State of Missouri and to Classify    )	YL-2011-0314
Said Services and the Company as Competitive        )	

**CORRECTED STAFF RECOMMENDATION**

COMES NOW the Staff of the Missouri Public Service Commission and for its recommendation, states as follows:

1. On December 16, 2010, WiMacTel, Inc. (“the Company”) applied for a certificate of service authority to provide basic local, non-switched local and interexchange telecommunications service and for competitive classification.

2. The Application included sufficient information for the Staff to conclude that the Company possesses sufficient financial, technical and managerial resources to be certificated. In addition, the Staff notes that granting the requested waivers complies with §392.420 RSMo 2009.

3. In the attached Memorandum, labeled Attachment A, the Staff recommends that the Commission grant the Company’s request for basic local, non-switched local and interexchange telecommunications service authority. The Commission shall grant an application for a certificate of telecommunications service authority upon a finding that the grant of authority is in the public interest. §§392.430 and 392.440 RSMo 2000.

4. Staff also recommends that the Commission classify the Company’s services as competitive. The Commission may classify a telecommunications provider or its services as competitive if the Commission determines it is subject to sufficient competition to justify a lesser degree of regulation and that such lesser regulation is consistent with the protection of ratepayers and promotes public interest. §392.361.4 RSMo Supp. 2009. A majority of the services a competitive company provides must be classified as competitive. §392.361.3 RSMo Supp. 2009.

5. The Staff further recommends that the Commission state in its order that, pursuant to §392.410, the authority conferred by the certificate of service authority shall be null and void unless it is exercised within one year of its issuance.

6. Tariffs were submitted that meet the requirements of all applicable statutes, as more fully set forth in Attachment A. The Staff recommends that the Commission either approve the tariffs or allow them to take effect by operation of law.

7. The Staff recommends that the requested waivers, listed in the tariff, be granted. The Company shall list the waivers in its tariff as long as the waivers are effective.

8. The Company requests a waiver of 4 CSR 240-4.020(2), but that provision does not apply to Application matters such as this. First, the provision applies only to regulated entities, which the Applicant is not yet. Second, the provision applies only to those cases likely to be contested. Application cases are almost never contested. Therefore, the Staff recommends that the Commission ignore both the provision and the request to waive it as inapplicable.

9. The Applicant is not delinquent in filing an annual report, paying the PSC assessment, MoUSF, and Relay Missouri.

10. The Staff recommends that the application be granted with the following conditions:

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. 2009.

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.

WHEREFORE, the Staff recommends that the Commission grant WiMacTel, Inc.'s Application for basic local, non-switched local and interexchange telecommunications service authority under the conditions described above, classify the company and its services as competitive, approve the requested waivers, and either approve the submitted tariffs or allow them to take effect by operation of law.

Respectfully submitted,



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Missouri Public Service Commission  
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### **Certificate of Service**

I hereby certify that copies of the foregoing have been mailed, hand-delivered, transmitted by facsimile or electronically mailed to all counsel of record this 18<sup>th</sup> day of January, 2011.



# **M E M O R A N D U M**

To: Missouri Public Service Commission Official Case File  
Case No: LA-2011-0172  
File No: YL-2011-0313 & YL-2011-0314  
Applicant: WiMacTel, Inc.

From: Kari Salsman  
Telecommunications Department  
William Voight 1-13-2011  
Utility Operations Division/Date

Subject: Staff Recommendation for Approval of Certificate and/or Initial Tariff

Date: 1-13-2011  
Filing Deadline: 1-17-2011

The Telecommunications Department Staff (Staff) recommends the applicant be granted the following certificate(s), as indicated below, to be effective on the same date the tariff becomes effective:

☒ certificate to provide basic local exchange telecommunications services in the following service areas.

- ☐ All of AT&T Missouri
- ☐ All of CenturyLink
- ☐ All of Spectra
- ☒ Statewide
- ☐ Other \_\_\_\_\_ (please describe)

☒ certificate to provide interexchange telecommunications services.

☒ certificate to provide local exchange telecommunications services.\*

\*local exchange authority should be restricted to dedicated, private line services.

Staff recommends the applicant and its services receive competitive classification. Staff further recommends a Commission order granting certification state that pursuant to Section 392.410 RSMo, unless exercised within a period of one year from the issuance thereof, authority conferred by a certificate of service authority shall be null and void. In addition, Staff recommends approval of the waivers listed in the Notice.

Granting a certificate to provide basic local exchange telecommunications services should be based on the following two conditions:

1. 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 Sections 392.361.6 and 392.370 RSMo.
2. 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.

- ☒ No objection to tariff taking effect No. 1 & No. 2. 2-5-2011  
The Staff states that the tariff meets the requirements of all applicable statutes, specifically, one or more of the following: Sections 392.200(8), (12); 392.455(3), (4); and 392.500(2) RSMo. In addition, the tariff filing does not conflict with the following Commission rules: 4 CSR 240-3.545 (4), (6), (7), (8 C,G,H), (9), (15), (16), (19); 4 CSR 240-31.065(1), (2), (3); 4 CSR 240-32.150(5), 32.160(1), (2), 32.190; 4 CSR 240-33.040(4), 33.045(2), 33.050(4) and 33.070(2).

- ☐ Tariff was not submitted with application. Pursuant to 4 CSR 240-3.510(1)(C), the applicant cannot lawfully provide service until tariffs are effective.

Additional Comments:

- ☒ The Company is not delinquent in filing an annual report, paying the PSC assessment, MoUSF, and Relay Missouri.

☐ The Company is delinquent. Staff recommends the Commission grant the requested relief/action on the condition the applicant corrects the delinquency. The applicant should be instructed to make the appropriate filing in this case after it has corrected the delinquency.

- (☐ No annual report ☐ Unpaid PSC assessment. Amount owed:  
☐ Unpaid MoUSF ☐ Unpaid Relay Missouri)

**Review Items for IXC, Non-switched Local and CLEC Certificate Applications (as required by 4 CSR 240-2.060):**

- ☒ Proper Secretary of State authorization
- ☒ Statement of character of business performed.
- ☒ Statement declaring no pending action or final unsatisfied judgments
- ☒ Statement declaring no overdue annual reports/assessment fees
- ☒ Application includes an affidavit.
- ☒ The applicant is requesting waivers of rules or statutes previously granted to a competitively classified company

(as required by 392.430/.440):

- ☒ Application shows that grant of authority is in the public interest.

**Additional Review Items for CLEC Applications (as required by 392.455):**

- ☒ Possesses sufficient technical and managerial resources and abilities.
- ☒ Applicant has provided an affidavit attesting that the company possesses sufficient financial resources.
- ☒ Statement that the applicant will satisfy the minimum standards established by the commission.
- ☒ Identifies geographic area (no smaller than an exchange).
- ☒ Statement that applicant will give equitable access to all Missourians.

**Tariff Review Items (applicable for all competitively classified companies):**

- ☒ The tariff meets Staff's review for compliance with rules for competitive company tariff filings.

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OF THE STATE OF MISSOURI**

In the Matter of the Application of )  
WiMacTel, Inc. for Certificate of Service ) Case No. LA-2011-0172  
Authority to Provide Basic Local )  
Exchange, Non-Switched Local Exchange )  
and Interexchange Telecommunications )  
Services in the State of Missouri and to )  
Classify Said Services and the Company as )  
Competitive )

**AFFIDAVIT OF KARI SALSMAN**

STATE OF MISSOURI )  
 ) ss:  
COUNTY OF COLE )

Kari Salsman, employee of the Missouri Public Service Commission, being of lawful age and after being duly sworn, states that she has participated in preparing the accompanying Staff recommendation, and that the facts therein are true and correct to the best of her knowledge and belief.

  
\_\_\_\_\_  
KARI SALSMAN

Subscribed and affirmed before me this 13<sup>th</sup> day of January 2011.



  
\_\_\_\_\_  
NOTARY PUBLIC