

BEFORE THE MISSOURI PUBLIC SERVICE COMMISSION

In the Matter of the Application of)	
XO Communications Services, Inc.)	
to Expand Its Certificate of Basic Local)	Case No. _____
Service Authority to include provision of)	
Basic Local Exchange Telecommunications)	
Service throughout the State of Missouri and)	
to Continue to Classify the)	
Company and its Services as Competitive.)	

**APPLICATION OF XO COMMUNICATIONS SERVICES, INC.
TO EXPAND CERTIFICATE OF BASIC LOCAL SERVICE AUTHORITY**

COMES NOW XO Communications Services, Inc. ("XO"), by its undersigned counsel, and pursuant to the Federal Telecommunications Act of 1996 ("Act"), Sections 392.361, 392.410, 392.420, 392.430, 392.440, 392.450 and 392.455 RSMo, and 4 CSR 240-2.060 and 4 CSR 240-3.510, hereby applies to expand its certificate of basic local authority to include provision of basic local exchange telecommunications service in all exchanges throughout the State of Missouri. XO already has obtained authority from the Commission to provide facilities-based and resold basic local telecommunications service in the service territories of Southwestern Bell Telephone Company ("SWBT") n/k/a AT&T, CenturyTel of Missouri, LLC ("CenturyTel") and Sprint Missouri, Inc. ("Sprint"), as well as interexchange telecommunications services and non-switched local exchange telecommunications services (limited to providing dedicated, non-switched local exchange private line services) throughout the state of Missouri.¹ XO and its services have been classified as competitive.² XO is in good standing in all respects with all applicable Commission rules and requirements. In this Application, XO seeks the

¹ See *In the Matter of the Application of XO Missouri, Inc., Allegiance Telecom of Missouri, Inc. and XO Communications Services, Inc. for Approval of an Internal Corporate Reorganization* Case No. LO-2005-0027 (Order Approving Merger and Order Granting Certificates to Provide Basic Local, Nonswitched Local and Interexchange Telecommunications Services dated October 28, 2004).

additional authority to provide facilities-based and resold basic local exchange telecommunications service in the exchanges comprising all other service territories within the State of Missouri, following all exchange boundaries of incumbent local exchange telecommunications companies. Additionally, pursuant to Sections 392.361 and 392.420 RSMo, XO requests that its basic local service as offered in this additional territory be classified as competitive, that the company and its services remain classified as competitive, and that certain statutes and regulations be waived.

In support of its application XO states to the Commission as follows:

I. QUALIFICATIONS

1. Name and Address: Applicant's legal name is XO Communications Services, Inc. XO maintains its regulatory office at:

10940 Parallel Parkway, Suite K - #353
Kansas City, Kansas 66109
Phone Number: 913-499-1479
Fax Number: 314-787-7965
E-Mail: John.Ivanuska@xo.com

2. Contact Persons: All inquiries, correspondence, communications, pleadings, notices, orders and decisions relating to this Application should be directed to:

Carl J. Lumley
Curtis, Heinz, Garrett & O'Keefe, PC
130 S. Bemiston, Suite 200
Clayton, Missouri 63105
Telephone: (314) 725-8788
Facsimile: (314) 725-8789
Email: clumley@lawfirmemail.com

²Id.

3. Corporate Liaison: Questions concerning the ongoing operations of XO should be addressed to:

John Ivanuska
XO Communications Services, Inc.
10940 Parallel Parkway, Suite K - #353
Kansas City, Kansas 66109
Telephone: 913-499-1479
Facsimile: 314-787-7965
Email: John.Ivanuska@xo.com

4. Corporate Structure: XO Communications Services, Inc. is a corporation duly organized and existing under Delaware law. It is qualified to do business in the state of Missouri. A Certificate of Authority from the Missouri Secretary of State is attached hereto as *Exhibit 1*.

5. Managerial and Technical Qualifications: XO remains managerially and technically qualified to provide basic local telecommunications services in the state of Missouri, as found in Case No. LO-2005-0027. It has been successfully providing basic local service since it commenced operations in 2004 (and previous thereto through predecessors).

6. Financial Qualifications: XO remains financially qualified to provide telecommunications services in the state of Missouri, as found in Case No. LO-2005-0027. It has been successfully providing basic local service since it commenced operations. Based on these prior determinations and operations, XO seeks a waiver of the requirement that financial data be submitted under 4 CSR 240-3.510(1)(D).

II. PROPOSED SERVICES

7. Description of Proposed Services: XO is currently authorized to, and does, provide basic local exchange telecommunications service within the service territory of AT&T, Sprint and CenturyTel pursuant to approved tariffs. XO requests that the Commission take

notice of its local exchange service tariffs, which are incorporated herein by reference. XO seeks additional authorization to provide basic local service in all other exchanges throughout the State of Missouri. XO's services meet applicable minimum Commission standards. XO will continue to offer basic local service as a separate and distinct service in all exchanges throughout the State of Missouri.

8. Tariff Requirement: XO exercises its option and requests a temporary waiver of 4 CSR 240-3.510(1)(C), which requires that an application for a certificate of service authority to provide basic local exchange service shall include a proposed tariff with a 45-day effective date, but allows applicant the option of postponing tariff submittal. XO needs to complete the process of obtaining approved interconnection agreements with various incumbent LECs before formally submitting proposed tariff changes with an effective date. XO will file tariffs in a manner consistent with the Commission's practices in similar cases before providing basic local service in the expanded service area.

III. CLASSIFICATION AS A COMPETITIVE TELECOMMUNICATIONS COMPANY AND WAIVER OF CERTAIN REGULATORY REQUIREMENTS

9. Classification of Services as Competitive: XO seeks continued classification as a competitive company, including classification of its basic local exchange telecommunications service in the new service area as competitive, pursuant to Section 392.361 and Section 392.420 RSMo and 4 CSR 240-3.510(1)(A). XO also seeks the reduced regulation that accompanies such classification. In the Commission's previous orders granting XO certificates of service authority, the Commission classified XO and its services as competitive.

10. Waiver of Rules: XO will comply with all applicable Commission rules, except those that are waived, in providing basic local service in the new service area. Specifically, XO

will file and maintain tariffs and meet applicable minimum standards. XO will make reports to and other informational filings with the Commission as required. Pursuant to Section 392.420 R.S.Mo. (see also Section 392.245.5(8)), which provides good cause for this request, XO requests that the following statutes and regulations be waived for XO:

<u>Statutes</u>	<u>Missouri Public Service Commission Rules</u>
392.210.2	4 CSR 240-3.550(4), (5)(A) and (5)(C)
392.240.1	4 CSR 240-10.020
392.270	4 CSR 240-30.040
392.280	4 CSR 240-32.060
392.290	4 CSR 240-32.070
392.300	4 CSR 240-32.080
392.310	4 CSR 240-33.040 (except subsection (4))
392.320	4 CSR 240-33.045
392.330	4 CSR 240-33.080(1)
392.340	4 CSR 240-33.130(1), (4) and (5)

No public utility will be affected by the requested waiver of these statutes and regulations.

11. Switched Access Rates: XO acknowledges that in accordance with Section 392.361.6, XO exchange access rates will not exceed the corresponding exchange access rates in effect for the incumbent IECs in the respective service areas. Additionally, pursuant to the Commission's Report and Order in Case No. TO-99-596, XO agrees that if such incumbents decrease their current originating and/or terminating access service rates, XO shall file an appropriate tariff amendment to reduce its corresponding originating and/or terminating access rates within thirty (30) days thereof in order to maintain aforesaid cap on exchange access rates.

12. Pending Actions: XO does not have any pending action or final unsatisfied judgments or decisions against it from any state or federal agency or court which involve customer service or customer rates, which action, judgment, or decision has occurred within three years of the date of this Application.

13. Compliance with Orders and Regulations: XO will comply with all applicable orders and regulations of the Commission.

14. Annual Reports and Fees: XO does not have any overdue annual reports or assessment fees.

IV. PUBLIC INTEREST CONSIDERATIONS

15. The Commission granted XO its current certificates of service authority, based in part upon finding that such action was in the public interest. The grant of this Application will also further the public interest by increasing equitable access for Missourians, regardless of where they live or their income, to affordable telecommunications services. XO's proposed services will create and enhance competition and expand customer service options consistent with the legislative goals set forth in the Federal Telecommunications Act of 1996 and Chapter 392 RSMo. In particular, the public will benefit directly through the use of the competitive basic local exchange service to be offered by XO. The public will also benefit indirectly because the competitive presence of XO will increase the incentives for the incumbent and others to operate more efficiently, offer more innovative services, reduce prices, and improve the quality and coverage of services.

16. Granting this Application will promote the availability of quality services and increased consumer choice. XO's expertise in telecommunications will allow it to provide economic and efficient services in the new service area, thereby affording more customers with an optimal combination of price, quality, and customer service. XO anticipates that expansion of its basic local service territory will increase consumer choice for innovative, diversified, and reliable service offerings and otherwise further the public interest.

WHEREFORE, XO Communications Services, Inc., respectfully requests that the Commission grant it the requested expansion of its certificate of service authority to include provision of basic local telecommunications service in all exchanges in the State of Missouri, classify its basic local service in the new territory as competitive, continue to classify the company as competitive, grant waiver of the identified statutes and regulations, and grant such other and further relief to XO as the Commission deems meet and proper.

Respectfully submitted,

/s/ Carl J. Lumley

Carl J. Lumley, #32869
Curtis, Heinz, Garrett & O'Keefe, PC
130 S. Berniston, Suite 200
Clayton, Missouri 63105
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ATTORNEYS FOR XO Communications Services, Inc.

VERIFICATION

STATE OF KANSAS)
)
COUNTY OF ~~WYANDOTTE~~) SS.
 Johnson

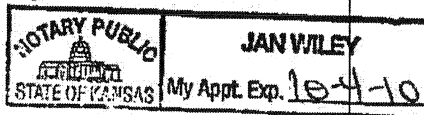
I, John Ivanuska, being first duly sworn, depose and state that I am over the age of 21 years sound of mind, and the Director – State Public Policy of XO Communications Services, Inc. (XO), the Applicant in the subject proceeding, and that I am authorized to make this Verification on behalf of XO Communications Services, Inc.; that I have read the foregoing Application and know the contents thereof; and that the same is true and correct to the best of my knowledge, information, and belief. Further, I verify that the Applicant will comply with all other applicable rules and regulations. I also verify that Carl J. Lumley, and Curtis, Heinz, Garrett & O'Keefe, P.C., 130 S. Berniston, Suite 200, St. Louis, Missouri 63105, are authorized to sign all pleadings and documents necessary to receive the approval of the Missouri Public Service Commission of the foregoing Application, and to represent XO Communications Services, Inc. in this proceeding.

John Ivanuska
Name/Title John Ivanuska
Director – State Public Policy

19th
Subscribed and sworn to before this *19th* day of September, 2008.

[Signature]
Notary Public

My Commission Expires: *10-4-10*



CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of this document was served upon the parties listed below on this 19th day of September, 2008, by either e-mail or U.S. Mail, postage prepaid.

/s/ Carl J. Lumley
Carl J. Lumley

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Jefferson City, Missouri 65102
opcservice@ded.mo.gov

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