

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

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| In the Matter of the Application of Access Fiber |) | |
| Group, Inc. for Certificate of Service Authority to |) | |
| Provide Basic Local Exchange, Non-Switched Local |) | <u>File No. TA-2010-0283</u> |
| Exchange and Interexchange Telecommunications |) | Tariff No. YC-2010-0609 |
| Services in the State of Missouri and to Classify |) | |
| Said Services and the Company as Competitive |) | |

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

Issue Date: May 28, 2010

Effective Date: May 31, 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, waives certain statutes and regulations, and approves the company's tariffs.

On April 9, 2010, Access Fiber Group, Inc. 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 all Incumbent Local Exchange Companies in Missouri. Access Fiber is authorized to do business in Missouri by the Missouri Secretary of State.

On April 12, 2010, the Commission issued its Notice of Applications, establishing a 15-day deadline for intervention. No applications to intervene were received. On

May 26, 2010, 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 Access Fiber satisfies the requirements for certification and that granting such certificates is in the public interest.

Access Fiber 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 Access Fiber will offer are subject to competition. In addition, Access Fiber will compete with incumbent local exchange carriers, as well as

¹ See Sections 392.450, 392.451 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.

⁴ Section 392.361.3.

⁵ See Sections 392.185, 392.361.3 and 392.420.

other competitive local exchange carriers in the exchanges in which it provides basic local telecommunications service. The Commission finds that Access Fiber will be subject to a sufficient level of competition to justify a lesser degree of regulation. Furthermore, all of the services Access Fiber 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 Access Fiber.

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

Along with its application, Access Fiber submitted a proposed tariff on April 16, 2010. The company filed revised tariff pages on May 17, 2010 and May 25, 2010. The effective date of the proposed tariff is May 31, 2010. Staff recommends that the tariff be

⁶ Sections 392.361.5 and 392.420.

approved. The Commission finds that Access Fiber's proposed tariff should be approved to become effective on May 31, 2010.

The Commission places Access Fiber 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.
- 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 Cum. 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.

THE COMMISSION ORDERS THAT:

1. Access Fiber Group, Inc. is granted a certificate of service authority to provide basic local telecommunications services in the exchanges of all Incumbent Local Exchange Companies in Missouri, subject to the conditions and recommendations contained in the Staff's Memorandum.

2. Access Fiber Group, Inc. is granted certificates of service authority to provide nonswitched local exchange and interexchange telecommunications services in the state of Missouri.

3. Access Fiber Group, Inc. and its services are granted competitive classification.

4. Access Fiber Group, Inc.'s originating and terminating access rates shall be no greater than the lowest Commission-approved corresponding access rates in effect for each incumbent local exchange carrier within whose service area Access Fiber seeks authority to provide service, unless authorized by the Commission pursuant to Section 392.220 and 392.230, RSMo.

5. The certificates and competitive service classification for switched exchange access are granted conditioned on the continued applicability of Section 392.200, RSMo, and the requirement that any increase in switched access service rates above the

maximum switched access service rates set forth herein shall be made pursuant to Section 392.200 and 392.230, RSMo, and not Section 392.500 and 392.510, RSMo.

6. If the directly competing incumbent local exchange carrier, in whose service area Access Fiber Group, Inc. is operating, decreases its originating or terminating access service rates, Access Fiber 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.

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

Statutes

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

Commission Rules

- 4 CSR 240-3.550(4) - company records and reports
- 4 CSR 240-3.550(5)(A) - company records and reports
- 4 CSR 240-3.550(5)(C) - exchange boundary map
- 4 CSR 240-10.020 - depreciation fund income
- 4 CSR 240-30.040 - uniform system of accounts
- 4 CSR 240-32.060 - engineering and maintenance standards
- 4 CSR 240-32.070 - quality of service
- 4 CSR 240-32.080 - service objectives and surveillance levels
- 4 CSR 240-33.040(1)-(3) - billing and payment standards
- 4 CSR 240-33.040(5)-(10) - billing and payments standards
- 4 CSR 240-33.045 - requiring clear identification and Placement of separately identified Charges on customer bills
- 4 CSR 240-33.080(1) - disputes by residential customers

- 4 CSR 240-33.130(1) - operator service
- 4 CSR 240-33.130(4) - operator service
- 4 CSR 240-33.130(5) - operator service

8. The following tariff, assigned file number YC-2010-0609, is approved, as amended, to become effective on May 31, 2010:

PSC Mo No. 1

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

10. This order and Access Fiber Group, Inc.'s certificates shall become effective on May 31, 2010.

11. This file shall be closed on June 1, 2010.

BY THE COMMISSION



Steven C. Reed
Secretary

(S E A L)

Ronald D. Pridgin, Regulatory Law Judge,
by delegation of authority pursuant
to Section 386.240, RSMo 2000.

Dated at Jefferson City, Missouri,
on this 28th day of May, 2010.