

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

In the Matter of the Application of Net Talk.com, Inc. )  
for a Certificate of Service Authority to Provide ) **File No. TA-2011-0166**  
Basic Local Telecommunications Services in the )  
State of Missouri and for Competitive Classification )

## ORDER GRANTING APPLICATION AND REQUIRING FILING OF TARIFF

Issue Date: February 4, 2011

Effective Date: February 14, 2011

The Missouri Public Service Commission is granting the application of Net Talk.com, Inc. (applicant). The application seeks a certificate of service authority to provide basic local exchange telecommunications services, competitive classification, and waiver of certain provisions of law. The Commission is also ordering the applicant to file a tariff.

## I. Procedure

Applicant is a Florida corporation with its principal office located at 1100 NW 163<sup>rd</sup> Drive, Suite B-4, Miami, FL. Applicant filed the application on December 9, 2010, and an amendment to the application on January 14, 2011, but no tariff. On December 13, 2010, the Commission issued notice of the application and setting a deadline for applications to intervene at January 12, 2011.

The Commission received no application for intervention. Staff filed the *Staff Recommendation* on January 19, 2011. Staff filed an addendum on January 24, 2011. Staff recommends granting the application and requiring the filing of a tariff. The Commission received no response to the recommendation and addendum.

No law requires a hearing on the unopposed application,<sup>1</sup> so this action is not a contested case and the Commission need not separately state its findings of fact.

## II. Certification

Applicant asks that the Commission certify applicant to provide basic local telecommunications services. The Commission finds and concludes that the public interest supports issuing the certificates.<sup>2</sup> Therefore, the Commission will issue certificates of authority basic local service.

## III. Competitive Classification

Applicant asks the Commission to classify applicant and its services as competitive. The Commission finds that competition in the interexchange telecommunications markets is in the public interest, and that the services that applicant proposes to offer are competitive.<sup>3</sup> Therefore, the Commission will classify applicant and its services as competitive.

## IV. Waivers

Applicant asks the Commission to waive the statutes and regulations listed in the application and amendment. The Commission finds and concludes that waiving the statutes and regulations set out in the ordered paragraph below is not detrimental to the public interest.<sup>4</sup> Therefore, the Commission will waive those provisions of law.

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<sup>1</sup> *State ex rel. Rex Deffenderfer Ent., Inc. v. Public Serv. Comm'n*, 776 S.W.2d 494, 496 (Mo. App., W.D. 1989).

<sup>2</sup> Sections 392.430, RSMo 2000.

<sup>3</sup> Sections 392.420 and 392.361.3 and .4, RSMo Supp. 2009.

<sup>4</sup> Sections 392.245.5(8) and 392.361, RSMo Supp. 2009.

## V. Other Matters

The Commission reminds the applicant that failure to comply with its regulatory obligations may result in the assessment of penalties against it. These regulatory obligations include, but are not limited to, the obligation to:

A) File an annual report, as established by Section 392.210, RSMo 2000. Failure to comply with this obligation will make the applicant liable to a penalty of \$100 per day for each day that the violation continues. 4 CSR 240-3.540 requires telecommunications utilities to file their annual report on or before April 15 of each year.

B) Pay an annual assessment fee established by the Commission, as required by Section 386.370, RSMo 2000.

C) 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, pursuant to Section 386.570, RSMo 2000.

D) Keep the Commission informed of its current address and telephone number.

Also, the applicant is reminded that, if it is any entity other than an individual, non-attorneys may not represent the applicant before the Commission, and the applicant must be represented by an attorney licensed to practice law in Missouri. In addition, the applicant is reminded that Section 392.410.5, RSMo Supp. 2009, renders the company's certificate of service authority null and void one year from the date of this order unless it has exercised its authority under that certificate.

## **THE COMMISSION ORDERS THAT:**

1. Net Talk.com, Inc. ("applicant") is granted a certificate of service authority to provide basic local telecommunications services in the state of Missouri, subject to all applicable statutes and Commission regulations except as specified in this order, in the exchanges listed in the application and amendment.

2. Paragraph 1 is conditioned as follows:

- 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.

3. Applicant is classified as a competitive telecommunications company and applicant's services are classified as competitive.

4. The following statutes and Commission regulations shall be waived:

### **Statutes (Sections, RSMo)**

Section 392.210.2, RSMo	uniform system of accounts
Section 392.240.1, RSMo	rates-rentals-service & physical connections
Section 392.270, RSMo	valuation of property (ratemaking)
Section 392.280, RSMo	depreciation accounts
Section 392.290, RSMo	issuance of securities
Section 392.300, RSMo	transfer of property and stock
Section 392.310, RSMo	stock and debt issuance

Section 392.320, RSMo	stock dividend payment
Section 392.330, RSMo	issuance of securities, debts and notes
Section 392.340, RSMo	reorganization(s)

### **Regulations**

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 240-3.550(4) and (5)(A)	Records and Reports
4 CSR 240-32.060	Engineering, Maintenance
4 CSR 240-32.070	Quality of Service
4 CSR 240-32.080	Service Levels
4 CSR 240-33.040(1)-(3) and (5)-(10)	Billing and Payment
4 CSR 240-33.045	Charge on Bills
4 CSR 240-33.080(1)	Billing
4 CSR 240-33.130(1), (4) and (5)	Operator Service

In addition, the Commission waives:

4 CSR 240-32.050(4)(B)	Provide Telephone Directories
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to the following extent set forth in paragraph 5.

5. As a competitive local exchange carrier operating in the St. Louis and Kansas City metropolitan areas, the Company is given a partial exemption from 4 CSR-32.050(4)(B), in that, when AT&T does not automatically deliver a directory to the Company's subscribers, the Company may discharge its obligation to distribute such directories by instructing its end-user customers to:

- a. contact the Company for a copy of the directory (who will in turn forward the request to AT&T); or
- b. contact AT&T directly for a copy of the directory.

6. Applicant shall file a tariff detailing its services and charges no later than 30 days from the effective date of this order.

7. This order shall become effective February 14, 2011.

8. This file shall close on February 15, 2011.

( S E A L )

**BY THE COMMISSION**

A handwritten signature in black ink, appearing to read 'S. Reed', is written over a faint, illegible stamp.

**Steven C. Reed  
Secretary**

Daniel Jordan, Senior Regulatory Law Judge,  
by delegation of authority under  
Section 386.240, RSMo 2000.

Dated at Jefferson City, Missouri,  
on this 4<sup>th</sup> day of February, 2011.