

BEFORE THE PUBLIC SERVICE COMMISSION

OF THE STATE OF MISSOURI

Application of Affinity Network, Inc. d/b/a ANI Networks)
for Expansion of Its Authority to Include Facilities-Based)
Interexchange Telecommunications Services in the) **Case No. TA-2007-0195**
State of Missouri, for Classification of the Company and) **Tariff No. YX-2007-0363**
Its Services as Competitive and for Waiver of Certain)
Statutes and Rules)

ORDER APPROVING INTRASTATE INTEREXCHANGE CERTIFICATE OF SERVICE AUTHORITY AND ORDER APPROVING TARIFF

Issue Date: December 28, 2006

Effective Date: January 11, 2007

Syllabus: This order grants Affinity Network Incorporated d/b/a ANI Networks (“Affinity”) a certificate of service authority to provide intrastate interexchange telecommunications services, and approves the company’s proposed tariff.

On November 27, 2006, Affinity applied to the Missouri Public Service Commission for an expansion of its existing certificate of service authority which would permit Affinity to provide intrastate interexchange telecommunications services in Missouri on a facilities basis.¹ In this verified application, Affinity asked the Commission to continue to classify it and its services as competitive and to continue to waive certain statutes and Commission rules as authorized by Sections 392.361 and 392.420. Affinity Network Incorporated, whose principal office is located at 4380 Boulder Highway, Las Vegas,

¹ The application was filed pursuant to Section 392.410, RSMo Cum. Supp. 2005 and Sections 392.410 through 392.450, RSMo 2000, as well as the pertinent administrative regulations. Unless otherwise indicated, all statutory references are to RSMo 2000.

Nevada 89121, is a California corporation duly authorized to do business in Missouri as a foreign corporation under the registered fictitious name "ANI Networks."²

The Commission issued a Notice of Applications for Certificates of Service Authority and Opportunity to Intervene on December 5, 2006, directing parties wishing to intervene to file their requests by December 20, 2006. No requests for intervention were filed.

The proposed tariff filed in conjunction with Affinity's verified application, which was designated as Tariff No. YX-2007-0363, had an effective date of January 11, 2006. On December 13 and 14, 2006, Affinity filed substitute tariff sheets which replaced page 39 of the proposed tariff Affinity had originally filed on November 27, 2006. Affinity's tariff describes the rates, rules, and regulations it intends to use, identifies Affinity as a competitive company, and lists the waivers requested. Affinity intends to provide intrastate interexchange telecommunications services to other carriers in Missouri as a facilities-based interexchange carrier, and does not currently intend to provide services directly to residential or business customers.

In its verified Memorandum filed on December 22, 2006, the Staff of the Commission recommended that the Commission grant Affinity a certificate of service authority to provide intrastate interexchange telecommunications services in Missouri. Staff recommended that the Commission classify Affinity and its services as competitive, and that the Commission waive the statutes and rules listed in the Notice. Staff further

² The materials accompanying Affinity's application show that the fictitious name registration was filed with the Missouri Secretary of State on August 25, 2005 and expires on August 25, 2010.

recommended that the Commission approve the proposed tariff to become effective on January 11, 2007.

In making these recommendations, Staff pointed out that, in Case No. TA-92-27, the Commission previously granted a certificate of service authority to provide intrastate interexchange telecommunications services to “Affinity Network Incorporated,” rather than “Affinity Network Incorporated d/b/a ANI Networks.” For this reason, Staff recommended that the Commission grant a *second* certificate to “Affinity Network Incorporated d/b/a ANI Networks,” since past Commission practice has been to grant separate certificates when companies use fictitious names.³

The Commission finds that competition in the intrastate interexchange telecommunications markets is in the public interest and Affinity shall be granted a certificate of service authority. The Commission finds that the services Affinity proposes to offer are competitive and Affinity shall be classified as a competitive company. The Commission finds that waiving the statutes and Commission rules set out in the ordered paragraph below is reasonable and not detrimental to the public interest.

The Commission finds that Affinity’s proposed tariff details the services, equipment, and pricing it proposes to offer, and is similar to tariffs approved for other Missouri-certificated interexchange carriers. The Commission finds that the proposed tariff filed on November 27, 2006, as amended by Affinity on December 13 and 14, 2006, shall be approved to become effective on January 11, 2007.

³ This is not the theory underlying Affinity’s current application, which is that an expanded certificate specifically authorizing Affinity to provide facilities-based services is required since the certificate issued in Case No. TA-92-27 only permitted Affinity to resell interexchange telecommunications services. However, the Commission notes (as did its Staff) that the Report and Order filed in Case No. TA-92-27 did not explicitly limit the grant of authority to provision of resold interexchange telecommunications services.

The Commission reminds the company 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 following:

A) The obligation to file an annual report, as established by section 392.210. Failure to comply with this obligation will make the utility liable to a penalty of \$100 per day for each day that the violation continues. Commission 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.

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, pursuant to Section 386.570.

D) The obligation to keep the Commission informed of its current address and telephone number.

Furthermore, the company is reminded that, as it is a corporation, non-attorneys may not represent the company before the Commission. Instead, the corporation must be represented by an attorney licensed to practice law in Missouri. The company is also reminded that Section 392.410.5, RSMo Cum. Supp. 2005, 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.

Finally, the Commission notes that as the service authority granted in Case No. TA-92-27 did not include use of the fictional name "ANI Networks," the certificate of service

authority the Commission grants in this case is to be treated separately and Affinity will be expected to fulfill all regulatory requirements pertaining to both certificates.

IT IS ORDERED THAT:

1. Affinity Network Incorporated d/b/a ANI Networks is granted a certificate of service authority to provide intrastate interexchange telecommunications services in the State of Missouri subject to all applicable statutes and Commission rules except as specified in this order.

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

3. Affinity Network Incorporated d/b/a ANI Networks is classified as a competitive telecommunications company. Application of the following statutes and administrative regulations shall be 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 240-10.020 - Depreciation Fund Income
- 4 CSR 240-30.040 - Uniform System of Accounts

4. The tariff filed by Affinity Network Incorporated d/b/a ANI Networks on November 27, 2006, as tariff number YX-2007-0363, as amended by the company on December 13 and 14, 2006, shall be approved to become effective on January 11, 2007.

The tariff approved is:

PSC MO Tariff No. 4
Original Title Sheet
Original Sheet Nos. 1-63

5. This order shall become effective on January 11, 2007.
6. This case may be closed on January 12, 2007.

BY THE COMMISSION



Colleen M. Dale
Secretary

(S E A L)

Benjamin H. Lane, Regulatory
Law Judge, by delegation of authority
under Section 386.240, RSMo 2000.

Dated at Jefferson City, Missouri,
on this 28th day of December, 2006.