

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

In the Matter of the Application of XO )	
Communications Services, Inc. to Expand its )	
Certificate of Basic Local Service Authority )	
to include Provision of Basic Local Exchange )	Case No. TA-2009-0108
Telecommunications Service throughout the )	
State of Missouri, and to Continue to Classify )	
the Company and its Services as Competitive. )	

**STAFF RECOMMENDATION**

COMES NOW the Staff of the Missouri Public Service Commission (“Staff”) and for its recommendation respectfully states as follows:

1. On September 19, 2008, XO Communications Services, Inc. (“XO” or “Company”) filed with the Missouri Public Service Commission (“Commission”) an Application: a) to expand its certificate of basic local exchange telecommunications service authority (both facilities-based and resold), to all exchanges throughout Missouri for which it does not yet have such authority;<sup>1</sup> b) for classification of its service as offered in the additional territory, and for continued classification of the Company, as competitive; and c) for a waiver of certain statutes and regulations. The verified Application states that the Company “is in good standing in all respects with all applicable Commission rules and requirements.”

2. On September 24, 2008, the Commission issued a Notice Of Application For Expansion Of Certificate Of Service Authority And Order Directing Filing (“Notice And Order”), which, among other things, directed the Staff to file a recommendation concerning the Application by October 3, 2008.

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<sup>1</sup> The Company already has Commission authority to provide facilities-based and resold basic local telecommunications service in the service territories of Southwestern Bell Telephone Company n/k/a AT&T, CenturyTel of Missouri, LLC, and Sprint Missouri, Inc.

3. The Commission shall grant an application to expand a certificate to provide basic local telecommunications service of an alternative local exchange carrier (“ALEC”) certificated as of August 28, 2008, within thirty days of the request, as long as the ALEC is in good standing with the Commission in all respects. (Section 392.450.3 RSMo<sup>2</sup>). Furthermore, 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. (Section 392.361.4 RSMo). The majority of the services a competitive company provides must be classified as competitive. (Section 392.361.3 RSMo<sup>2</sup>). In addition, upon request, the Commission may waive the application of its rules and certain statutes if the Commission determines that waiver is consistent with the purposes of Chapter 392, and shall waive certain statutes and rules. (Sections 392.185, 392.361.5<sup>2</sup> and 392.420<sup>2</sup> RSMo).

4. In the attached Memorandum (Appendix A), the Staff recommends that the Commission grant XO’s Application, conditioned upon certain provisions as set out in the Staff Memorandum. The Staff further recommends that the Commission’s order state that, pursuant to Section 392.410, 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.

WHEREFORE, the Staff recommends that the Commission issue an Order: a) granting XO Communications Services, Inc. the requested expansion of XO’s certificate of service authority to include provision of basic local telecommunications service in all exchanges in the State of Missouri, conditioned upon the provisions described in the Staff Memorandum; b) stating that, pursuant to Section 392.410, 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; c) classifying XO’s basic local service in the new territory as competitive; d) continuing to

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<sup>2</sup> as amended by HB 1779, effective August 28, 2008

classify XO, as competitive; and e) granting the waivers requested by the Company, as set forth in the Commission's September 24, 2008 Notice And Order.

Respectfully submitted,

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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 3rd day of October 2008.

/s/ Dennis L. Frey