

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

In the Matter of the Application of Silv )  
Communications Inc. for a Certificate of )  
Service Authority to Provide Interexchange )  
Telecommunications Services Throughout )  
The State of Missouri, and for Competitive )  
Classification. )

**Case No. XA-2009-0301**  
Tariff File No. YX-2009-0592

**STAFF RECOMMENDATION**

**COMES NOW** the Staff of the Missouri Public Service Commission (Staff), by and through counsel, and for its *Staff Recommendation* in Case No. XA-2009-0301 states as follows:

1. On February 18 , 2009, Silv Communication Inc. (Silv or the Company) filed an *Application For Certificate Of Service Authority To Provide Interexchange Telecommunications Service And For Competitive Classification* (Application) with the Missouri Public Service Commission (the Commission) requesting that the Commission grant to the Company a certificate of service authority to provide intrastate interexchange telecommunications services, classify the Company as competitive, grant the requested waivers, and approve the Company's initial proposed interexchange tariff by the tariff's April 4, 2009 effective date.

2. On February 26, 2009, the Commission published its *Notice of Applications for Intrastate Certificates or Service Authority and Opportunity to Intervene*, providing notice and setting an intervention deadline of March 13, 2009.

3. In its *Order Directing Filing of Staff Recommendation*, issued March 19, 2009, the Commission ordered Staff to file a recommendation regarding the Company's *Application* no later than March 26, 2009.

4. Pursuant to Sections 392.430 and 392.440 RSMo (2000), the Commission shall grant an application for a certificate of telecommunications service authority upon a finding that the grant of authority is in the public interest.

5. In the attached Memorandum, labeled Appendix A, Staff recommends that because that the *Application* demonstrates that the grant of authority is in the public interest that the Commission grant to Silv Communication Inc. a certificate to provide intrastate, interexchange telecommunications services.

6. Staff also recommends that the Commission classify Silv and the services it proposes to offer in its *Application* as competitive. Pursuant to Section 392.361.4 RSMo (2000), 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. Under Section 392.361.3 RSMo (2000), as amended by HB 1779 (effective August 28, 2008), in order to be classified as competitive, the majority of services offered by a company must be classified as competitive.

7. Staff further recommends that the Commission grant the waivers listed in the Silv's *Application*. Pursuant to Sections 392.185, 392.361.5 and 392.420 RSMo (2000), 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.

8. Staff has no objection to Silv's submitted tariff becoming effective on the proposed effective date of April 4, 2009.

9. The Company is not delinquent in the filing of its annual report, the payment of its PSC assessment, or the remittance of either the MoUSF or Relay Missouri surcharges.

**WHEREFORE,** Staff recommends that the Commission issue an Order granting Silv Communication Inc. a certificate of service authority to provide intrastate interexchange telecommunications services; granting the Company the requested competitive classification and requested waivers listed in Silv's *Application*; approving Silv's proposed interexchange tariff; and indicating that unless exercised within one year from its issuance that authority conferred by a certificate of service authority shall be null and void.

Respectfully submitted,

/s/ Eric Dearmont

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Missouri Bar No. 60892

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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 26th day of March, 2009.

/s/ Eric Dearmont

## MEMORANDUM

To: Missouri Public Service Commission Official Case File  
Case No: XA-2009-0301 File No: YX-2009-0592  
Applicant: Silv Communication, Inc.

From: Lisa Mahaney  
Telecommunications Department  
William Voight 3/25/09  
Utility Operations Division/Date

Subject: Staff Recommendation for Approval of Certificate and/or Initial Tariff

Date: 3/25/09  
Filing Deadline: 3/26/09

The Telecommunications Department Staff (Staff) recommends the applicant be granted the following certificate(s), as indicated below, to be effective on the same date the tariff becomes effective:

☐ certificate to provide basic local exchange telecommunications services in the following service areas.

- ☐ All of AT&T Missouri
- ☐ All of Embark
- ☐ All of CenturyTel
- ☐ All of Spectra
- ☐ Other \_\_\_\_\_ (please describe)

☒ certificate to provide interexchange telecommunications services.

☐ certificate to provide local exchange telecommunications services.\*

\*local exchange authority should be restricted to dedicated, private line services.

Staff recommends the applicant and its services receive competitive classification. Staff further recommends a Commission order granting certification state that pursuant to Section 392.410 RSMo, 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. In addition, Staff recommends approval of the waivers listed in the Notice.

Granting a certificate to provide basic local exchange telecommunications services should be based on the following two conditions:

1. 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 Sections 392.361.6 and 392.370 RSMo.
2. 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.

☒ No objection to tariff taking effect No. 1 Effective Date 4/4/09

The Staff states that the tariff meets the requirements of all applicable statutes, specifically, one or more of the following: Sections 392.200(8), (12); 392.455(3), (4); 392.515(1) and 392.500(2) RSMo. In addition, the tariff filing does not conflict with the following Commission rules: 4 CSR 240-3.545 (4), (6), (7), (8 C,G,H), (9), (15), (16), (19); 4 CSR 240-31.065(1), (2), (3); 4 CSR 240-32.150(5), 32.160(1), (2), 32.190; 4 CSR 240-33.040(4), 33.045(2), 33.050(4) and 33.070(2).

☐ Tariff was not submitted with application. Pursuant to 4 CSR 240-3.510(1)(C), the applicant cannot lawfully provide service until tariffs are effective.

Additional Comments:

☒ The Company is not delinquent in filing an annual report, paying the PSC assessment, MoUSF, and Relay Missouri.

☐ The Company is delinquent. Staff recommends the Commission grant the requested relief/action on the condition the applicant corrects the delinquency. The applicant should be instructed to make the appropriate filing in this case after it has corrected the delinquency.

(☐ No annual report ☐ Unpaid PSC assessment. Amount owed:  
☐ Unpaid MoUSF ☐ Unpaid Relay Missouri)

**Review Items for IXC, Non-switched Local and CLEC Certificate Applications (as required by 4 CSR 240-2.060):**

- ☒ Proper Secretary of State authorization
- ☒ Statement of character of business performed.
- ☒ Statement declaring no pending action or final unsatisfied judgments
- ☒ Statement declaring no overdue annual reports/assessment fees
- ☒ Application includes an affidavit.
  
- ☒ The applicant is requesting waivers of rules or statutes previously granted to a competitively classified company

(as required by 392.430/.440):

- ☒ Application shows that grant of authority is in the public interest.

**Additional Review Items for CLEC Applications (as required by 392.455 and/or 4 CSR 240-3.510):**

- ☐ Possesses sufficient technical, financial and managerial resources and abilities.
- ☐ Statement that the applicant will satisfy the minimum standards established by the commission.
- ☐ Identifies geographic area (no smaller than an exchange).
- ☐ Statement that applicant will offer basic local service as a separate and distinct service.
- ☐ Statement that applicant will give equitable access to all Missourians.

**Tariff Review Items (applicable for all competitively classified companies):**

- ☒ The tariff meets Staff's review for compliance with rules for competitive company tariff filings.

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Case No. XA-2009-0301

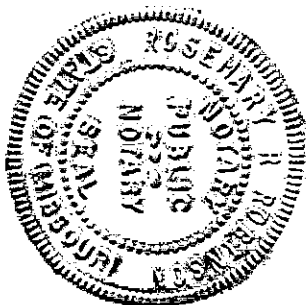
**AFFIDAVIT OF LISA MAHANEY**

STATE OF MISSOURI )  
 ) ss:  
COUNTY OF COLE )

Lisa Mahaney, employee of the Missouri Public Service Commission, being of lawful age and after being duly sworn, states that she has participated in preparing the accompanying memorandum, and that the facts therein are true and correct to the best of her knowledge and belief.

  
\_\_\_\_\_  
LISA MAHANEY

Subscribed and affirmed before me this 25<sup>th</sup> day of March, 2009.



  
\_\_\_\_\_  
NOTARY PUBLIC

ROSEMARY R. ROBINSON  
Notary Public - Notary Seal  
State of Missouri  
Commissioned for Callaway County  
My Commission Expires: September 23, 2012  
Commission Number: 08499510