

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

In the Matter of the Application of )  
X5 OpCo LLC, for Certificate of Service )  
Authority to Provide Interexchange )  
And Non-Switched Local Exchange )  
Telecommunications Services in the )  
State of Missouri and to Classify )  
Said Services and the Company as )  
Competitive )

**File No. XA-2016-0111**

**ORDER APPROVING BASIC LOCAL EXCHANGE, NON-SWITCHED  
LOCAL EXCHANGE AND INTEREXCHANGE CERTIFICATES OF  
SERVICE AUTHORITY**

Issue Date: December 3, 2015

Effective Date: December 13, 2015

This order grants X5 OpCo LLC ("X5 OpCo") Certificates of Service Authority to provide interexchange and non-switched local exchange telecommunications services in the State of Missouri.

X5 OpCo applied to the Commission on November 9, 2015, for authority to provide interexchange and non-switched local exchange telecommunications services under Sections 392.245, 392.361, 392.410, 392.420, 392.430, 392.440 and 392.450, RSMo.<sup>1</sup> X5 OpCo also asked the Commission classify it as a competitive company and to waive statutes and rules as authorized by Sections 392.420 and 392.440.

X5 OpCo is a limited liability corporation organized under the laws of the State of Delaware and registered with the Missouri Secretary of State to conduct business in

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<sup>1</sup> All statutory references are to the 2013 Cumulative Supplement of the Missouri Revised Statutes, unless indicated otherwise.

Missouri. X5OpCo's primary place of business is in Seattle, Washington. The company's tariff will be maintained at the company's [www.x5solutions.com](http://www.x5solutions.com) website.<sup>2</sup>

X5 OpCo also filed a motion for expedited treatment requesting a December 15 effective date for a Commission order approving its application.

On November 13, the Commission issued an order directing notice of X5 OpCo's application and motion, setting a deadline for applications to intervene, and directing the Staff of the Commission to file a recommendation. No applications to intervene were received. Staff filed a recommendation that the requested certificates, classification and waivers be granted, with certain conditions. The Commission issued an order setting a December 4 deadline for the filing of responses to Staff's recommendation. X5 OpCo filed a response on December 2, stating that it has no objections to the conditions Staff recommended.

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, including relevant service standards, and that the grant of authority is in the public interest. Based on the verified application, including X5 OpCo's stated commitment to comply with all applicable rules, as well as Staff's uncontested recommendation, the Commission finds that X5 OpCo satisfies the requirements for certification and that granting such certificate is in the public interest.

X5 OpCo 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

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<sup>2</sup> Section 392.461 allows a company to publish its rates, terms, and conditions of service on its publically available website.

applicant is subject to a sufficient degree of competition to justify a lesser degree of regulation.<sup>3</sup> The Commission may only classify a telecommunications carrier as competitive if all of its services are so classified.

The Commission finds that X5 OpCo will compete with other providers of interexchange and non-switched local exchange telecommunications services. The Commission finds that X5 OpCo will be subject to a sufficient level of competition to justify a lesser degree of regulation. Furthermore, all of the services X5 OpCo will offer are qualified for classification as competitive services.

Pursuant to Section 392.461, the company is not subject to Commission rules pertaining to the installation, provisioning or termination of retail service unless it elects, in written notice to the Commission, to be subject to such requirements. The Commission finds the services X5 OpCo proposes to offer are competitive and the company shall be classified as a competitive company.

X5 OpCo states in its motion requesting expedited treatment that the company is acquiring certain Missouri assets from NovaTel. This will result in NovaTel's Missouri subscribers being transferred to X5 OpCo.<sup>4</sup> Since the transfer with NovaTel goes into effect on December 15, X5 OpCo seeks Commission authority be granted in sufficient time to allow for this transfer of service. The Commission finds good cause exists to grant the motion in order to allow X5 OpCo to comply with the transfer agreement with NovaTel's. The Commission will therefore allow this order to go into effect in ten days.

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<sup>3</sup> Section 392.361.2.

<sup>4</sup> Motion for Expedited Treatment, ¶ 3. X5 OpCo states that under the terms of the transfer agreement with NovaTel, X5 OpCo will provide the same services under the same rates, terms and conditions to the transferred NovaTel customers.

**THE COMMISSION ORDERS THAT:**

1. X5 OpCo LLC is granted a certificate of service authority to provide interexchange telecommunications services in the state of Missouri.
2. X5 OpCo LLC is granted a certificate of service authority to provide non-switched local exchange telecommunications services in the state of Missouri.
3. X5 OpCo LLC and its services are granted competitive classification.
4. The requested waiver of certain statutes and Commission rules, as authorized in Chapter 392 RSMo, is granted.
5. X5 OpCo LLC shall comply with the following conditions:
  - 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 Sections 392.361.6 and 392.370 RSMo.
  - 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.
  - c. The Company will undertake all necessary measures to ensure its contracts with underlying carriers do not contain provisions preventing

delivery of traffic to any telephone exchange area of Missouri. Such measures include but are not limited to:

- 1) Prevention of call blocking and/or call gapping based on the cost of traffic termination.
- 2) Preventing the alteration or stripping of Calling Party Number identification.
- 3) Ensuring sufficient network capacity exists to process all traffic according to industry accepted practices.

6. The authority conferred by the certificates granted in this order shall be null and void if not exercised within one year of issuance.

7. This order and X5 OpCo LLC's certificates shall become effective on December 13, 2015.

8. This file shall be closed on December 15, 2015.

**BY THE COMMISSION**



A handwritten signature in black ink that reads "Morris L. Woodruff".

Morris L. Woodruff  
Secretary

Kim S. Burton, Regulatory  
Law Judge, by delegation of authority  
pursuant to Section 386.240, RSMo 2000.

Dated at Jefferson City, Missouri,  
on this 3<sup>rd</sup> day of December, 2015.