

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

In the Matter of the Application of Fairpoint)
Carrier Services, Inc. for a Certificate of)
Service Authority to Provide Intrastate)
Interexchange and Non-Switched Local)
Exchange Telecommunications Services)
within the State of Missouri and for)
Competitive Classification)

Case No. XA-2008-0284

STAFF RECOMMENDATION

COMES NOW the Staff of the Missouri Public Service Commission and states:

1. In the attached Memorandum, labeled Appendix A, the Staff recommends that the Missouri Public Service Commission grant Fairpoint Carrier Services, Inc. (Applicant) a certificate of service authority to provide intrastate, interexchange telecommunications services and local exchange telecommunications services. 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. §§ 392.430 and 392.440 RSMo. (2000).

2. Staff also recommends that the Commission classify the Applicant and the services it proposes to offer in its *Application* as competitive. The Commission may classify a telecommunications provider or its services as competitive if the Commission that all of the telecommunications services the Applicant offers are competitive services. §392.361.3.

3. Staff further recommends that the Commission grant the waivers listed in the *Notice of Applications*. 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. §§ 392.185, 392.361.5 and 392.420.

4. As the Applicant notes in its *Application*, the Commission's rule at 4 CSR 240-3.510(1)(C) permits an application to be ruled upon even in the absence of a tariff, but a tariff must be on file and approved by this Commission before a certificated telecommunications company may commence providing service.

WHEREFORE, Staff recommends that the Commission grant Fairpoint Carrier Services, Inc. a certificate of service authority to provide intrastate, interexchange telecommunications services and local exchange telecommunications services; grant it the requested competitive classification; and grant the waivers listed in the Commission's Notice of Application.

Respectfully submitted,

/s/ **Blane Baker**

Blane Baker

Legal Counsel

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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 28th day of March 2008.

/s/ **Blane Baker**

MEMORANDUM

To: Missouri Public Service Commission Official Case File

Case No.: **XA-2008-0284**

File No.: **N/A**

Applicant: **FairPoint Carrier Services, Inc. (FPCS)**

From: Arthur P Kuss
Telecommunications Department

Wm L Voight 03/27/08
Utility Operations Division/Date

Blane Baker 3/28/2008
General Counsel's Office/Date

Subject: Staff Recommendation for Approval of Certificate

Date: March 27, 2008

Filing Deadline: N/A

The Telecommunications Department Staff (Staff) recommends the applicant be granted the 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 Southwestern Bell Telephone, L.P., d/b/a AT&T Missouri (AT&T Mo)
 - ☐ All of Embarq Missouri Inc. d/b/a Embarq (Embarq)
 - ☐ All of CenturyTel of Missouri, LLC (CenturyTel Mo)
 - ☐ All of Spectra Communications Group, LLC d/b/a CenturyTel (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 conditions:

1. The applicant's originating and terminating access rates will be no greater than the lowest Commission approved corresponding access rates in effect for each ILEC within whose service area the applicant seeks authority to provide service, unless authorized by the Commission pursuant to Sections 392.220 and 392.230 RSMo.

2. The certificate and service classification for switched access service is conditioned on the continued applicability of Section 392.200 RSMo, and the requirement that any increases in switched access services rates above the maximum switched access service rates set forth herein shall be made pursuant to Sections 392.220 and 392.230 RSMo, and not Sections 392.500 and 392.510 RSMo.
3. 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:

PSC Number: N/A

Effective Date: N/A

☒ Tariff was not submitted with Application. The applicant cannot lawfully provide service until tariffs are effective [4 CSR 240-3.510(1)(C)].

Additional Comments:

1. None.

☒ The Company is not delinquent in filing an annual report or paying a PSC assessment.

☐ 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: _____

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 or 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 RSMo 392.430/.440):

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

Additional Review Items for CLEC Certificate Applications: N/A*(As required by RSMo 392.455 and/or 4 CSR 240-3.510):*

- ☐ Possesses sufficient technical, financial and managerial resources and abilities.
- ☐ Statement that applicant will satisfy the minimum standards of 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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Carrier Services, Inc. for a Certificate of Service)
Authority To Provide Interexchange and Non-) Case No. **XA-2008-0284**
Switched Local Exchange Telecommunications)
Services and to Classify Said Services and the)
Company as Competitive.)

AFFIDAVIT OF Arthur P. Kuss

STATE OF MISSOURI)
) ss:
COUNTY OF COLE)

Arthur P. Kuss, employee of the Staff of the Missouri Public Service Commission, being of lawful age and after being duly sworn, states that he has participated in the preparation of the accompanying Memorandum, and that the facts therein are true and correct to the best of his knowledge and belief.



Arthur P. Kuss

Subscribed and affirmed before me this 27th day of March, 2008.

I am commissioned as a Notary Public within the County of Callaway, State of Missouri
and my commission expires on September 21, 2010



SUSAN L. SUNDERMEYER
My Commission Expires
September 21, 2010
Callaway County
Commission #06942086



NOTARY PUBLIC