

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

In the Matter of the Application of Broadvox-)	
CLEC, LLC for a Certificate of Service)	
Authority to Provide Interexchange)	Case No. XA-2009-0359
Telecommunications Services and to Classify)	Tariff File No. YX-2009-0176
Such Services and the Company as)	
Competitive)	

STAFF RECOMMENDATION

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

1. On April 2, 2009, Broadvox-CLEC, LLC (Applicant) filed its Application for Certificate of Service Authority and for Competitive Classification. The Applicant also submitted a proposed tariff, P.S.C. MO No. 1 (Tariff File No. YX-2009-0176).

2. In the attached Memorandum, labeled Appendix A, the Staff recommends that the Missouri Public Service Commission grant Applicant a certificate to provide interexchange 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).

3. 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 determines it is subject to sufficient competition to justify a lesser degree of regulation and that such lesser regulation is consistent with the protection of ratepayers and promotes public interest. §392.361.4. (2008). A majority of the services a competitive company provides must be classified as competitive. §392.361.3. (2008).

4. 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. (2008).

5. The Staff has no objection to the Applicant's proposed tariff taking effect on May 18, 2009.

WHEREFORE, Staff recommends that the Commission grant Broadvox-CLEC, LLC a certificate of service authority to provide interexchange telecommunications; grant it the requested competitive classification; grant the standard waivers listed in the Commission's Notice of Application; and approve Applicant's tariff effective May 18, 2009.

Respectfully submitted,

/s/ Samuel D. Ritchie

Samuel D. Ritchie

Legal Counsel

Missouri Bar No. 61167

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Missouri Public Service Commission

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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 27th day of April 2009.

/s/ Samuel D. Ritchie

MEMORANDUM

To: Missouri Public Service Commission Official Case File
Case No: XA-2009-0359 File No: YX-2009-0716
Applicant: Broadvox-CLEC, LLC

From: Lisa Mahaney
Telecommunications Department
William Voight 4/21/09
Utility Operations Division/Date

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

Date: 4/21/09
Filing Deadline: 4/24/09

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: 5/18/09
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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Service Authority to Provide Interexchange)
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Classify such Services and the Company as)
Competitive)

Case No. XA-2009-0359

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 21st day of April 2009.



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



NOTARY PUBLIC