

BEFORE THE PUBLIC SERVICE COMMISSION

OF THE STATE OF MISSOURI

In the Matter of the Application of Broadview Networks, Inc. for a Certificate of Service Authority to Provide Switched Interexchange and Non-Switched Local Exchange Service in the State of Missouri and to Classify Said Services and the Company as Competitive)
)
) **Case No. XA-2008-0162**
) **Tariff No. YX-2008-0316**
)
)

ORDER APPROVING INTEREXCHANGE AND NONSWITCHED LOCAL EXCHANGE CERTIFICATE OF SERVICE AUTHORITY AND ORDER APPROVING TARIFF

Issue Date: December 19, 2007

Effective Date: December 31, 2007

Syllabus: This order grants Broadview Networks, Inc. ("Broadview") certificates of service authority to provide interexchange and nonswitched local exchange telecommunications services, restricted to providing dedicated private line services, and approves the company's proposed tariff.

On November 13, 2007, Broadview applied to the Missouri Public Service Commission for certificates of service authority to provide switched interexchange and nonswitched local exchange telecommunications services in Missouri under section 392.410, RSMo Cum. Supp. 2005 and sections 392.410 through 392.450, RSMo 2000,¹ as well as the pertinent administrative regulations. Broadview asked the Commission to classify it and its services as competitive and to waive certain statutes and Commission rules as authorized by sections 392.361 and 392.420. Broadview, whose

¹ Unless otherwise indicated, all statutory references are to RSMo 2000.

principal office is located at 800 Winchester Avenue, Suite N-501, Rye Brook, New York 10573, is a New York corporation registered and duly authorized to do business in Missouri as a foreign corporation.

The Commission issued a Notice of Applications for Intrastate Certificates of Service Authority and Opportunity to Intervene on November 15, 2007, directing parties wishing to intervene to file their requests by November 30, 2007. No requests for intervention were filed.

The proposed tariff originally filed in conjunction with Broadview's application had an effective date of December 31, 2007. So does the modified proposed tariff Broadview filed on December 11, 2007, in response to a request by Staff.² Broadview's tariff describes the rates, rules, and regulations it intends to use, identifies Broadview as a competitive company, and lists the waivers requested. Broadview intends to provide switched interexchange and nonswitched local exchange telecommunications services limited to providing dedicated private line services on a resold basis throughout Missouri.

In its Memorandum filed on December 14, 2007, the Staff of the Commission recommended that the Commission grant Broadview a certificate of intrastate, interexchange service authority and a certificate of service authority for local exchange telecommunications service on condition that this authority be restricted to providing dedicated private line services. Staff recommended that the Commission classify Broadview and its services as competitive, and that the Commission waive the statutes and

² Among the various Commission Rules Broadview originally requested the Commission to waive were 4 CSR 240-30.010(2)(C), 4 CSR 240-33.030, and 4 CSR 240-35. Since all of those regulations were formally rescinded by the Commission several years ago, Staff requested that Broadview remove the spurious references in the modified tariff it filed on December 11, 2007.

rules listed in the Notice. Staff further recommended that the Commission approve the proposed tariff filed on December 11, 2007, to become effective on December 31, 2007.

The Commission finds that competition in the intrastate interexchange and nonswitched local exchange telecommunications markets is in the public interest and that Broadview shall be granted certificates of service authority. The Commission finds that the services Broadview proposes to offer are competitive and that Broadview shall be classified as a competitive company. The Commission finds that waiving the statutes and Commission rules set out in the ordered paragraph below is reasonable and not detrimental to the public interest.

The Commission finds that Broadview's modified proposed tariff details the services, equipment, and pricing it proposes to offer, and is similar to tariffs approved for other Missouri-certificated interexchange and local exchange carriers. The Commission finds that the modified proposed tariff filed on December 11, 2007 shall be approved to become effective on December 31, 2007.

The Commission reminds the company that failure to comply with its regulatory obligations may result in the assessment of penalties against it. These regulatory obligations include, but are not limited to, the following:

A) The obligation to file an annual report, as established by section 392.210. Failure to comply with this obligation will make the utility liable to a penalty of \$100 per day for each day that the violation continues. Commission Rule 4 CSR 240-3.540 requires telecommunications utilities to file their annual report on or before April 15 of each year.

B) The obligation to pay an annual assessment fee established by the Commission, as required by section 386.370.

C) The obligation to comply with all relevant laws and regulations, as well as orders issued by the Commission. If the company fails to comply, it is subject to penalties for noncompliance ranging from \$100 to \$2,000 per day of noncompliance, pursuant to section 386.570.

D) The obligation to keep the Commission informed of its current address and telephone number.

Furthermore, the company is reminded that, as it is a corporation, non-attorneys may not represent the company before the Commission. Instead, the corporation must be represented by an attorney licensed to practice law in Missouri.

Finally, the company is reminded that section 392.410.5, RSMo Cum. Supp. 2005, renders the company's certificate of service authority null and void one year from the date of this order unless it has exercised its authority under that certificate.

IT IS ORDERED THAT:

1. Broadview Networks, Inc. is granted a certificate of service authority to provide intrastate interexchange telecommunications services in the state of Missouri, subject to all applicable statutes and Commission rules except as specified in this order.

2. Broadview Networks, Inc. is granted a certificate of service authority to provide nonswitched local exchange telecommunications services in the state of Missouri, limited to providing dedicated private line services, subject to all applicable statutes and Commission rules except as specified in this order.

3. The certifications granted herein are conditioned upon Broadview Networks, Inc.'s compliance with the regulatory obligations in this order.

4. Broadview Networks, Inc. is classified as a competitive telecommunications company. Application of the following statutes and administrative regulations shall be waived:

Statutes

- 392.210.2 - Uniform System of Accounts
- 392.240.1 - Rates-Rentals-Service & Physical Connections
- 392.270 - Valuation of Property (Ratemaking)
- 392.280 - Depreciation Accounts
- 392.290 - Issuance of Securities
- 392.300.2 - Acquisition of Stock
- 392.310 - Stock and Debt Issuance
- 392.320 - Stock Dividend Payment
- 392.330 - Issuance of Securities, Debts and Notes
- 392.340 - Reorganization(s)

Commission Rules

- 4 CSR 240-10.020 - Depreciation Fund Income
- 4 CSR 240-30.040 - Uniform System of Accounts

5. Tariff number YX-2008-0316, as originally filed by Broadview Networks, Inc. on November 13, 2007 and then modified by Broadview on December 11, 2007, is approved to become effective on December 31, 2007. The tariff approved is:

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6. This order shall become effective on December 31, 2007.
7. This case may be closed on January 1, 2008.

BY THE COMMISSION

A handwritten signature in black ink, appearing to read 'Colleen M. Dale', written over a horizontal line.

Colleen M. Dale
Secretary

(S E A L)

Benjamin H. Lane, Regulatory
Law Judge, by delegation of authority
under section 386.240, RSMo 2000.

Dated at Jefferson City, Missouri,
on this 19th day of December, 2007.