

BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI

In the Matter of the Application of NewPath)	
Networks, LLC, for a Certificate of Service)	
Authority to Provide Interexchange and)	<u>Case No. LA-2008-0148</u>
Nonswitched Local Telecommunications)	<u>Tariff No. YL-2008-0309</u>
Services.)	

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

Issue Date: December 4, 2007

Effective Date: December 24, 2007

This order grants NewPath Networks, LLC, a certificate 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.

NewPath Networks, LLC, applied to the Missouri Public Service Commission on November 7, 2007, for certificates of service authority to provide intrastate interexchange and nonswitched local exchange telecommunications services in Missouri under Sections 392.410, RSMo Supp. 2005, through 392.450, RSMo 2000.¹ NewPath asked the Commission to classify it as a competitive company and to waive certain statutes and rules as authorized by Sections 392.361 and 392.420. NewPath is a New Jersey limited liability

¹ All statutory references are to the Revised Statutes of Missouri (RSMo), revision of 2001, unless otherwise indicated.

company with its principal office located at 1300 Northlake Way, Seattle, Washington 98103.

The Commission issued a Notice of Applications for Intrastate Certificates of Service Authority and Opportunity to Intervene on November 13, 2007, directing parties wishing to intervene to file their requests by November 28, 2007. No requests for intervention were filed.

NewPath filed a proposed tariff in conjunction with its application and filed a substitute sheet on November 28, 2007. The tariff's effective date is December 24, 2007. NewPath's tariff describes the rates, rules, and regulations it intends to use, identifies NewPath as a competitive company, and lists the waivers requested. NewPath intends to provide interexchange and nonswitched local exchange telecommunications services including dedicated point-to-point circuits on a Distributed Antenna System Network.

In its memorandum filed on December 3, 2007, the Staff of the Commission recommended that the Commission grant NewPath a certificate of interexchange service authority, and a certificate of service authority for local exchange telecommunications services on condition that this authority be restricted to providing dedicated private line services. Staff recommended that the Commission grant NewPath competitive status, and waiver of the statutes and rules listed in the Notice. Staff recommended that the Commission approve the proposed tariff as amended to become effective on December 24, 2007.

The Commission finds that competition in the intrastate interexchange and nonswitched local exchange telecommunications markets is in the public interest and NewPath shall be granted certificates of service authority. The Commission finds that the services NewPath proposes to offer are competitive and NewPath 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 NewPath's proposed tariff details the services, equipment, and pricing it proposes to offer, and is similar to tariffs approved for other Missouri certificated interexchange and nonswitched local exchange carriers. The Commission finds that the proposed tariff filed on November 7, 2007, shall be approved as amended to become effective on December 24, 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, RSMo 2000. 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. 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, RSMo 2000.

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, RSMo 2000.

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

Furthermore, the company is reminded that, if 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.

In addition, the company is reminded that Section 392.410.5, RSMo 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. NewPath Networks, LLC is granted a certificate of service authority to provide intrastate interexchange telecommunications services in the state of Missouri, subject to the conditions of certification set out above.

2. NewPath Networks, LLC 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 certification granted herein is conditioned upon the company's compliance with the regulatory obligations in this order.

4. NewPath Networks, LLC is classified as a competitive telecommunications company. Application of the following statutes and regulatory rules 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. The tariff filed by NewPath Networks, LLC on November 7, 2007, under tariff number YL-2008-0309, is approved as amended to become effective on December 24, 2007. The tariff approved is:

PSC Mo. Tariff No. 1

Original PSC Mo. Title Sheet through Original PSC Mo. Sheet 38

- 6. This order shall become effective on December 24, 2007.
- 7. This case may be closed on December 25, 2007.

BY THE COMMISSION



Colleen M. Dale
Secretary

(S E A L)

Nancy Dippell, Deputy Chief Regulatory
Law Judge, by delegation of authority
pursuant to Section 386.240, RSMo 2000.

Dated at Jefferson City, Missouri,
on this 4th day of December, 2007.