

On October 17, 2006, the Commission issued its Notice of Applications, establishing a 15-day deadline for intervention. No applications to intervene were received. On November 13, 2006, the Staff of the Commission filed its verified memorandum in which it recommended that the requested certificate, classification, and

waivers be granted. The Commission hereby admits the verified application and verified pleadings into evidence.

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,¹ and that the grant of authority is in the public interest.² Based on the verified application, including Network PTS's stated commitment to comply with all applicable rules, as well as Staff's uncontested recommendation, the Commission finds that Network PTS satisfies the requirements for certification and that granting such certificate is in the public interest.

Network PTS 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 applicant is subject to a sufficient degree of competition to justify a lesser degree of regulation.³ The Commission may only classify a telecommunications carrier as competitive if all of its services are so classified.⁴ The Commission may waive the application of certain statutes and of its rules to a competitive carrier if it determines that such waiver is consistent with the purposes of Chapter 392.⁵

The Commission finds that Network PTS will compete with incumbent local exchange carriers, as well as other competitive local exchange carriers, in the

¹ See Sections 392.450, 392.451 and 392.455, RSMo 2000. All statutory references, unless otherwise specified, are to the Revised Statutes of Missouri (RSMo), revision of 2000.

² Sections 392.430 and 392.440.

³ Section 392.361.2.

⁴ Section 392.361.3.

⁵ See Sections 392.185, 392.361.3 and 392.420.

exchanges in which it provides basic local telecommunications service. The Commission finds that Network PTS will be subject to a sufficient level of competition to justify a lesser degree of regulation. Furthermore, all of the services Network PTS will offer are qualified for classification as competitive services.

The Commission may waive certain statutes and administrative rules for competitively classified carriers “if such waiver or modification is otherwise consistent with the other provisions of Section 392.361 to 392.520 and the purposes of this chapter.”⁶ The Commission has developed a standard list of statutes and regulations that it waives for competitive local exchange carriers. The Commission finds that the waiver of those statutes and regulation is consistent with the purposes of Chapter 392, and will waive those provisions for Network PTS.

The Commission may also require a telecommunications company to comply with any conditions reasonably necessary to protect the public interest. Staff recommends that Network PTS’s application be granted subject to certain restrictions regarding switched access rates. These conditions are routinely recommended by Staff and Network PTS accepted them in its application. The conditions proposed by Staff are necessary to protect the public interest and will be adopted.

Network PTS filed proposed tariffs in conjunction with its certificate application. On November 8, 9, and 13, 2006, Network PTS filed substitute tariff pages. The tariffs’ effective date is November 27, 2006. Network PTS’s tariffs, as substituted, describe the rates, rules, and regulations it intends to use, identify Network PTS as a competitive company, and list the waivers requested.

⁶ Sections 392.361.5 and 392.420.

The Commission finds that Network PTS's proposed tariffs as substituted detail the services, equipment, and pricing it proposes to offer, and are similar to tariffs approved for other Missouri certificated basic local exchange carriers. The Commission finds that the proposed tariffs, as substituted, should be approved to become effective on November 27, 2006.

The Commission places Network PTS on notice that failure to comply with certain obligations pursuant to law may result in penalties assessed against the company. These 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 for a penalty of \$100 per day for each day that the violation continues. 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, 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, under Section 386.570, RSMo 2000.
- D) The obligation to keep the Commission informed of its current address and telephone number.

The company is reminded that its officers may not represent it before the Commission. The company must be represented by an attorney licensed to practice law in Missouri.

In addition, Section 392.410.5, RSMo Cum. Supp. 2005, provides that the company's certificate of service authority becomes null and void one year from the date of this order unless the company has exercised its authority under that certificate.

The Commission notes that before providing telecommunications services in Missouri, a party shall possess the following: (1) an interconnection agreement approved by the Commission; (2) except for wireless providers, a certificate of service authority from the Commission to provide interexchange or basic local telecommunications services; and (3) except for wireless providers, a tariff approved by the Commission.

IT IS ORDERED THAT:

1. Network PTS, Inc., is granted a certificate of service authority to provide basic local telecommunications services in the exchanges of Southwestern Bell Telephone, L.P., d/b/a AT&T Missouri, CenturyTel of Missouri, LLC, and Embarq Missouri, Inc., d/b/a Embarq, subject to the conditions and recommendations contained in the Staff's Memorandum.

2. Network PTS, Inc., and the services it offers are classified as competitive.

3. Network PTS, Inc.'s originating and terminating access rates will be no greater than the lowest Commission-approved corresponding access rates in effect for each incumbent local exchange carrier within whose service area Network PTS, Inc., seeks authority to provide service, unless authorized by the Commission pursuant to Section 392.220 and 392.230, RSMo.

4. The certificates and competitive service classification for switched exchange access are granted conditioned on the continued applicability of Sec-

tion 392.200, RSMo, and the requirement that any increase in switched access service rates above the maximum switched access service rates set forth herein shall be made pursuant to Section 392.200 and 392.230, RSMo, and not Section 392.500 and 392.510, RSMo.

5. If the directly competing incumbent local exchange carrier, in whose service area Network PTS, Inc., is operating, decreases its originating or terminating access service rates, Network PTS, Inc., shall file an appropriate tariff amendment to reduce its originating or terminating access rates in the directly competing incumbent local exchange carrier's service area within 30 days of the directly competing incumbent local exchange carrier's reduction of its originating or terminating access rates in order to maintain the cap.

6. Application of the following statutes and Commission rules is 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 240-3.550(5)(C) - exchange boundary map
- 4 CSR 240-10.020 - depreciation fund income
- 4 CSR 240-30.040 - uniform system of accounts

7. The certification granted herein is conditioned upon the company's compliance with the regulatory obligations set out in this order.

8. The tariffs filed by Network PTS, Inc., on October 6, 2006, and amended on November 8, 9, and 13, 2006, under tariff file numbers YC-2007-0232 and YC-2007-0233, are approved, as amended, to become effective on November 27, 2006.

The tariff approved is:

P.S.C. MO Tariff No. 2

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9. This order and Network PTS, Inc.'s certificate shall become effective on November 27, 2006.

10. This case shall be closed on November 28, 2006.

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 20th day of November, 2006.