

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

In the matter of the application of)
Metropolitan Telecommunications of)
Missouri, Inc. for a certificate of service)
authority to provide resold and facilities-)
based/UNE Basic Local)
Telecommunications Services in Portions)
of the State of Missouri and to Classify)
Such Services and the Company as)
Competitive)

Case No. CA-2005-0425

STAFF RECOMMENDATION

COMES NOW the Staff of the Missouri Public Service Commission (Staff) and for its recommendation states:

1. In the attached Memorandum, which is labeled Appendix A, the Staff recommends that the Missouri Public Service Commission grant Metropolitan Telecommunications of Missouri, Inc. (Applicant), a certificate of service authority to provide basic local telecommunications service in the service areas of Southwestern Bell Telephone L.P. d/b/a SBC Missouri; Sprint Missouri, Inc. d/b/a Sprint; CenturyTel of Missouri, LLC; and Spectra Communications Group, LLC d/b/a CenturyTel; conditioned upon certain access rate provisions. The Applicant's *Application* referred to the corporate predecessors or an abbreviated version of the name of these companies: "Southwestern Bell Telephone Company, United Telephone Company of Missouri d/b/a Sprint, and CenturyTel[.]" See *Application*, para. 3.¹ The exchanges listed in Exhibit II to the *Application* are exchanges now operated by the former list of companies. The Commission shall grant an application for a certificate of

¹ The *Application* also cites to statutes in pre-2000 editions of the Revised Statutes of Missouri. Staff notes that the current edition of statutes now in effect and that govern Commission operation is the 2000 edition, as supplemented. Statutes cited in the *Application* do not appear to have been modified since the dates cited in the *Application*, however.

telecommunications service authority upon a finding that the grant of authority is in the public interest. (See §§ 392.430 and 392.440 RSMo. (2000).)

2. Staff also recommends that the Commission classify the Applicant and its services 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. (See §392.361.2.) All the services a competitive company provides must be classified as competitive. (See §392.361.3.)

3. The Commission's rule at 4 CSR 240-3.510(1)(C) states that the applicant cannot lawfully provide service until tariffs are effective. Although the Applicant requests a temporary waiver of 4 CSR 240-3.510(1)(C) because the Applicant did not file a proposed tariff with its application (see *Application* at para. 5), Staff sees no need for this waiver to be granted on this basis. The rule states that "filing the tariff and any applicable interconnection agreements simultaneously with the certificate application is optional." As the rule already explicitly states that filing a proposed tariff with the certificate is optional, the Commission need not waive the rule merely because the Applicant has not yet filed a proposed tariff. Moreover, if the Commission were to waive this rule, it is possible that a waiver could be construed as a waiver of another clause in the rule that states "before service can be provided, a tariff and any applicable interconnection agreements must be filed with the commission and approved." Accordingly, Staff recommends the Commission *not* grant a waiver of this rule.

4. Rather than providing the certificate of authority from the Missouri Secretary of State in conjunction with its *Application* as required by 4 CSR 240-2.060(1)(C) and as indicated in paragraph 1 of the *Application*, the applicant submitted its *Application for Certificate of*

Authority for a Foreign For-Profit Corporation. Staff has obtained a Certificate of Good Standing from the Missouri Secretary of State, and that Certificate is attached as Appendix B.

WHEREFORE, Staff recommends that the Commission grant Metropolitan Telecommunications of Missouri, Inc. a conditional certificate to provide basic resold and facilities-based local exchange telecommunications services pending the submission of a tariff, and further conditioned upon the access rate provisions described in the Staff memorandum; grant Applicant competitive classification; and waiving the statutes and regulations listed in the Applicant's application, but denying a waiver of 4 CSR 240-3.510(1)(C).

Respectfully submitted,

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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 18th day of August 2005.

/s/ David A. Meyer
