

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

In the Matter of the Application of McGraw)	
Communications, Inc. for a Certificate of Service)	
authority to Provide Resold and Facilities-Based/UNE)	
Basic Local Telecommunications Services in Portions)	<u>File No. CA-2011-0304</u>
of the State of Missouri and to Classify such Services)	
and the Company as Competitive)	

**ORDER GRANTING CERTIFICATE TO PROVIDE
BASIC LOCAL TELECOMMUNICATIONS SERVICES**

Issue Date: August 30, 2011

Effective Date: September 9, 2011

On March 23, 2011, McGraw Communications, Inc. applied for a certificate of service authority to provide resold and facilities-based/UNE basic local telecommunications services within the state of Missouri, and for competitive classification. The company seeks certification to provide services in portions of Missouri that are currently being served by Southwestern Bell Telephone Company, L.P. d/b/a AT&T Missouri, Embarq Missouri, Inc. d/b/a Embarq, CenturyTel of Missouri LLC d/b/a CenturyTel, and Spectra Communications Group, LLC d/b/a CenturyTel. McGraw is authorized to business in Missouri by the Secretary of State.

On March 25, the Commission issued an order directing that notice of the application be given and offering an opportunity for intervention. There were no requests to intervene. The company filed an amended application on May 12, supplementing its application with supporting documentation of its technical, financial and managerial resources and withdrawing an erroneous request for a waiver of a Commission rule. On August 26, the Staff of the Commission filed a recommendation that the application be granted.

The Commission may grant an application for a certificate of service authority to provide telecommunication services upon a showing that the applicant has met the statutory requirements¹ and that the grant of authority is in the public interest.² Based on the verified application and Staff's recommendation, the Commission finds that McGraw satisfies the requirements for certification and that granting the requested certificate is in the public interest.

McGraw 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 applications 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 a majority 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 may waive certain statutes and administrative rules for competitively classified carriers "if such waiver or modification is otherwise consistent with the other provisions of Sections 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 and interexchange carriers. The Commission finds that waiver

¹ Sections 392.450, 392.451 and 392.455 RSMo.

² Sections 392.430 and 392.440.

³ Section 392.361.2.

⁴ Section 392.361.3.

⁵ Sections 392.185, 392.361.3 and 392.420.

⁶ Sections 392.361.5 and 392.420.

of those statutes and regulations is consistent with the purposes of Chapter 392, and will waive those provisions for McGraw.

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

The Commission places McGraw 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. Failure to comply with this obligation will make the utility liable for a penalty of \$100/day for each day the violation continues. Rule 4 CSR 240-3.540 requires that telecommunications utilities 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, under Section 386.570.

- D) The obligation to keep the Commission informed of the company's 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.

Additionally, Section 392.410.5 provides that the company's certificate of service authority becomes 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 telecommunication services in Missouri, a company shall possess: (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 telecommunication services; and, (3) except for wireless providers, a tariff approved by the Commission.

THE COMMISSION ORDERS THAT:

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

2. McGraw Communications, Inc. and its services are granted competitive classification.

3. McGraw Communications, 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 McGraw seeks authority to provide service, unless authorized by the Commission pursuant to Section 392.220 and 392.230.

4. The certificate and competitive service classification for switched exchange access are granted conditioned on the continued applicability of Section 392.200 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 and not Section 392.500 and 392.510.

5. If the directly competing incumbent local exchange carrier in whose service area McGraw Communications, Inc. is operating decreases its originating or terminating access service rates, McGraw 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 - 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(4)
and (5)(A) - quality of service reports
- 4 CSR 240-10.020 - depreciation fund income
- 4 CSR 240-30.040 - uniform system of accounts
- 4 CSR 240-32.050(4)(B)- White Pages Distribution Partial Exemption
- 4 CSR 240-32.060 - engineering and maintenance
- 4 CSR 240-32.070 - quality of service
- 4 CSR 240-32.080 - service objectives and surveillance levels
- 4 CSR 240-33.040(1-3)
and (5-10) - billing and payment standards
- 4 CSR 240-33.045 - appearance of charges on bills
- 4 CSR 240-33.080(1) - company name and toll-free number on bills
- 4 CSR 240-33.130(1),
(4) and (5) - operator service requirements

7. This certificate is granted conditioned on the company's compliance with the regulatory obligations set out in this order.

8. This order shall become effective on September 9, 2011.

9. This file shall be closed on September 10, 2011.

BY THE COMMISSION



Steven C. Reed
Secretary

(S E A L)

Kennard L. Jones, Senior Regulatory
Law Judge, by delegation of authority
pursuant to Section 386.240, RSMo.

Dated at Jefferson City, Missouri,
on this 30th day of August, 2011.