

BEFORE THE PUBLIC SERVICE COMMISSION OF THE STATE OF MISSOURI

In the Matter of the Application of)
FidelityLink, LLC for a Certificate of)
Service Authority to Provide)
Basic and Non-Switched Local)
Telecommunications Services in)
Portions of the State of Missouri and)
To Classify Said Services and the)
Company as Competitive)

File No. CA-2013-0548

ORDER GRANTING CERTIFICATE TO PROVIDE BASIC LOCAL AND NON-SWITCHED LOCAL TELECOMMUNICATIONS SERVICES

Issue Date: August 2, 2013

Effective Date: August 12, 2013

This order grants certificates of service authority to provide basic local and non-switched telecommunications services in the state of Missouri, classifies those services and the company as competitive, and waives certain statutes and regulations.

On June 28, 2013, FidelityLink, LLC ("FidelityLink") applied for certificates of service authority to provide basic local and non-switched local telecommunications services within the service territories of Missouri currently being served by AT&T Missouri, CenturyLink, Spectra and Windstream Missouri. FidelityLink is a limited liability company duly organized under the laws of Missouri and identified as being in good standing by the Missouri Secretary of State.

On July 1, 2013, the Commission issued its Notice and Order Directing Filing, establishing July 16, 2013 as the deadline for intervention. No applications to intervene were received. On August 2, 2013, the Staff of the Commission recommended that the requested certificates, classification and waivers be granted.

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 FidelityLink's stated commitment to comply with all applicable rules, as well as Staff's uncontested recommendation, the Commission finds that FidelityLink satisfies the requirements for certification and that granting such certificate is in the public interest.

FidelityLink 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 FidelityLink will compete with incumbent local exchange carriers, as well as other competitive local exchange carriers, in the exchanges in which it provides basic local telecommunications service. The Commission finds that FidelityLink will be subject to a sufficient level of competition to justify a lesser degree of regulation. Furthermore, all of the services FidelityLink will offer are qualified for classification as competitive services.

¹ See Sections 392.450 RSMo Cum.Supp. 2012, 392.451 RSMo Cum.Supp.2012, and 392.455, RSMo 2000. All statutory references, unless otherwise specified, are to the Revised Statutes of Missouri (RSMo) 2000.

² Sections 392.430 and 392.440.

³ Section 392.361.2 RSMo Cum.Supp.2012.

⁴ Section 392.361.3 RSMo Cum.Supp.2012.

⁵ See Sections 392.185, 392.361.3 RSMo Cum.Supp. 2012, and 392.420 RSMo Cum.Supp. 2012.

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

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

FidelityLink did not file a tariff with its application but requested a waiver of 4 CSR 240-3.510(1)(C), which requires an applicant to submit a proposed tariff with a 45-day effective date, but allows applicant the option of postponing tariff submittal. Pursuant to Section 392.461⁷, FidelityLink may publish its rates, terms and conditions of service on its publically available website or it may submit a tariff for approval by the Commission prior to providing service in Missouri.

The Commission places FidelityLink 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:

⁶ Sections 392.361.5 and 392.420 RSMo Cum.Supp.2012.

⁷ RSMo Cum.Supp. 2012.

- 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 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.
- 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 its current address and telephone number.

FidelityLink 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. 2012, 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; and (2) except for wireless providers, a certificate of service authority from the Commission to provide interexchange or basic local telecommunications services.

THE COMMISSION ORDERS THAT:

1. FidelityLink, LLC is granted a certificate of service authority to provide basic telecommunications services in the exchange areas of AT&T Missouri, CenturyLink, Spectra and Windstream Missouri, subject to the conditions and recommendations contained in the Staff's Memorandum.

2. FidelityLink, LLC is granted a certificate of service authority to provide non-switched local exchange telecommunications services, restricted to dedicated, private line services, and subject to the conditions and recommendations contained in the Staff's Memorandum.

3. FidelityLink, LLC and its services are granted competitive classification.

4. Because FidelityLink, LLC did not file a tariff, the company may rely on Section 392.461, RSMo Cum. Supp. 2012, and publish rates, terms and conditions of service on its publicly available web site or it may submit a tariff for approval by the Commission prior to providing service in Missouri.

5. FidelityLink, LLC's originating and terminating access rates shall not exceed the access rates of the incumbent local exchange company against whom the applicant is competing pursuant to Sections 392.361.6 and 392.370, RSMo Cum.Supp. 2012.

6. If the directly competing incumbent local exchange carrier, in whose service area FidelityLink, LLC is operating, decreases its originating or terminating access service rates, FidelityLink, LLC shall 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.

7. FidelityLink, LLC will undertake all necessary measures to ensure its contracts with underlying carriers do not contain provisions preventing delivery of traffic to any telephone exchange area of Missouri. Such measures include but are not limited to:

a) Prevention of call blocking or call gapping based on the cost of traffic termination.

b) Preventing the alteration or stripping of Calling Party Number identification, and

c) Ensuring sufficient network capacity exists to process all traffic according to industry accepted practices.

8. 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 – transfer of property and 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 240-3.520 – Applications to sell or transfer assets
- 4 CSR 240-3.525 – Applications to merge or consolidate
- 4 CSR 240-3.530 – Applications to issue stocks, obtain loans
- 4 CSR 240-3.535 – Applications to acquire stock
- 4 CSR 240-3.545(8)(C) – Listing of Waivers in Tariff
- 4 CSR 240-3.550 – Telco Records and Reports, except (5)(B), (D) and (E)
- 4 CSR 240-3.555 – Residential Customer Inquiries
- 4 CSR 240-3.560 – Procedure for Ceasing Operations
- 4 CSR 240-10.020 – Depreciation Records
- 4 CSR 240-30.020 – Residential Telephone Underground Systems
- 4 CSR 240-30.040 – Uniform System of Accounts
- 4 CSR 240-32.010 – General Provisions
- 4 CSR 240-32.040 – Metering, Inspections and Tests
- 4 CSR 240-32.050 – Customer Services

- 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 240-32.090 – Connection of equipment and Inside Wiring
- 4 CSR 240-32.100 – Provision of Basic Local Interexchange Services
- 4 CSR 240-32.130-170 – Prepaid Calling Cards, except 32.140 and .150(1)
- 4 CSR 240-32.180-190 – Caller ID blocking requirements
- 4 CSR 240-33.010 – Service and Billing Practice General Provisions
- 4 CSR 240-33.040 – Billing and Payment Standards
- 4 CSR 240-33.045 – Clear identification and placement of charges on bills
- 4 CSR 240-33.050 – Deposits
- 4 CSR 240-33.060 – Residential Customer Inquiries
- 4 CSR 240-33.070 – Discontinuance of service
- 4 CSR 240-33.080 – Disputes by Residential Customers
- 4 CSR 240-33.090 – Settlement agreements with residential customers
- 4 CSR 240-33.130 – Operator service requirements
- 4 CSR 240-33.140 – Payphone requirements, except (2)
- 4 CSR 240-33.150 – Anti-slamming requirements
- 4 CSR 240-33.160 – Customer Proprietary Network Information

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

10. This order and FidelityLink, LLC's certificates shall become effective on August 12, 2013.

11. This file shall be closed on August 13, 2013.

BY THE COMMISSION



A handwritten signature in dark ink, reading "Morris L. Woodruff".

Morris L. Woodruff
Secretary

Kim S. Burton, Regulatory Law Judge,
by delegation of authority pursuant to
Section 386.240, RSMo 2000.

Dated at Jefferson City, Missouri,
on this 2nd day of August, 2013.