

In the Matter of the Application of IRU)
 Networks, LLC for a Certificate of Service) **File No. CA-2017-0302**
 Authority to Provide Basic Local Exchange)
 Telecommunications Services)

On May 19, 2017, the Commission issued an *Order Directing Notice of Application, Setting Intervention Deadline, and Directing Filing of Staff Recommendation*, directing

parties wishing to intervene to file their requests by June 2, 2017. No applications to intervene were received. On June 13, 2017, the Staff of the Commission recommended that the requested certificates, classifications and waivers be granted subject to certain conditions, which IRU has already accepted in its application.

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,¹ and that the grant of authority is in the public interest.² Based on the verified application and Staff's uncontested recommendation, the Commission finds that IRU satisfies the requirements for certification and that granting the certificate is in the public interest.

IRU 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 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

¹ See Sections 392.450, 392.451 and 392.455, RSMo 2016. All statutory references, unless otherwise specified, are to the Revised Statutes of Missouri (RSMo), revision of 2016.

² Sections 392.430 and 392.440.

³ Section 392.361.2.

⁴ Section 392.361.3.

⁵ See Sections 392.185, 392.361.5 and 392.420.

The Commission finds that the market is competitive and that the services IRU will offer are subject to competition. The Commission finds that IRU will be subject to a sufficient level of competition to justify a lesser degree of regulation. Furthermore, all of the services IRU 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 and interexchange 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 IRU.

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

In addition, the Staff recommends that the Commission specifically condition certification on IRU ensuring that calls to certain areas are not unnecessarily blocked, which is also known as “call gapping”. The Commission may impose conditions on telecommunications companies if those conditions are reasonable and necessary to protect the public interest.⁷ As a telecommunications company operating in Missouri, IRU will have

⁶ Sections 392.361.5 and 392.420.

⁷ Sections 392.470.1 and 392.361.6.

a duty to “receive, transmit and deliver, without discrimination or delay, the conversations and messages of every other telecommunications company with whose facilities a connection may have been made.”⁸ Since the Commission finds that the condition is a reasonable and necessary action to protect the public interest, the certificate will be conditioned on the provision described in the ordered paragraph below.

Section 392.410.5 provides that IRU’s certificate of service authority becomes null and void one year from the date of this order unless IRU has exercised its authority under that certificate.

IRU did not file a proposed tariff as part of its application. The Commission’s regulations do not require that such a tariff be filed simultaneously with an application for a certificate. IRU may publish its rates, terms and conditions of service on its publically-available web site pursuant to Section 392.461 or it may submit a tariff for approval by the Commission prior to providing service in Missouri.

THE COMMISSION ORDERS THAT:

1. IRU Networks, LLC is granted a certificate of service authority to provide resold and facilities-based/UNE basic local exchange telecommunications services in the state of Missouri throughout all exchanges currently served by Southwestern Bell Telephone Company d/b/a AT&T Missouri; Embarras Missouri, Inc.; CenturyTel of Missouri, LLC; and Spectra Communications Group, LLC, subject to the conditions and recommendations contained in the Staff’s Recommendation.
2. IRU Networks, LLC and its services are granted competitive classification.

⁸ Section 392.200.6.

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

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

5. Application of the following statutes and Commission rules is waived:

Statutes

392.210.2	Accounting requirements (system of accounts)
392.240.1	Reasonableness of rates
392.270	Accounting requirements (valuation of property)
392.280	Accounting requirements (depreciation rates/accounts)
392.290	Issuance of stocks, bonds and other indebtedness
392.300	Transfer of property and ownership of stock
392.310	Approval of issuing stocks, bonds and other indebtedness
392.320	Certificate of Commission to be recorded-stock dividends
392.330	Accounting requirements (proceeds of sales of stock, bonds, notes, etc.)
392.340	Company reorganization

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 and Interexchange Services
- 4 CSR 240-32.130-170 Prepaid Calling Cards (except 32.140 and 32.150(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

6. The certification granted herein is conditioned upon IRU Networks, LLC's compliance with the regulatory obligations set out in this order. In addition, the certification is conditioned on IRU Networks, LLC undertaking 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, prevention of call blocking and/or call gapping based on the cost of traffic termination; preventing the alteration or stripping of calling party number identification; and ensuring sufficient network capacity exists to process all traffic according to industry-accepted practices. If IRU Networks, LLC offers access rates they must be tariffed.

7. IRU Networks, LLC is advised that the grant of authority contained in this order may not, by itself, be sufficient to permit it to lawfully provide telecommunications services in Missouri. If IRU Networks, LLC submits a tariff, it shall do so by filing a non-case tariff submission. The tariff submission shall not be filed in this case.

8. This order and IRU Networks, LLC's certificate shall become effective on July 20, 2017.

9. This file may be closed on July 21, 2017.



BY THE COMMISSION

A handwritten signature in cursive script that reads "Morris L. Woodruff".

Morris L. Woodruff
Secretary

Michael Bushmann, Senior Regulatory
Law Judge, by delegation of authority
pursuant to Section 386.240, RSMo 2016.

Dated at Jefferson City, Missouri,
on this 20th day of June, 2017.

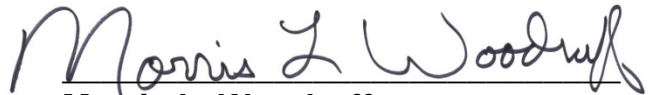
STATE OF MISSOURI

OFFICE OF THE PUBLIC SERVICE COMMISSION

I have compared the preceding copy with the original on file in this office and I do hereby certify the same to be a true copy therefrom and the whole thereof.

**WITNESS my hand and seal of the Public Service Commission,
at Jefferson City, Missouri, this 20th day of June 2017.**




Morris L. Woodruff
Secretary

MISSOURI PUBLIC SERVICE COMMISSION

June 20, 2017

File/Case No. CA-2017-0302

**Missouri Public Service
Commission**

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Enclosed find a certified copy of an Order or Notice issued in the above-referenced matter(s).

Sincerely,



**Morris L. Woodruff
Secretary**

Recipients listed above with a valid e-mail address will receive electronic service. Recipients without a valid e-mail address will receive paper service.