

**THE STATE CORPORATION COMMISSION
OF THE STATE OF KANSAS**

Before Commissioners: Shari Feist Albrecht, Chair
 Jay Scott Emler
 Dwight D. Keen

In the Matter of the Application of City)	
Tele-Coin Company, Inc. for a Certificate of)	
Convenience and Authority to Provide)	Docket No. 17-CTCT-413-COC
Interexchange Service within the State of)	
Kansas)	

ORDER NUNC PRO TUNC CORRECTING ORDER

The above-captioned matter comes before the State Corporation Commission of the State of Kansas ("Commission") for consideration and decision. Having reviewed its files and records and being duly advised in the premises, the Commission makes the following findings:

1. On August 22, 2017, the Commission issued an Order approving an application by City Tele-Coin Company, Inc. ("City Tele-Coin") for a Certificate of Convenience and Authority to provide Interexchange Services in the state of Kansas. That order is attached hereto and made a part hereof by reference.

2. Ordering Clause A of the August 22, 2017, Order contains a typographical error in that it refers to "CLEC services" instead of "Interexchange Services," and should have read as follows:

"A. City Tele-Coin Company, Inc.'s request for Certification to provide IXC services in the state of Kansas in the exchanges served by AT&T and CenturyLink is approved."

IT IS, THEREFORE, BY THE COMMISSION ORDERED THAT:

A. Ordering Clause A of the Commission's August 22, 2017, Order is hereby corrected to read as set forth in paragraph 2 above, correctly reflecting that the Commission has granted City Tele-Coin Company, Inc.'s request to provide interexchange services.

B. Any party may file and serve a petition for reconsideration pursuant to the requirements and time limits established by K.S.A. 77-529(a)(1).¹

C. The Commission retains jurisdiction over the subject matter and parties for the purpose of issuing such further orders, as necessary.

BY THE COMMISSION IT IS SO ORDERED.

Albrecht, Chair; Emler, Commissioner; Keen, Commissioner

Dated: 07/12/2018



Lynn M. Retz
Secretary to the Commission

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¹ K.S.A. 66-118b; K.S.A. 77-503(c); K.S.A. 77-531(b).

**THE STATE CORPORATION COMMISSION
OF THE STATE OF KANSAS**

Before Commissioners: Pat Apple, Chairman
Shari Feist Albrecht
Jay Scott Emler

In the Matter of the Application of City)
Tele-Coin Company, Inc. for a Certificate of)
Convenience and Authority to Provide) Docket No. 17-CTCT-413-COC
Interexchange Service within the State of)
Kansas.)

**ORDER APPROVING CERTIFICATE OF CONVENIENCE APPLICATION;
PENALTY FOR VIOLATION OF K.S.A. 66-104**

This matter comes before the State Corporation Commission of the State of Kansas (“Commission”) for consideration and decision. Having reviewed the pleadings and record, the Commission makes the following findings:

BACKGROUND

1. On March 9, 2017, City Tele-Coin Company, Inc. (“City Tele-Coin”) filed its Application for Certificate of Convenience and Authority to provide telecommunications services in Kansas. In this Application, City Tele-Coin requests authority to provide Interexchange and Operator Services throughout Kansas through facilities leased from their underlying carrier.¹

2. City Tele-Coin has provided service in Kansas for at least 50 months without filing for a Certificate of Convenience.

3. Commission Staff (“Staff”) submitted a Report and Recommendation in regards to the application on August 7, 2017, attached hereto and made a part hereof by reference.

¹ Application for Certificate of Authority, March 9, 2017.

DISCUSSION AND ANALYSIS

4. K.S.A. 66-131 states: "No common carrier or public utility...shall transact business in the state of Kansas until it shall have obtained a certificate from the corporation commission that public convenience will be promoted by the transaction of said business and permitting said applicants to transact the business of a common carrier or public utility in this state."

5. In determining whether the public convenience will be promoted by the transaction of said business, Staff points out that the Commission looks at a number of factors. The factors may include, but are not limited to, the provider's commitment to meet all requirements of the existing statutes and orders and modifications specified in recent House Bill 2201. Regarding such factors, Staff cites K.S.A. 2015 Supp. 66-2005(w) which provides in part that:

... telecommunications carriers that were not authorized to provide switched local exchange telecommunications services in this state as of July 1, 1996 ... must receive a certificate of convenience based upon a demonstration of technical, managerial and financial viability and the ability to meet quality of service standards established by the commission.

6. City Tele-Coin is incorporated in Louisiana and is properly registered with the Kansas Secretary of State's Office with a status of "active and in good standing."

7. Staff states the combined service of the executive staff of City Tele-Coin is over sixty years in the telecommunications business. Additionally, the financial records submitted support the Applicant's financial ability to operate a business. Based on the information submitted and the investigation Staff has performed, Staff believes the Company has the managerial, technical and financial ability to provide Interexchange Services in Kansas.

8. Staff also states that although no state or federal entity had denied certification or taken any enforcement action against City Tele-Coin, there were four instances where the Company

or CEO did come under scrutiny for alleged ethics violations. The cases were either dismissed or City Tele-Coin was assessed legal fees for the other party and the cases were closed. Neither the Company nor the CEO were found guilty of any wrong doing.

9. Staff also states that upon approval of the Certificate, City Tele-Coin is required to file Interrogatory Reports, remain current with the Kansas Secretary of State's office, pay all Commission and Kansas Universal Service Fund ("KUSF") assessments, and follow the Telecommunications Carrier Code of Conduct.

10. To the extent that City Tele-Coin's presence in Kansas would increase consumer options and service, Staff believes the general public would benefit from the Commission's approval of the Company's Application.

PENALTY FOR VIOLATIONS OF K.S.A. 66-104

11. Telecommunications companies are required to file by statute with the KCC prior to providing service in Kansas and must obtain approval in the form of a Certificate of Convenience prior to operation. Failure to follow this requirement is in violation of state statutes and may result in penalties being assessed against the Company. K.S.A. 66-104 states:

The term "public utility," as used in this act, shall be construed to mean every corporation, company, individual, association of persons, their trustees, lessees or receivers, that now or hereafter may own, control, operate or manage, except for private use, any equipment, plant or generating machinery, or any part thereof, for the transmission of telephone messages or for the transmission of telegraph messages in or through any part of the state, or the conveyance of oil and gas through pipelines in or through any part of the state, except pipelines less than 15 miles in length and not operated in connection with or for the general commercial supply of gas or oil, and all companies for the production, transmission, delivery or furnishing of heat, light, water or power. No cooperative, cooperative society, nonprofit or mutual corporation or association which is engaged solely in furnishing telephone service to subscribers from one telephone line without owning or operating its own separate central office

facilities, shall be subject to the jurisdiction and control of the commission as provided herein, except that it shall not construct or extend its facilities across or beyond the territorial boundaries of any telephone company or cooperative without first obtaining approval of the commission. As used herein, the term "transmission of telephone messages" shall include the transmission by wire or other means of any voice, data, signals or facsimile communications, including all such communications now in existence or as may be developed in the future.

To determine the penalty, Staff considers the type of violation and any extenuating circumstances to determine the penalty amount per month and the time frame the company has operated in violation of the Statute.

12. The requirement to have a valid Certificate before doing business in a state is not a new requirement to City Tele-Coin. Staff stated they contacted City Tele-Coin via email on July 17, 2013, in an attempt to get their account established and all required filings brought up to date, as well as numerous contacts since that time, to no avail. The Company served customers in Kansas without a valid Certificate with the Commission from at least January 2013 until March 2017, (four years and two months) prior to properly requesting they be provided a Certificate of Convenience in Kansas. City Tele-Coin was aware they were operating in violation of several Orders and statutes.

13. Pursuant to K.S.A. 66-1,188, the Commission has jurisdiction to supervise and control telecommunications public utilities doing business in Kansas. City Tele-Coin is a telecommunications public utility under K.S.A. 66-1,187 and is subject to the Commission's jurisdiction.

14. K.S.A. 66-138 specifies the range of allowable amounts to be charged for violations depending on the type of Telecommunications Company.

66-138. Common carriers, public utilities; penalties for violation of law; disposition; enforcement. (a) If

any common carrier or public utility governed by the provisions of this act violates any of the provisions of this act, or shall do any act herein prohibited, or fails or refuses to perform any duty enjoined upon it in this act, or fails, neglects or refuses to obey any lawful requirement or order made by the commission, or any final judgment or decree made by any court upon appeal from any order of the commission, it shall, for every such violation, failure or refusal, forfeit and pay to the state treasurer (1) A sum not less than \$100 and not more than \$1,000 for such offense if the violator is a telecommunications public utility subject to traditional rate of return regulation; a telecommunications public utility described in K.S.A. 66-104a, and amendments thereto; a municipally owned and operated electric or natural gas public utility; an electric or natural gas cooperative public utility; a water public utility; or a nonprofit public utility; and (2) a sum not less than \$100 and not more than \$5,000 for such offense if the violator is any other common carrier or public utility. Upon receipt of any such sum, the state treasurer shall credit the entire amount thereof to the public service regulation fund or the motor carrier license fee fund, as the case requires.

15. Based on the length of time City Tele-Coin has operated in Kansas illegally, Staff would normally recommend a penalty of \$25,000, or \$500 per month for each of the fifty months City Tele-Coin operated in Kansas. However, in this situation Staff also considered the fact City Tele-Coin did provide the Company CRW Reports to GVNW and did pay the KUSF fees due for at least a portion of the time City Tele-Coin provided service in Kansas without a Certificate. Staff, therefore, recommends a reduced penalty of \$7,500, \$150 per month, for each of the fifty months City Tele-Coin operated in Kansas without a Certificate. The Commission finds that Staff's analysis and recommendations of January 12, 2017, as stated in its Report and Recommendation, are reasonable and hereby adopts the same.

FINDINGS AND CONCLUSIONS

16. Pursuant to K.S.A. 66-1,188, the Commission has jurisdiction to supervise and control telecommunications public utilities doing business in Kansas. City Tele-Coin is a

telecommunications public utility under K.S.A. 66-1,187 and is subject to the Commission's jurisdiction. The Commission further finds that City Tele-Coin's Application should be granted and a Certificate of Convenience and Authority should be issued to City Tele-Coin authorizing it to engage in the business of providing Interexchange Services in the state of Kansas.

17. The Commission accepts Staff's recommendation that a penalty should be assessed against City Tele-Coin for violating K.S.A. 66-104 since at least January of 2013. The Commission accepts Staff's recommendation of a penalty in the amount of \$7,500.

THEREFORE, THE COMMISSION ORDERS:

A. City Tele-Coin Company, Inc.'s request for Certification to provide CLEC services in the state of Kansas in the exchanges served by AT&T and CenturyLink is approved.

B. City Tele-Coin Company, Inc. is reminded of its obligations to make the required filings, maintain currency with the Kansas Secretary of State's office, register with the KUSF Administrator, pay all Commission and KUSF assessments, and follow the Telecommunications Carrier Code of Conduct. Failure to meet these requirements could result in revocation of the company's Certificate.

C. City Tele-Coin Company, Inc. is assessed a \$7,500 penalty for a continuing violation of K.S.A. 66-104 dating back to at least January of 2013.

D. The parties have 15 days from the date of electronic service of this Order to petition for reconsideration.²

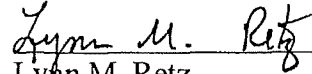
E. The Commission retains jurisdiction over the subject matter and parties for the purpose of entering such further orders as it deems necessary.

² K.S.A. 66-118b; K.S.A. 77-529(a)(1).

BY THE COMMISSION IT IS SO ORDERED.

Apple, Chairman; Albrecht, Commissioner; Emler, Commissioner

Dated: **AUG 22 2017**



Lynn M. Retz
Secretary to the Commission

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Order Mailed Date

AUG 23 2017

CERTIFICATE OF SERVICE

17-CTCT-413-COC

I, the undersigned, certify that the true copy of the attached Order has been served to the following parties by means of first class mail/hand delivered on 07/13/2018.

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/S/ DeeAnn Shupe

DeeAnn Shupe