

BEFORE THE PUBLIC SERVICE COMMISSION

OF THE STATE OF MISSOURI

In the matter of the application of Amerifax, Inc. )  
for a certificate of service authority to provide )  
intrastate interexchange telecommunications service ) CASE NO. TA-90-354  
in the State of Missouri. )

APPEARANCES: Michael R. Carper and Suzanne M. Tetreault, Attorneys at Law, Jones,  
Day, Reavis & Pogue, Metropolitan Square, 1450 G. Street, N.W.,  
Washington, D.C. 20005-2088, for Amerifax, Inc.

HEARING

EXAMINER: Beth O'Donnell

NOTICE OF APPLICATION FOR COMPETITIVE STATUS AND  
REPORT AND ORDER CONDITIONALLY GRANTING CERTIFICATE

On June 15, 1990, Amerifax, Inc. (Applicant) filed its verified application for a certificate of service authority authorizing it to provide intrastate interexchange telecommunications services.

The Commission issued its Order and Notice on July 3, 1990, directing its Executive Secretary to send notice of this application. No applications to intervene or motions to schedule a hearing were filed. On October 5, 1990, the Staff of the Missouri Public Service Commission (Staff) filed its memorandum recommending approval of the application. On January 14, 1991 after the issuance of notice in this case, Applicant filed a supplemental pleading herein requesting classification as a competitive company.

Findings of Fact

The Missouri Public Service Commission, having considered all of the competent and substantial evidence upon the whole record, makes the following findings of fact.

Pursuant to Section 392.440, RSMo Cum. Supp. 1990, Applicant requests authority to provide intrastate interexchange telecommunications services in the

State of Missouri. Pursuant to Section 392.361, RSMo Cum. Supp. 1990, Applicant also requests that the Commission classify it as a competitive telecommunications company.

The requirement of a hearing has been fulfilled when all those having a desire to be heard are offered such an opportunity. In this case, notice was sent by the Executive Secretary of the Commission to any persons or entities known to the Telecommunications Department of the Public Service Commission to be rendering identical or similar services within the service area proposed by this application, as well as to each telephone company rendering local exchange service in Missouri. Interested persons or entities were directed to intervene on or before August 2, 1990. Since no proper party or governmental entity filed an application to intervene and neither the Staff nor the Office of Public Counsel requested a hearing, the Commission determines that an oral hearing is not necessary and the Applicant may submit its evidence in support of the application by verified statement. State ex rel. Rex Deffenderfer Enterprises, Inc. v. Public Service Commission, 776 S.W.2d 494, 496 (Mo. App. 1989).

The Commission finds that Applicant is a Delaware corporation authorized to do business in the State of Missouri, with its principal office or place of business located at 10955 Lowell, Suite 800, Overland Park, Kansas 66210. The Commission further finds that Applicant has filed a brief description of the type of service it proposes to provide but has failed to file current financial information and has not agreed to comply with all applicable rules and regulations of the Commission and any terms and conditions which the Commission may impose. By memorandum filed herein Staff recommends that the Commission grant Applicant a certificate of service authority which would not become effective until the Commission approves Applicant's tariffs.

Based upon the verified statement of Applicant and the recommendations of Staff, the Commission conditionally finds that Applicant is qualified to perform the service proposed. This finding is conditional upon Applicant filing with the Commission its balance sheet and income statement and its agreement to comply with

all applicable rules and regulations of the Commission and any terms and conditions which the Commission may impose. Pursuant to Sections 392.440 and 392.530, RSMo Cum. Supp. 1990, the Commission will assume that additional competition in the intraLATA and interLATA toll markets is in the public interest. The Commission does not deem it necessary to determine a public need for each reseller's services as the market would eliminate any reseller for which there is no public need. Consequently, pursuant to Section 392.440, RSMo Cum. Supp. 1990, the Commission finds that it is in the public interest to conditionally grant Applicant a certificate of service authority to provide intrastate interexchange telecommunications services.

Pursuant to Section 392.470, RSMo Cum. Supp. 1990, the Commission determines that certain regulatory requirements should be imposed upon resellers authorized to provide telecommunications services in Missouri. Since the Applicant proposes to operate as a reseller of telecommunications services in this state, the Commission finds that the following regulatory requirements should be imposed upon Applicant as reasonable and necessary conditions of certification:

- (1) Applicant is required to comply with reasonable requests by the Staff for financial and operating data to allow the Staff to monitor the intraLATA toll market pursuant to Section 386.320.3, RSMo Cum. Supp. 1990;
- (2) Applicant is required to file tariffs containing rules and regulations applicable to customers, a description of the services provided and a list of rates associated with the services pursuant to Section 392.220, RSMo Cum. Supp. 1990, and 4 CSR 240-30.010;
- (3) Applicant is precluded from unjustly discriminating between and among its customers pursuant to Section 392.200, RSMo Cum. Supp. 1990, and Section 392.400, RSMo Cum. Supp. 1990;
- (4) Applicant is required by Sections 386.570, RSMo 1986, and 392.360, RSMo Cum. Supp. 1990 to comply with all applicable rules of the

Commission except those which are specifically waived by the Commission pursuant to Section 392.420, RSMo Cum. Supp. 1990;

- (5) Applicant is required to file a Missouri-specific annual report pursuant to Section 392.210, RSMo Cum. Supp. 1990, and Section 392.390.1, RSMo Cum. Supp. 1990;
- (6) Applicant is required, until the Commission orders otherwise, to submit to the Staff on a confidential basis, quarterly reports showing its percentage of interstate use and intrastate interLATA and intraLATA use pursuant to Section 392.390.3, RSMo Cum. Supp. 1990; (If the sole service to be offered by Applicant is private line, make this conditional upon offering additional services.)
- (7) Pursuant to Section 392.390.3, RSMo Cum. Supp. 1990, Applicant is required to comply with the jurisdictional reporting requirements as set out in each local exchange company's access services tariff.

Finally, the Commission finds that Applicant should file appropriate tariffs a balance sheet and income statement and a statement of agreement to comply with all applicable rules and regulations of the Commission and any terms and conditions which the Commission may impose, within thirty (30) days of the effective date of this Report and Order. The certificate to be granted herein will become effective only upon approval by the Commission of these tariffs and receipt by it of Applicant's financial information and agreement to comply with applicable rules and regulations as well as lawful terms and conditions.

Since Applicant applied for competitive status after the issuance of notice in this case, the Commission determines that it is necessary to issue additional notice herein concerning the application for competitive status. The Commission further determines that proper parties should be given an opportunity to intervene as to the application for competitive status. A proper party shall be defined as any party desiring to contest the competitiveness of Applicant's services. Applications to intervene on this limited issue should be submitted to the Executive Secretary of

the Missouri Public Service Commission, P. O. Box 360, Jefferson City, Missouri 65102, and copies sent to Michael R. Carper and Suzanne M. Tetreault, Attorneys at Law, Jones, Day, Reavis & Pogue, Metropolitan Square, 1450 G. Street, N.W., Washington, D.C. 20005-2088.

The Executive Secretary of the Commission shall send a copy of this order to any persons or entities known to the telecommunications department of the Public Service Commission to be rendering identical or similar services within the service area proposed by this application as well as to each telephone company rendering local exchange service in Missouri.

In the event no proper party files an application to intervene in this matter on or before March 25, 1991, and neither the Commission's Staff nor the Office of the Public Counsel requests a hearing, the Commission will allow the applicant to submit evidence in support of its application for competitive status by verified statement.

#### Conclusions of Law

The Missouri Public Service Commission has arrived at the following conclusions of law.

Applicant proposes to provide service to the public as a competitive intrastate interexchange telecommunications company subject to the Commission's jurisdiction pursuant to Chapters 386 and 392, RSMo Cum. Supp. 1990.

Based upon the verified application of Applicant and the recommendation of its Staff, the Commission has found conditionally that Applicant has complied with the Commission's standards pertaining to applications requesting authority to provide intrastate interexchange telecommunications services and will be found qualified to perform said services upon submission of the required information. The Commission concludes that additional competition in the intrastate interexchange market is in the public interest and a certificate of service authority should be granted upon fulfillment of the mentioned requirements. The Commission will make a finding as to

the competitive status of Applicant pursuant to Section 392.361, RSMo Cum. Supp. 1990, by subsequent Report and Order.

IT IS THEREFORE ORDERED:

1. That Amerifax, Inc., be conditionally granted hereby a certificate of service authority to provide intrastate interexchange telecommunications services in Missouri. This certificate of service authority is subject to the conditions of certification set out herein and shall not become effective until the Commission approves Applicant's tariffs and receives from Amerifax, Inc., a balance sheet and income statement as well as an agreement to comply with all applicable rules and regulations of the Commission and any terms and conditions which the Commission may impose.

2. That Amerifax, Inc. shall file tariffs, and an income statement and balance sheet as well as an agreement to comply with all applicable rules and regulations of the Commission and any terms and conditions which the Commission may impose, within thirty (30) days of the effective date of this Report and Order.

3. That nothing contained herein shall be construed as a finding by the Commission of the value for ratemaking purposes of the properties herein involved, nor as an acquiescence in the values placed upon said properties by the Applicant.

4. That Amerifax, Inc. shall file with the Commission's Staff on a quarterly basis reports showing its percentage of interstate use and intrastate interLATA and intraLATA use. The first such report shall be filed in the next quarterly period following the effective date of the order approving Applicant's tariffs and quarterly thereafter on a confidential basis, unless otherwise ordered by the Commission.

5. That any interested party wishing to intervene in Case No. TA-90-354 shall notify the Executive Secretary of the Missouri Public Service Commission and the aforementioned party on or before March 25, 1991.

6. That the Executive Secretary of the Missouri Public Service Commission be directed hereby to send notice as herein stated.

7. That this Report and Order shall become effective on the 5th day of March, 1991.

BY THE COMMISSION

*Brent Stewart*

Brent Stewart  
Executive Secretary

(S E A L)

Mueller, Rauch, McClure and  
Letsch-Roderique, CC., Concur.  
Steinmeier, Chm., Absent.

Dated at Jefferson City, Missouri,  
on this 22nd day of February, 1991.