BEFORE THE PUBLIC SERVICE COMMISSION

OF THE STATE OF MISSOURI

In the Matter of the Application of NewPath Holdings, Inc. for a Certificate of Service Authority to Provide Switched and Dedicated Resold and Facilities-Based Local Exchange Telecommunications Services and Facilities-Based Local Exchange Telecommunications Services within the State of Missouri and to Classify Said Services and the Company as Competitive	)	**Case No. TA-2000-491**

NOTICE OF DEFAULT

NewPath Holdings, Inc. (NewPath) applied to the Missouri Public Service Commission (Commission) on February 10, 2000, for a certificate of service authority to provide basic local and local exchange telecommunications services in Missouri under Sections 392.420 - .440, RSMo 1994[1], and Sections 392.410 and .450, RSMo Supp. 1999.

On March 24, 2000, the Commission entered an order which, *inter alia*, required the parties to file a procedural schedule no later than April 24, 2000. As of the date of this order, the parties have not filed a procedural schedule in response to the Commission's March 24, 2000, order.

On April 25, 2000, NewPath filed what it termed an "unopposed" motion for an extension of time to file a procedural schedule. NewPath stated, *inter alia*, that it was requesting that the Commission grant

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1 All statutory references are to Revised Statutes of Missouri 1994 unless otherwise indicated.

leave to NewPath and Southwestern Bell Telephone Company (SWBT)[2] to file a proposed procedural schedule no later than May 24, 2000. NewPath stated that it also requested leave to file its motion one day out of time; however, NewPath did not state any reason for the late filing.

Commission Rule 4 CSR 240-2.050(4)(B) states, in part:

> When an act is required...to be done at or within a specific time,...the commission, at its discretion, may...[p]ermit the act to be done after the expiration of the specified period...where the failure to act was the result of excusable neglect.

NewPath did not comply with Commission Rule 4 CSR 240-2.050(4)(B) since it did not state what its excusable neglect was in filing its motion out of time.

Also, since NewPath failed to state the position of the Office of the Public Counsel, its motion cannot accurately be called "unopposed."

Thus, since none of the parties have followed the Commission's order of March 24, 2000, which ordered them to file a procedural schedule by April 24, 2000, all parties are in default at this time. No further action will be taken on this case until the parties cure the default.

BY THE COMMISSION

(S E A L)

Dale Hardy Roberts

Dale Hardy Roberts
Secretary/Chief Regulatory Law Judge

Dated at Jefferson City, Missouri,
on this 27th day of April, 2000.

Hopkins, Senior Regulatory Law Judge

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2 SWBT is an intervenor. It should be noted that the Commission's order of March 24, 2000, was directed to all the parties, not just to NewPath and SWBT.