

BEFORE THE PUBLIC SERVICE COMMISSION

OF THE STATE OF MISSOURI

R. O. Binder

Case No. TA-88-277

In the matter of the application
of Pay-Tele Communications, Inc.,
d/b/a Midwest Telecom for
certificate of service authority
to provide private pay telephone
service within the State of Missouri.

APPEARANCES: Harvey M. Tettlebaum and Paul H. Gardner, Attorneys at Law,
215 East High Street, Post Office Box 1251, Jefferson City,
Missouri 65102, for the Applicant.

HEARING
EXAMINER: Martha S. Hogerty

REPORT AND ORDER

On June 1, 1988, Pay-Tele Communications, Inc., d/b/a Midwest Telecom,
(Applicant), filed its verified application seeking a certificate of service
authority to provide private pay telephone service in the State of Missouri.

The Commission issued its Order and Notice on June 7, 1988, directing its
Secretary to send notice of this application. The Commission stated that in the
event no proper party filed a request for hearing alleging that the granting of the
application is not in the public interest, the Commission would grant the certificate
of service authority requested herein on the basis of the verified application. The
Commission established June 22, 1988, as the deadline for requesting a hearing. No
timely applications to intervene or motions to schedule a hearing were filed.

On July 1, 1988, the Commission's Staff filed its Memorandum herein
recommending approval of the application.

On July 8, 1988, the Office of the Public Counsel filed its "Motion To
Include AOS Condition In Certificate Of Service Authority; Or, In The Alternative,
Motion For Extension Of Time In Which To request Hearing, Motion For Hearing, And
Motion To Consolidate." In support of its Motion, the Public Counsel states that any

certificate granted by the Commission in this case should include a condition requiring that alternative operator services (AOS) utilized or provided by Applicant's pay telephones must be provided by an AOS provider which is certificated by this Commission and has approved tariffs on file with the Commission.

In the alternative, Public Counsel requests the Commission that if it does not include the condition set forth above, that the Commission grant Public Counsel an extension of time to request a hearing in this matter and that the matter be set for hearing and consolidated with Case No. TA-88-218, the application of American Operator Services, Inc., for a certificate of public convenience and necessity.

On July 18, 1988, Staff filed its suggestions opposing the Public Counsel's motion on the ground that Public Counsel's motion is untimely and that it proposes different treatment for Applicant than for several applicants which had filed applications for and were granted certificates to provide the identical service sought herein. Staff points out that in the certificate cases previously granted, the Commission set forth certain minimum requirements regarding AOS recognizing that the Commission is currently developing its policy concerning AOS providers.

On July 27, 1988, Applicant filed its suggestions opposing Public Counsel's motion on the ground that the imposition of a special condition for Applicant which has not been imposed on other private pay telephone service providers would unfairly discriminate against Applicant. Applicant states that Case No. TA-88-218, the pending case regarding American Operator Services, Inc., is the proper vehicle for developing a general policy concerning the regulation of AOS.

Having reviewed the Public Counsel's motion, and the Staff's and the Applicant's suggestions in opposition, the Commission determines that Public Counsel's motion should be denied. In the Commission's opinion Case No. TA-88-218 is the proper forum for an examination of the regulation of AOS. The Commission is further of the opinion that requiring Applicant to undergo a hearing in the instant

case would be unfair to Applicant given the Commission's treatment of other pay telephone providers.

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 facts.

Applicant requests authority to provide private pay telephone service throughout the State of Missouri via customer owned coin telephone (COCT) equipment.

Applicant is a Missouri corporation (authorized to do business in the State of Missouri) with its principal office or place of business located at 1750 S. Brentwood, Suite 511, St. Louis, Missouri 63144.

Since no party including the Staff or the Public Counsel has filed a timely request for a hearing opposing the application on the ground that the application is not in the public interest, the Commission finds that the granting of the application is in the public interest and should be approved.

To ensure that the public interest continues to be served, the Commission finds that Applicant's service shall be provided consistent with the following terms:

- A. The maximum charge for a local call shall not exceed that permitted by the Commission;
- B. Users of the equipment shall be able to reach the operator without charge and without the use of a coin;
- C. If applicable, users of the equipment shall be informed by the operator that they have gained access to an alternative operator service and that they may, without charge, request transfer to the operator provided by the local exchange company or by the interexchange carrier of the user's choice.
- D. Users of the equipment shall be able to reach local 911 emergency service, where available, without charge and without using a coin or

if 911 is unavailable there shall be a prominent display on each instrument of the required procedure to reach local emergency service without charge and without using a coin;

- E. The equipment shall be mounted in accordance with all applicable federal, state and local laws for disabled and hearing impaired persons;
- F. The equipment shall allow completion of local and long distance calls;
- G. The equipment shall permit access to directory assistance;
- H. There shall be displayed in close proximity to the equipment in 12 Point Times Bold print the name, address and telephone number of the COCT provider, the procedures for reporting service difficulties, the method of obtaining customer refunds and the method of obtaining long distance access. If applicable, the notice shall state that one-way calling only is permitted. The notice shall state that the COCT provider may receive detailed toll billing records from the local exchange company showing the date, time and numbers called. If applicable, the notice shall state that alternative operator services (AOS) are being utilized which could result in a higher cost for telephone service than where AOS are not employed; and
- I. The equipment shall be registered under Part 68 of the Rules of the Federal Communications Commission's registration program.

The Commission determines that unless otherwise ordered by the Commission, Applicant should remain subject to the provisions of Section 392.390(1) and (3), RSMo Supp. 1987, which provide for the filing of annual reports and such information as necessary to determine the jurisdictional nature of the services provided and Section 386.370, RSMo Supp. 1987, which provides for the assessment of public utilities.

The Commission determines that should Applicant establish in the future additional locations where it will offer COCT telecommunications services, it shall notify the Commission of these additional locations by its annual report. The Applicant also shall notify the Commission if it ceases to provide COCT telecommunications services in the State of Missouri.

The Commission further determines that should the Applicant choose to avail itself of alternative operator services, Applicant shall notify the Commission of the name and full address of such AOS provider as well as the telephone number of the business office where the management of such AOS provider can be reached.

The Commission currently is developing its policy regarding AOS providers and considers the requirements contained herein as to the use of such providers by COCT suppliers to be the minimum requirements. When the Commission's policy is fully formulated, additional AOS requirements affecting applicants for COCT certificates might be forthcoming.

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 public utility subject to the Commission's jurisdiction pursuant to Chapters 386 and 392, RSMo Supp. 1987.

This application is filed pursuant to Section 392.440, RSMo Supp. 1987, providing that any company offering the resale of local exchange telecommunications service must first obtain a certificate of service authority. Section 392.440 further provides that the Commission shall approve such application upon a showing by the Applicant and a finding by the Commission, after notice and hearing, that the grant of authority is in the public interest.

The requirement of a hearing has been fulfilled when all those having a desire to be heard are offered such an opportunity.

Given the policy mandate of Chapter 392 that COCT providers be afforded the minimum regulation permitted by the Chapter, the Commission concludes that the showing of public interest required by Section 392.440 is met by this verified application for a certificate to provide COCT service. Therefore, the Commission has found that the approval of this application is in the public interest and a certificate of service authority should be granted.

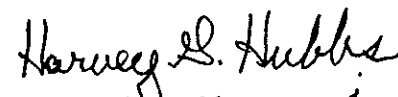
It is, therefore,

ORDERED: 1. That Pay-Tele Communications, Inc., d/b/a Midwest Telecom, is granted hereby a certificate of service authority to provide private pay telephone service in the State of Missouri via customer owned coin operated telephone equipment. This certificate of service authority is subject to the conditions of certification set forth herein.

ORDERED: 2. That the Motion of the Public Counsel filed herein on July 8, 1988, is hereby denied.

ORDERED: 3. That this Report and Order shall become effective on the 12th day of August, 1988.

BY THE COMMISSION


Harvey G. Hubbs
Secretary

(S E A L)

Musgrave, Mueller and
Fischer, CC., Concur.
Steinmeier, Chm., and
Hendren, CC., Absent.

Dated at Jefferson City, Missouri,
on this 9th day of August, 1988.