

**STATE OF MISSOURI
PUBLIC SERVICE COMMISSION
JEFFERSON CITY
February 25, 2000**

CASE NO: TA-2000-335

Office of the Public Counsel
P.O. Box 7800
Jefferson City, MO 65102

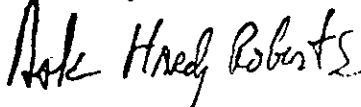
Martin C. Rothfelder, Esq.
The Rothfelder Law Offices
625 Central Avenue
Westfield, NJ 07090

General Counsel
Missouri Public Service Commission
P.O. Box 360
Jefferson City, MO 65102

Dennis E. Codlin, Esq.
Vice President-Legal Affairs
Metromedia Fiber Network Services, Inc.
One North Lexington Avenue
White Plains, NY 10601

Enclosed find certified copy of an ORDER in the above-numbered case(s).

Sincerely,



Dale Hardy Roberts
Secretary/Chief Regulatory Law Judge

BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI

In the Matter of the Application of)	
Metromedia Fiber Network Services, Inc.)	
for a Certificate of Service Authority to)	
Provide Local and Interexchange)	<u>Case No. TA-2000-335</u>
Telecommunications Service in Portions of)	
the State of Missouri and to Classify said)	
Services and the Company as Competitive)	

ORDER APPROVING INTEREXCHANGE AND
BASIC LOCAL EXCHANGE CERTIFICATE OF SERVICE AUTHORITY

Metromedia Fiber Network Services, Inc. (MFNS) applied to the Missouri Public Service Commission (Commission) on November 18, 1999, for a certificates of service authority to provide telecommunications services in Missouri under Section 392, RSMo 1994¹, and RSMo Supp. 1999. MFNS asked the Commission to classify it and its services as competitive and to waive certain statutes and rules as authorized by Sections 392.361 and 392.420. MFNS is a Delaware corporation, with its principal office located at One North Lexington Avenue, White Plains, New York 10601.

The Commission issued a Notice of Deficiency on December 14, 1999, because MFNS' application did not contain a clear and concise statement of the relief it was requesting in violation of Commission Rule 4 CSR 240-2.060(1)(E), due to three deficiencies: (1) MFNS did

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

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not include a brief statement of the character of its business in its application; (2) MFNS did not make clear what kind of telecommunications services it was requesting; and (3) MFNS did not make clear whether it was asking for its company or its services to be classified as competitive. On January 14, 2000, MFNS filed its petition to amend its application for a certificate of service authority and for competitive classification. MFNS stated that the character of its business was set forth in an attachment to its application and that that business is a facilities-based provider of technologically advanced telecommunications. MFNS stated that it sought to provide local exchange telecommunications services. MFNS stated that it was requesting that its company be classified as competitive. That petition will be granted.

The Commission issued a Notice of Applications for Certificates of Service Authority and Opportunity to Intervene on November 23, 1999, directing parties wishing to intervene to file their requests on the intrastate interexchange portion of the application by November 24, 1999, and on the basic local portion of the application by December 23, 1999². The requirement for a hearing is met when the opportunity for hearing has been provided and no proper party has requested the opportunity to present evidence. State ex rel. Rex Deffenderfer Enterprises, Inc. v. Public Service Commission, 776 S.W.2d 494, 496 (Mo. App. 1989).

² Both types of notices were issued due to MFNS' unclear application. The petition to correct its application removed MFNS' request for a certificate for basic local service.

On November 24, 1999, Southwestern Bell Telephone Company (SWBT) timely filed its application to intervene, which was granted on January 28, 2000. MFNS' opposition to SWBT's intervention, which was filed on January 14, 2000, was overruled in the same order since it was filed out of time. On January 24, 2000, SWBT filed its response to MFNS' opposition to SWBT's intervention.

Also in the same order, the Commission entered its order directing that a procedural schedule should be filed no later than February 14, 2000.

On January 31, 2000, MFNS filed its amended Exhibit B to its application.

On February 9, 2000, SWBT filed its withdrawal of intervention, which the Commission approved the same day.

On February 14, 2000, MFNS filed its second amendment to its application, changing the requested waivers of statutes and Commission rules to conform to those set forth below in the ordered paragraphs. On the same day, the Staff of the Commission (Staff) filed its recommendation and request to waive the filing of the procedural schedule. Staff recommended that MFNS be granted a certificate to provide interexchange telecommunications services and dedicated, private line local exchange services. Staff also recommended that the Commission classify MFNS and its services as competitive. Staff recommended that the waivers of statutes and Commission rules as set forth below in the ordered paragraphs be approved by the Commission.

MFNS has provided all the required documentation except for the proposed tariff. MFNS requested a temporary waiver of Commission rule

4 CSR 240-2.060(4)(H) until it has entered into an interconnection agreement with the underlying local exchange carrier and that agreement has been approved by the Commission. MFNS agreed to submit to the Commission for approval a proposed tariff with a minimum 45-day effective date once it is party to the appropriate interconnection agreement. MFNS intends to provide interexchange and basic local exchange telecommunications services, with the local exchange authority restricted to dedicated, private line services.

The Commission finds that competition in the intrastate interexchange and basic local exchange telecommunications markets is in the public interest and MFNS should be granted certificates of service authority. The Commission finds that the services MFNS proposes to offer are competitive and MFNS should be classified as a competitive company. The Commission finds that waiving the statutes and Commission rules set out in the ordered paragraph below is reasonable and not detrimental to the public interest.

IT IS THEREFORE ORDERED:

1. That Metromedia Fiber Network Services, Inc. is granted a certificate of service authority to provide intrastate interexchange telecommunications services in the state of Missouri, subject to all applicable statutes and Commission rules except as specified in this order.

2. That Metromedia Fiber Network Services, Inc. is granted a certificate of service authority to provide basic local exchange telecommunications services in the state of Missouri limited to providing dedicated, basic local exchange private line services,

subject to all applicable statutes and Commission rules except as specified in this order.

3. That Metromedia Fiber Network Services, Inc. is classified as a competitive telecommunications company. Application of the following statutes and regulatory rules shall be waived:

Statutes

- 392.240(1) - ratemaking
- 392.270 - valuation of property (ratemaking)
- 392.280 - depreciation accounts
- 392.290 - issuance of securities
- 392.310 - stock and debt issuance
- 392.320 - stock dividend payment
- 392.340 - reorganization(s)
- 392.330, RSMo Supp. 1999 - issuance of securities,
debts and notes

Commission Rules

- 4 CSR 240-10.020 - depreciation fund income
- 4 CSR 240-30.010(2)(C) - rate schedules
- 4 CSR 240-30.040 - Uniform System of Accounts
- 4 CSR 240-32.030(2) - in-state record-keeping
- 4 CSR 240-32.030(4)(A)(2) - application numbers
- 4 CSR 240-32.030(4)(C) - exchange boundary map
- 4 CSR 240-32.050(3) - local office record-keeping
- 4 CSR 240-32.050(4) - telephone directories
- 4 CSR 240-32.050(5) - call intercept
- 4 CSR 240-32.050(6) - telephone number changes
- 4 CSR 240-32.070(4) - public coin telephone
- 4 CSR 240-33.030 - minimum charges rule
- 4 CSR 240-33.040(5) - financing fees

4. That this order shall become effective on March 6, 2000.

5. That this case may be closed on March 7, 2000.

BY THE COMMISSION

Dale Hardy Roberts

**Dale Hardy Roberts
Secretary/Chief Regulatory Law Judge**

(S E A L)

Bill Hopkins, Senior Regulatory Law Judge,
by delegation of authority pursuant to
4 CSR 240-2.120(1) (November 30, 1995)
and Section 386.240, RSMo 1994.

Dated at Jefferson City, Missouri,
on this 25th day of February, 2000.

FYI: To Be Issued By Delegation

At/Secy:

Hopkins/Boye

Date Circulated

2-24

Return by 3 p.m.
100.m.

2-29

CASE NO.

TH-2000-335

Lumpke, Chair

Crumpton, Commissioner

Murray, Commissioner

Schemenauer, Commissioner

Drainer, Vice-Chair

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 25th day of FEBRUARY 2000.

Dale Hardy Roberts

Dale Hardy Roberts
Secretary/Chief Regulatory Law Judge

