

BEFORE THE PUBLIC SERVICE COMMISSION

OF THE STATE OF MISSOURI

Case No. TA-87-120

In the matter of the application
of American Communications, Inc.,
1102 Grand Avenue, Kansas City,
Missouri, for a certificate of
public convenience and necessity
to operate as a WATS and WATS
type reseller.

APPEARANCES: Richard S. Brownlee, III, Attorney at Law, Hendren and Andrae,
P. O. Box 1069, Jefferson City, Missouri 65102, and James R. Roth,
Attorney at Law, Woodard, Blaylock, Hernandez, Pilgreen & Roth,
P. O. Box 127, Wichita, Kansas 67201, for American Communications,
Inc.

REPORT AND ORDER

On April 22, 1987, American Communications, Inc. (Applicant) filed its
verified application for a certificate of convenience and necessity authorizing it to
provide intrastate interLATA and intraLATA toll telecommunications services in the
State of Missouri.

The Commission issued its Order and Notice on May 5, 1987, directing its
Secretary to send notice of its order. Interested persons or entities were directed
to intervene or file their motions to schedule a hearing on or before May 20, 1987.
No applications to intervene or motions to schedule a hearing were filed. The
Commission stated that in the event no proper party filed an application to intervene
in this matter and neither Commission Staff nor the Office of Public Counsel
requested a hearing on or before May 20, 1987, the Commission would allow the
Applicant to submit its evidence in support of the application by verified statement.

On June 12, 1987, American Communications, Inc. filed a verified statement in support of its application. On July 14, 1987, the Staff of the Missouri Public Service Commission filed its memorandum recommending approval of the application.

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.

Applicant requests authority to provide intrastate interLATA and intraLATA toll telecommunications services in the State of Missouri.

The requirement of a hearing has been fulfilled when all those having a desire to be heard are offered an opportunity to do so. In the instant case, notice was sent by the 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 the instant application, as well as to each telephone company rendering local exchange service in Missouri. Interested persons or entities were directed to intervene or file their motions to schedule a hearing on or before May 20, 1987. Since no proper party or governmental entity filed an application to intervene or a motion to schedule a hearing on this matter, the Commission determines that a hearing is not necessary and the Applicant may submit its evidence in support of the application by verified statement.

Applicant is a Kansas corporation authorized to do business in the State of Missouri, with its principal office or place of business located at 257 North Broadway, Wichita, Kansas 67202.

In considering Applicant's application, the Commission is bound by the terms of Section 392.260, R.S.Mo. 1986. This section permits the Commission to grant a certificate of public convenience and necessity if it shall find that there is a public need for such service and that the applicant is qualified to perform the service. The Commission notes that in Case No. TX-85-10 at 10 Mo. Reg. 1048 (1985),

the Commission made a Statement of Policy which set out certain standards pertaining to applicants requesting authority to provide interLATA telecommunications services. In Re: Investigation into WATS resale by hotels/motels, Case No. TO-84-222, et al. (effective on August 26, 1986) (referred to as Case No. TO-84-222), the Commission found it was reasonable to apply the same standards to applicants which desire to provide intraLATA toll services. Based upon the verified statement of Applicant and the recommendation of its Staff, the Commission finds that Applicant has complied with the Commission's standards and is qualified to perform the service. In Case No. TX-85-10, the Commission stated that if an applicant is found to be fit pursuant to the Commission's standards, then the Commission will assume that additional competition in the interLATA market is in the public interest and a certificate of public convenience and necessity should be granted. Since the intraLATA toll market had been opened for competition, the Commission did not deem it necessary in Case No. TO-84-222 to determine a public need for each reseller's services as the market would eliminate any reseller for which there was no public need.

The Commission finds that Applicant has filed current financial information and a brief description of what type of service it proposes to provide, and has agreed to comply with all applicable Commission rules and regulations and any terms and conditions which the Commission may impose.

The Commission in Case No. TO-84-222 determined that certain regulatory requirements should be imposed upon resellers which were authorized to provide intra-state interLATA and intraLATA telecommunications services in Missouri. The Commission notes that in Case No. TO-84-222, it stated that for purposes of authorizing intraLATA competition, it could not find a rational basis to distinguish between resellers and facilities-based carriers. The Commission believes that the regulatory requirements imposed upon resellers should also be imposed upon facilities-based carriers (this term does not include local exchange carriers) which request authority to provide the same services. Therefore, 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, R.S.Mo. 1986;
- (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, R.S.Mo. 1986, and 4 CSR 240-30.010;
- (3) Applicant is precluded from unjustly discriminating between and among its customers pursuant to Section 392.200, R.S.Mo. 1986;
- (4) Pursuant to Section 392.220, R.S.Mo. 1986, the following requirements apply: (a) if Applicant files new master schedules with minimum-maximum ranges, said rates can be changed on thirty (30) days' notice; (b) if master schedules are filed, then the Applicant can file supplemental schedules changing rates in the approved range on fourteen (14) days' notice; (c) if no master schedule is on file, rates can be changed on thirty (30) days' notice;
- (5) Applicant is required by Section 386.570, R.S.Mo. 1986, to comply with all applicable Commission rules except those which are specifically waived by the Commission pursuant to a request for variance filed by Applicant;
- (6) Applicant is required to file a Missouri-specific annual report pursuant to Section 392.210, R.S.Mo. 1986;
- (7) Applicant is required to submit PIU Reports including the percentage of interstate use, and the percentage of intrastate use on a quarterly basis to the local exchange companies;
- (8) Applicant is required, until the Commission otherwise orders, to submit to the Public Service Commission Staff, on a confidential basis, quarterly reports showing its percentage of intrastate intraLATA use;

- (9) Applicant is required to comply with the jurisdictional reporting requirements as set out in each local exchange company's access services tariff.

The Commission finds that the Applicant should file appropriate tariffs within thirty (30) days of the effective date of this Report And Order. The Commission finds that the Applicant should file any request for a variance from the Commission's rules that may be necessary as a result of the grant of this authority within thirty (30) days of the effective date of this Report And Order. In addition, the Commission finds that the Applicant should file its PIU Reports and its quarterly reports to the Staff within thirty (30) days of the effective date of this Report And Order.

Conclusions

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

Applicant proposes to provide service to the public as a public utility subject to the Commission's jurisdiction pursuant to Chapters 386 and 392, R.S.Mo. 1986.

Based upon the verified application of Applicant and the Staff recommendation, the Commission has found that Applicant has complied with the Commission's standards pertaining to applications requesting authority to provide intrastate interLATA and intraLATA toll telecommunications services and is qualified to perform said services. Therefore, the Commission has stated that it will assume that additional competition in the interLATA and intraLATA market is in the public interest and a certificate of public convenience and necessity should be granted.

It is, therefore,

ORDERED: 1. That American Communications, Inc. be, and hereby is, granted a certificate of public convenience and necessity to provide intrastate interLATA and intraLATA toll telecommunications services in Missouri. This certificate of public convenience and necessity is subject to the conditions of certification set out herein.

ORDERED: 2. 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.

ORDERED: 3. That American Communications, Inc. shall file tariffs within thirty (30) days of the effective date of this Report And Order.

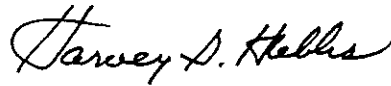
ORDERED: 4. That American Communications, Inc. shall file any request for variance from the Commission's rules that may be necessary as a result of the grant of this authority within thirty (30) days of the effective date of this Report And Order.

ORDERED: 5. That American Communications, Inc. shall file its PIU Reports as discussed herein within thirty (30) days of the effective date of this Report And Order.

ORDERED: 6. That American Communications, Inc. shall file with the Commission Staff a report showing its percentage of intrastate intraLATA use. Said report shall be filed within thirty (30) days of the effective date of this Report and Order and on a confidential basis, unless the Commission orders otherwise.

ORDERED: 7. That this Report and Order shall become effective on the 7th day of August, 1987.

BY THE COMMISSION



Harvey G. Hubbs
Secretary

(S E A L)

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

Dated at Jefferson City, Missouri,
on this 28th day of July, 1987.