

STATE OF MISSOURI
PUBLIC SERVICE COMMISSION

At a Session of the Public Service
Commission held at its office
in Jefferson City on the 26th
day of January, 1994.

In the matter of the application of FiberNet)
St. Louis, Inc. for certificates of service)
authority to provide intrastate interexchange)
switched and private line telecommunications)
services and local exchange non-switched private) CASE NO. TA-94-148
line telecommunications service in the State of)
Missouri and for classification as a competitive)
telecommunications company providing competitive)
telecommunications services.)

ORDER APPROVING INTEREXCHANGE AND LOCAL EXCHANGE CERTIFICATE OF SERVICE AUTHORITY

On November 5, 1993, FiberNet St. Louis, Inc. (Applicant) applied to the Public Service Commission (Commission) for a certificate of service authority to provide intrastate interexchange telecommunication service and local exchange telecommunication service within the state of Missouri pursuant to Sections 392.410 through 392.450, RSMo (Cum. Supp. 1992). Applicant proposes to provide intrastate interexchange switched and private line telecommunication services, and local exchange non-switched private line telecommunications service. Applicant also applied for classification as a competitive telecommunications company pursuant to Section 392.361, RSMo (Cum. Supp. 1992), and for waiver of certain statutes and Commission rules as authorized by Section 392.420, RSMo (Cum. Supp. 1992). The Commission issued its Order and Notice on November 12, 1993, ordering parties wishing to intervene in the case to do so by December 14, 1993. There were no motions filed for permission to intervene or for hearing.

On January 18, 1994, the Staff of the Commission (Staff) filed its Memorandum recommending approval of Company's application for a certificate of service authority to provide intrastate interexchange telecommunication service. Staff also recommended approval of Company's application for a certificate of service authority for local exchange telecommunication service on condition that

this authority be restricted to providing dedicated, non-switched local exchange private line services only. Staff stated that Applicant's proposed services are the same or equivalent to the services which were classified as competitive in Case No. TA-92-145, *In the matter of the application of Digital Teleport, Inc. for permission, approval and a certificate of authority to provide intrastate private line telecommunications services in the State of Missouri.* (June 6, 1992). Staff recommended that the Commission grant Applicant competitive status.

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 at 71 Mt. Hope Avenue, Rochester, New York 14620. The Commission finds that Applicant has filed current financial information and a brief description of the type of service it proposes to provide, and has agreed to comply with all applicable rules and regulations of the Commission, and with any terms and conditions which the Commission may lawfully impose.

The requirements of due process have been satisfied when interested persons have been given notice and an opportunity to be heard. Notice, in this case, was sent by the Commission on November 12, 1993, and interested parties were directed to intervene on or before December 14, 1993. Since no proper party or governmental entity has filed an application to intervene, and there have been no requests for hearing, the Commission determines that a hearing is not necessary and the Applicant may submit evidence in support of its application by verified statement. *State ex re. Rex Deffenderfer Enterprises, Inc. v. Public Service Commission*, 776 S.W.2d 494, 496 (Mo.App. 1989).

After reviewing Applicant's verified statement and Staff's recommendation, the Commission finds that additional competition in the intrastate interexchange and local exchange markets is in the public interest and Applicant should be granted certificates of service authority to provide intrastate interexchange telecommunication service and dedicated non-switched

local exchange private line telecommunication service. The Commission also finds that the services Applicant proposes to offer are competitive, and that waiving the statutes and Commission rules set out below is reasonable and not detrimental to the public interest. Therefore, the Commission concludes that Applicant should be classified as a competitive company pursuant to Section 392.361, RSMo (Cum. Supp. 1992).

The Commission determines that, pursuant to Section 392.470, RSMo (Cum. Supp. 1992), certain regulatory requirements should be imposed upon Applicant as a reseller of telecommunications services in Missouri. Applicant should be subject to the following regulatory requirements as reasonable and necessary conditions of certification:

- (1) Applicant is required to comply with reasonable requests by Staff for financial and operating data to allow Staff to monitor the intraLATA toll market pursuant to Section 386.320.3, RSMo (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 those services pursuant to Section 392.220, RSMo (Cum. Supp. 1992), and 4 CSR 240-30.010.
- (3) Applicant's tariff filing must contain a preliminary section which states that Company is a competitive carrier and identifies the statutory and rule waivers granted it by the Commission.
- (4) Applicant is precluded from unjustly discriminating between and among its customers pursuant to Sections 392.200 and 392.400, RSMo (Cum. Supp. 1992).

- (5) Applicant is required by Section 386.570, RSMo (1986), and Section 392.360, RSMo (Cum. Supp. 1992), to comply with all applicable rules of the Commission except those which have been specifically waived by this order.
- (6) Applicant is required to file a Missouri-specific annual report pursuant to Sections 392.210 and 392.390.1, RSMo (Cum. Supp. 1992).
- (7) Applicant is required to comply with jurisdictional reporting requirements as set out in each local exchange company's access services tariffs pursuant to Section 392.390.3, RSMo (Cum. Supp. 1992).
- (8) A copy of the jurisdictional report submitted to local exchange companies shall be submitted to the staff on a confidential basis within ten (10) days of the date on which it is submitted to the local exchange company.

The Commission also finds that Applicant should file appropriate tariffs within thirty (30) days of the effective date of this order. The certificate of service authority to be granted by this order will become effective only upon the Commission's approval of these tariffs.

IT IS THEREFORE ORDERED:

1. That FiberNet St. Louis, Inc. be granted a certificate of service authority to provide intrastate interexchange telecommunication services in the state of Missouri. This certificate of service authority is subject to the conditions of certification set out above and shall not become effective until the Commission approves FiberNet St. Louis, Inc.'s tariffs.

2. That FiberNet St. Louis, Inc. be granted a certificate of service authority to provide local exchange telecommunication services in the state of Missouri limited to providing dedicated, non-switched local exchange private line

services only. This certificate of service authority is subject to the conditions of certification set out above and shall not become effective until the Commission approves FiberNet St. Louis, Inc.'s tariffs.

3. That FiberNet St. Louis, Inc. be classified as a competitive telecommunications company for which 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
392.330	- issuance of securities, debts and notes
392.340	- reorganization(s)

Commission Rules

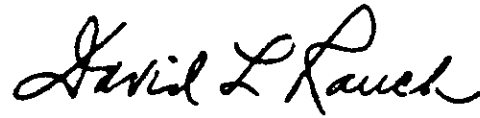
4 CSR 240-10.020	- depreciation fund income
4 CSR 240-30.010(2)(C)	- rate schedules
4 CSR 240-32.030(1)(B)	- exchange boundary maps
4 CSR 240-32.030(1)(C)	- record keeping
4 CSR 240-32.030(2)	- in-state record keeping
4 CSR 240-32.050(3)	- local office record keeping
4 CSR 240-32.050(4)	- telephone directories
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. That FiberNet St. Louis, Inc. shall file tariffs within thirty (30) days of the effective date of this order and that the tariffs shall identify Company as a competitive company and identify each statute or regulation waived by this order.

5. That FiberNet St. Louis, Inc. shall file its PIU reports as set out above.

6. That this order shall become effective on February 8, 1994.

BY THE COMMISSION

A handwritten signature in cursive script, reading "David L. Rauch".

David L. Rauch
Executive Secretary

(S E A L)

Mueller, Chm., McClure, Perkins,
Kincheloe and Crumpton, CC., Concur.