

STATE OF MISSOURI
PUBLIC SERVICE COMMISSION

At a Session of the Public Service
Commission held at its office
in Jefferson City on the 21st
day of April, 1995.

In the matter of the application of)
Avant-Garde Telecommunications of Missouri,)
Inc. for a certificate of service authority)
to provide intrastate interexchange and)
local exchange telecommunications service)
and petition for classification as a)
competitive telecommunications company)
providing competitive telecommunications)
services.)

CASE NO. TA-95-268

ORDER APPROVING INTEREXCHANGE AND LOCAL EXCHANGE CERTIFICATES OF SERVICE
AUTHORITY AND ORDER APPROVING TARIFF

Avant-Garde Telecommunications of Missouri, Inc. applied to the Public Service Commission on March 7, 1995, for a certificate of service authority to provide intrastate interexchange and local exchange telecommunications services in Missouri under § 392.410 - .450 RSMo 1994. Avant-Garde asked the Commission to classify it as a competitive company and waive certain statutes and rules as authorized by §§ 392.361 and 392.420. Applicant is a Delaware corporation, with its principal office at 1146 19th Street, N.W., Suite 200, Washington, D.C. 20036.

The Commission issued a Notice and Schedule of Applicants on March 21, 1995, directing parties wishing to intervene in the case to do so by April 5, 1995. Since no one requested a hearing or permission to intervene, the Commission determines that no hearing is necessary. *State ex rel. Rex Deffenderfer Enterprises, Inc. v. Public Service Commission*, 776 S.W.2d 494, 496 (Mo.App. 1989).

Avant-Garde filed a proposed tariff in conjunction with its application on March 7, 1995, with an effective date of April 21, 1995, and filed substitute sheets on March 17, 1995. A substitute sheet was again filed on April 17, 1995, and the effective date extended to April 26, 1995. Avant-Garde's tariff describes the rates, rules, and regulations it intends to use, identifies Avant-Garde as a competitive company, and lists the waivers requested. Avant-Garde intends to provide interexchange telecommunications services and dedicated, non-switched local exchange private line services.

In its Memorandum filed April 18, 1995, 1995, the Staff of the Commission stated that Applicant's proposed services are the same or equivalent to those classified as competitive in Case No. TO-88-142, *In re the investigation for the purpose of determining the classification of the services provided by interexchange telecommunications companies within the State of Missouri*, 30 Mo. P.S.C. (N.S.) 16 (September 1989). Staff recommended that the Commission grant Applicant a certificate of interexchange service authority, and a certificate of service authority for local exchange telecommunication services on condition that this authority be restricted to providing dedicated, non-switched local exchange private line services. Staff recommended that the Commission grant Applicant competitive status, and waiver of the statutes and rules ordinarily waived for competitive companies. Staff also recommended that the Commission waive 4 CSR 240-33.020(1)(C)[billing period] and 4 CSR 240-33.040(1)[billing period] and (5)[finance fee], but not 4 CSR 240-33.040(4)[preferred payment] as initially requested. Staff recommended that the Commission approve the tariff as amended, effective April 26, 1995.

The Commission finds that competition in the intrastate interexchange telecommunications market is in the public interest and Applicant should be granted a certificate of service authority. The Commission finds that the services Applicant proposes to offer are competitive and Applicant should be classified as a competitive company. The Commission is of the opinion that waiving the statutes and Commission rules set out in Ordered Paragraph 2 is reasonable and not detrimental to the public interest.

The Commission determines, by authority of § 392.470, that Applicant should comply with the following regulatory requirements as reasonable and necessary conditions of certification:

- (1) Applicant must comply with reasonable requests by Staff for financial and operating data to allow Staff to monitor the intraLATA toll market. § 386.320.3.
- (2) Applicant must file tariffs containing rules and regulations applicable to customers, a description of the services provided, and a list of rates associated with those services in accordance with 4 CSR 240-30.010 and § 392.220.
- (3) Applicant may not unjustly discriminate between its customers. §§ 392.200, 392.400.
- (4) Applicant must comply with all applicable rules of the Commission except those specifically waived by this order. §§ 386.570, 392.360.
- (5) Applicant must file a Missouri-specific annual report. §§ 392.210, 392.390.1.

- (6) Applicant must comply with jurisdictional reporting requirements as set out in each local exchange company's access services tariffs. \$ 392.390.3.
- (7) Applicant must submit to the staff, on a confidential basis, a copy of the jurisdictional report it submits to local exchange companies. The report must be submitted within ten (10) days of the date on which it is submitted to the local exchange company.

The Commission finds that Avant-Garde's proposed tariff details the services, equipment, and pricing it proposes to offer, and is similar to tariffs approved for other Missouri certificated interexchange carriers. The Commission finds that the proposed tariff filed on March 7, 1995, and amended on March 17 and April 17, 1995, should be approved, effective April 26, 1995.

IT IS THEREFORE ORDERED:

1. That Avant-Garde Telecommunications of Missouri, Inc. be granted a certificate of service authority to provide intrastate interexchange telecommunications services in the state of Missouri, subject to the conditions of certification set out above.

2. That Avant-Garde Telecommunications of Missouri, 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, subject to the conditions of certification set out above.

3. That Avant-Garde Telecommunications of Missouri, Inc. be classified as a competitive telecommunications company. 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 240-33.020(1)(C) - definitions - billing period
- 4 CSR 240-33.030 - minimum charges rule
- 4 CSR 240-33.040(1) - billing period
- 4 CSR 240-33.040(5) - finance fee

4. That the tariff filed by Avant-Garde Telecommunications of Missouri, Inc. on March 7, 1995, be approved as amended, effective April 26, 1995. The tariff approved is:

P.S.C. Mo. No. 1.

5. That this order shall become effective on April 26, 1995.

BY THE COMMISSION



(S E A L)

David L. Rauch
Executive Secretary

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