

STATE OF MISSOURI  
PUBLIC SERVICE COMMISSION

At a Session of the Public Service  
Commission held at its office  
in Jefferson City on the 16th  
day of June, 1995.

In the matter of the application of Cell     )  
Five, Corporation for a certificate of     )  
service authority to provide intrastate     ) CASE NO. TA-95-328  
interexchange telecommunications services     )  
to the public within the State of Missouri. )

ORDER APPROVING INTEREXCHANGE CERTIFICATE OF SERVICE AUTHORITY AND  
ORDER APPROVING TARIFF

Cell Five Corporation applied to the Public Service Commission on April 21, 1995, for a certificate of service authority to provide intrastate interexchange telecommunications services in Missouri under § 392.440 RSMo 1994<sup>1</sup>. Cell Five 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 Missouri corporation, with its principal office at Hwy 6 E., Hurdland, Missouri 63547.

The Commission issued a Notice and Schedule of Applicants on May 2, 1995, directing parties wishing to intervene in the case to do so by May 17, 1995. Both Southwestern Bell Telephone Company (Bell) and GTE Midwest Incorporated (GTE) filed applications to intervene on June 13, 1995. Cell Five responded to those applications on June 15 and 16, 1995.

Cell Five filed a proposed tariff on May 19, 1995, and filed substitute sheets on June 5, 1995. The tariff's effective date is June 18, 1995. Cell Five's tariff describes the rates, rules, and regulations it intends to use, identifies Cell Five as a competitive company, and lists

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<sup>1</sup>All statutory references are to Revised Statutes of Missouri 1994.

the waivers requested. Cell Five intends to provide interexchange telecommunications services including private line services.

In its Memorandum filed June 7, 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 service authority, competitive status, and waiver of the statutes and rules listed in the Notice. Staff recommended that the Commission approve the tariff as amended, effective June 18, 1995.

Staff advises that Cell Five is a wholly-owned subsidiary of Mark Twain Rural Telephone Company, a telephone cooperative. Cell Five proposes to provide private line services for distance-learning to two school districts, one located in Southwestern Bell Telephone's local exchange area and the other in GTE's local exchange area. Cell Five's service will consequently be competing with similar services offered by Bell and GTE. Bell currently has a distance-learning tariff pending before the Commission in Case No. TT-95-275.

The Commission, after reviewing the application, applications to intervene, and responses finds that the applications to intervene were untimely filed. The Commission further finds that the reasons for intervention set forth by Bell fail to show an interest in the case different from that of the general public or that a grant of intervention would be in the public interest. Bell failed to show the good cause for failure to file a timely application required by 4 CSR 240-2.110(11). The Commission finds that the reasons for intervention set forth by GTE fail

to show an interest in the case different from that of the general public or that a grant of intervention would be in the public interest. GTE also failed to show the good cause for failure to file a timely application required by 4 CSR 240-2.110(11). Both the applications to intervene should be denied. Therefore, since no one made a timely request for 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).

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 Cell Five'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 May 19, 1995, and amended on June 5, 1995, should be approved, effective June 18, 1995.

**IT IS THEREFORE ORDERED:**

1. That the application to intervene filed by Southwestern Bell Telephone Company on June 13, 1995, be denied.
2. That the application to intervene filed by GTE Midwest Incorporated on June 13, 1995, be denied.
3. That Cell Five Corporation 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.

4. That Cell Five Corporation 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 240-33.030	- minimum charges rule

5. That the tariff filed by Cell Five Corporation on May 19, 1995, be approved as amended, effective June 18, 1995. The tariff approved is:

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

6. That this order shall become effective on June 18, 1995.

BY THE COMMISSION



David L. Rauch  
Executive Secretary

(S E A L)

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