

At a session of the Public Service Commission held at its office in Jefferson City on the 3rd day of October, 1995.

)
) Case No. TF-96-89
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DTI indicates that the financing contemplated by the application will be used for the construction of facilities, more specifically for the purchase of fiber optic cable, materials, and contract services related to the establishment of DTI's fiber optic network in the state of Missouri. DTI notes that the financing contemplated by this application is one of a series of transactions between DTI and Southwest Bank of St. Louis, Missouri, involving the financing of the installation of DTI's fiber optic network. The first financing transaction was approved by the Commission on June 30, 1995, in Case No. TF-95-428, which consisted of \$1 million financing for a period of 120 days. In addition, DTI maintains that the loan facility will in no way adversely affect the public interest, but will instead benefit Missouri subscribers of DTI, and members of

the public, including hospitals, educational institutions, and the state of Missouri.

On September 29, 1995, the Staff of the Commission (Staff) filed a memorandum containing its recommendation that DTI's financing application be approved. Staff explains the proposed financing, and indicates that a copy of the financing agreement was included with the application. Staff states that DTI has been classified as a competitive telecommunications company, and notes that in prior cases, the Commission has routinely granted waivers of relevant statutes concerning the need to obtain Commission approval to incur debt for competitively classified companies. Staff therefore believes that applications to approve debt obligations, such as the encumbrance of property by competitive telecommunications companies, should receive minimal, if any, regulatory scrutiny. In addition, the Staff notes that the Commission approved a similar transaction involving DTI in Case No. TF-95-428. Based on the above considerations, Staff recommends that the Commission approve the application at its earliest convenience.

The Commission has reviewed the application of DTI, and has reviewed the recommendation of Staff, and determines that DTI should be granted authority to enter into the financing transaction contemplated by the application. The Commission is of the opinion that both the financing transaction and the purposes to which the loan proceeds are to be applied appear reasonable. The Commission also agrees with Staff that as DTI is a competitive telecommunications company, only minimal regulatory scrutiny of its financing transactions is needed, and the Commission so finds. The Commission notes that in the event the proposed financing transaction resulted in an adverse effect on DTI's financial health, that adverse effect would pose little or no risk to Missouri customers, as DTI's customers would be free to switch to a competing telecommunications service provider. Thus, the Commission finds that the proposed financing transaction is

reasonably required for the purposes specified in this order, and such purposes are in no part reasonably chargeable to operating expenses or to income except in the case of bonds, notes or other evidence of indebtedness as may be permitted in this order.

In its application, DTI requests that the Commission approve its financing on an expedited basis, as the proposed financing is for short term credit for immediate construction needs, and thus time is of the essence. Given the need and short term nature of the proposed financing, the Commission finds good cause to grant expedited treatment as requested.

IT IS THEREFORE ORDERED:

1. That Digital Teleport, Inc. is hereby authorized to enter into a financing agreement with Southwest Bank of St. Louis, Missouri, for a line of credit, in the amount of \$850,000, as contemplated by DTI's application and this order.
2. That the proceeds realized from the proposed financing transaction shall be used for the purposes specified herein and no other.
3. That Digital Teleport, Inc. be authorized hereby to execute, deliver, and perform the necessary agreements relative to the financing authorized herein.
4. That Digital Teleport, Inc. be authorized hereby to do all things not contrary to the law or to the rules and regulations of the Commission, necessary to the performance of the acts specifically authorized in this order, including the execution of such other agreements and documents as are reasonably necessary to the furtherance of the financing authorized herein.
5. That this application shall be granted expedited treatment.

6. That this order shall become effective on the date hereof.

BY THE COMMISSION



David L. Rauch
Executive Secretary

(S E A L)

Mueller, Chm., Crumpton, and
Drainer, CC., Concur.
Mcclure and Kincheloe, CC.,
Absent.