

STATE OF MISSOURI
PUBLIC SERVICE COMMISSION

At a Session of the Public Service
Commission held at its office
in Jefferson City on the 28th
day of March, 1995.

In the matter of the application of)
Kansas City Fiber Network, L.P., for)
a certificate of service authority to)
provide interexchange and local)
exchange telecommunications services)
and for designation as a competitive)
telecommunications company.)

CASE NO. TA-95-221

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

On January 27, 1995, Kansas City Fiber Network, L.P., (K.C. Fiber or Applicant) applied to the Missouri Public Service Commission (Commission) for a certificate of service authority to provide intrastate interexchange telecommunications services and local exchange telecommunications services within the state of Missouri pursuant to §§ 392.410 through 392.450 RSMo 1994. Applicant also applied for classification as a competitive telecommunications company pursuant to § 392.361 RSMo 1994, and for waiver of certain statutes and Commission rules as authorized by § 392.420 RSMo 1994. The Commission issued its Notice and Schedule of Applicants on February 7, 1995, directing parties wishing to intervene in the case to do so by February 22, 1995. There were no motions filed for permission to intervene or for hearing. K. C. Fiber was also directed to file a proposed tariff, carrying a thirty-day effective date, reflecting the rates, rules, and regulations under which it proposes to offer services in Missouri.

K. C. Fiber filed its proposed tariff on February 27, 1995, with an effective date of March 27, 1995, which was later extended to March 29, 1995. K. C. Fiber filed substitute sheets on March 16, 17, and 20, 1995. In addition to the rates, rule, and regulations it intends to use for providing services, the tariff also identifies Applicant as a competitive telecommunications provider, and indicates the statutory and regulatory requirements expected to be waived by the Commission. Applicant is proposing to provide switched and dedicated interexchange telecommunications services including 1.54 Mbps and 44.6 Mbps private line services within a local exchange area.

On March 21, 1995, the Staff of the Commission (Staff) filed its Memorandum recommending approval of Company's application for certificates of service authority to provide intrastate interexchange and local exchange telecommunications services, and recommending approval of the proposed tariff. Staff recommended approval of the 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), and recommended that the Commission grant Applicant competitive status on that basis. Staff also recommended that World Wide be granted waiver of certain statutes and Commission rules which have been waived for other competitive telecommunications companies. In its application K. C. Fiber requested

statute and rule waivers in addition to those ordinarily granted to competitive companies. After discussions with Staff, Applicant withdrew its request for all but the standard waivers listed in this order.

Staff stated that it had reviewed the proposed tariff and substitute sheets and concluded that it clearly and comprehensively describes the terms and conditions of the services to be offered, and that those services are within the scope of the certificates of authority requested. Staff concluded that the proposed tariff, as amended, is consistent with service offerings currently available from other certificated interexchange and local exchange carriers and approved by the Commission, and is in compliance with Commission rules and regulations. Staff recommended that the tariff, as amended, be approved for services on and after March 29, 1995.

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 February 7, 1995, and interested parties were directed to intervene on or before February 22, 1995. Since no one has filed an application to intervene or request 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 rel. 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 Applicant is a limited partnership, in good standing in the State of Missouri, with its principal office or place of business at 324 E. 11th Street, Suite 1821, Kansas City,

Missouri 64106. 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 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 § 392.361 RSMo 1994.

The Commission determines that, pursuant to § 392.470 RSMo 1994, 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 § 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 § 392.220 RSMo 1994, 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 §§ 392.200 and 392.400 RSMo 1994.
- (5) Applicant is required by § 386.570 RSMo (1986), and § 392.360 RSMo 1994, 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 §§ 392.210 and 392.390.1 RSMo 1994.
- (7) Applicant is required to comply with jurisdictional reporting requirements as set out in each local exchange company's access services tariffs pursuant to § 392.390.3 RSMo 1994.
- (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 finds that K.C. Fiber's proposed tariff details the services, equipment, and pricing it proposes to offer, and is similar to those which have been approved for other Missouri certificated interexchange and local exchange carriers providing similar services. The Commission further finds that the proposed tariff filed on February 27, 1995, should be approved as amended, for service on and after March 29, 1995.

IT IS THEREFORE ORDERED:

1. That Kansas City Fiber Network, L.P. be granted a certificate of service authority to provide intrastate interexchange telecommunication services in the state of Missouri, subject to the conditions of certification set out above.

2. That Kansas City Fiber Network, L.P., 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 and subject to the conditions of certification set out above.

3. That Kansas City Fiber Network, L.P., 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 Kansas City Fiber Network, L.P., shall file its PIU reports as set out above.

5. That the tariff filed by Kansas City Fiber Network, L.P., on February 27, 1995, be approved as amended, for service on and after March 29, 1995. The tariff approved is:

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

6. That this order shall become effective on the 29th day of March, 1995.

BY THE COMMISSION



David L. Rauch
Executive Secretary

(S E A L)

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