

BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI

In the matter of the application of U.S. Long Distance,)
Inc., for a certificate of service to provide intrastate)
telecommunications services.)

CASE NO. TA-91-390

APPEARANCES: Willard C. Reine, Attorney at Law, 314 East High Street,
Jefferson City, MO 65101, for U.S. Long Distance, Inc.

HEARING

EXAMINER: Beth O'Donnell

REPORT AND ORDER

On June 14, 1991, U.S. Long Distance, Inc. (Applicant) filed its verified application for a certificate of service authority authorizing it to provide intrastate interexchange telecommunications services. Applicant has also requested classification as a competitive company and waiver of certain Missouri statutes and Commission rules.

The Commission issued its Order and Notice on June 28, 1991, directing its Executive Secretary to send notice of this application. No applications to intervene were filed. A motion to schedule hearing was withdrawn. On December 30, 1991, the Staff of the Missouri Public Service Commission (Staff) filed its memorandum recommending approval of the application.

Findings of Fact

The Missouri Public Service Commission, having considered all of the competent and substantial evidence upon the whole record, makes the following findings of fact.

Pursuant to Section 392.440, RSMo Cum. Supp. 1991, Applicant requests authority to provide intrastate interexchange telecommunications services in the State of Missouri. Pursuant to Section 392.361, RSMo Cum. Supp. 1991, Applicant also

requests that the Commission classify it as a competitive telecommunications company and waive application to it of certain Missouri statutes and Commission rules.

The requirement of a hearing has been fulfilled when all those having a desire to be heard are offered such an opportunity. In this case, notice was sent by the Executive Secretary of the Commission to any persons or entities known to the Telecommunications Department of the Public Service Commission to be rendering identical or similar services within the service area proposed by this application, as well as to each telephone company rendering local exchange service in Missouri. Interested persons or entities were directed to intervene on or before July 29, 1991. Since no proper party or governmental entity filed an application to intervene and neither the Staff nor the Office of Public Counsel now request a hearing, the Commission determines that an oral 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).

The Commission finds that Applicant is a Texas corporation authorized to do business in the state of Missouri, with its principal office or place of business located at 9311 San Pedro, Suite 300, San Antonio, Texas 78216. The Commission further 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 any terms and conditions which the Commission may impose. By memorandum filed herein Staff recommends that the Commission grant Applicant a certificate of service authority.

Based upon the verified statements of Applicant and the recommendations of Staff, the Commission finds that Applicant is qualified to perform the service proposed. Pursuant to Sections 392.440 and 392.530, RSMo Cum. Supp. 1991, the Commission will assume that additional competition in the intraLATA and interLATA toll markets is in the public interest. The Commission does not deem it necessary to determine a public need for each reseller's services as the market would eliminate

any reseller for which there is no public need. Consequently, pursuant to Section 392.440, RSMo Cum. Supp. 1991, the Commission finds that it is in the public interest to grant Applicant a certificate of service authority to provide intrastate interexchange telecommunications services.

Applicant proposes to provide the following services: 1+ service and operator services to primarily hotel/motel businesses and residential customers. Applicant proposes to provide 0+ and 1+ service through a contractual agreement with MCI while 0- calls will be directed to the local exchange company. By its recommendation filed herein Staff states that these services are the same as those services which were 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* (September 15, 1989). Therefore, Staff recommends that the Commission grant Applicant competitive status.

Based upon the verified statement of Applicant and Staff's recommendation, the Commission finds that all of the services Applicant proposes to offer are competitive and that Applicant should, therefore, be classified as a competitive company. The Commission further finds that the statutory and regulatory requirements waived in Case No. TO-88-142 for competitive companies and their services pursuant to Section 392.361, RSMo Cum. Supp. 1991, should be waived for Applicant, as listed hereinafter.

Additionally, Applicant requests waiver of Sections 392.290, 392.310, 392.320, 392.330, and 392.340, RSMo Cum. Supp. 1991, as well as the Commission's Rule, 4 CSR 240-33.030. These statutory provisions concern the Commission's authority to regulate a carrier's issuance of stocks, bonds and other indebtedness as well as the capital reorganization of a carrier. The rule in question requires a carrier to inform customers of the lowest price service. Staff notes that these statutes and rules have been waived for other telecommunications companies as found

in the Commission's orders in Case Nos. TO-88-142 and TO-90-128. Therefore, Staff recommends that the Commission grant Applicant's request for additional waivers.

Pursuant to Section 392.470, RSMo Cum. Supp. 1991, the Commission determines that certain regulatory requirements should be imposed upon resellers authorized to provide telecommunications services in Missouri. Since the Applicant proposes to operate as a reseller of telecommunications services in this state, the Commission finds that the following regulatory requirements should be imposed upon Applicant as reasonable and necessary conditions of certification:

- (1) Applicant is required to comply with reasonable requests by the Staff for financial and operating data to allow the 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 the services pursuant to Section 392.220, RSMo Cum. Supp. 1991, and 4 CSR 240-30.010;
- (3) Applicant is precluded from unjustly discriminating between and among its customers pursuant to Section 392.200, RSMo Cum. Supp. 1991, and Section 392.400, RSMo Cum. Supp. 1991;
- (4) Applicant is required by Sections 386.570, RSMo 1986, and 392.360, RSMo Cum. Supp. 1991 to comply with all applicable rules of the Commission except those which are specifically waived by the Commission pursuant to Section 392.420, RSMo Cum. Supp. 1991;
- (5) Applicant is required to file a Missouri-specific annual report pursuant to Section 392.210, RSMo Cum. Supp. 1991, and Section 392.390.1, RSMo Cum. Supp. 1991;
- (6) Applicant is required, until the Commission orders otherwise, to submit to the Staff on a confidential basis, quarterly reports showing its percentage of interstate use and intrastate interLATA and intraLATA use pursuant to Section 392.390.3, RSMo Cum. Supp. 1991;

- (7) Pursuant to Section 392.390.3, RSMo Cum. Supp. 1991, Applicant is required to comply with the jurisdictional reporting requirements as set out in each local exchange company's access services tariff.

Finally, the Commission finds that Applicant should file appropriate tariffs within thirty (30) days of the effective date of this Report and Order. The certificate to be granted herein will become effective only upon approval by the Commission of these tariffs.

Conclusions of Law

The Missouri Public Service Commission has arrived at the following conclusions of law.

Applicant proposes to provide service to the public as a competitive intrastate interexchange telecommunications company subject to the Commission's jurisdiction pursuant to Chapters 386 and 392, RSMo Cum. Supp. 1991.

Based upon the verified application of Applicant and the recommendation of its Staff, the Commission has found that Applicant has complied with the Commission's standards pertaining to applications requesting authority to provide intrastate interexchange telecommunications services and is qualified to perform said services. The Commission concludes that additional competition in the intrastate interexchange market is in the public interest and a certificate of service authority should be granted. The Commission also has found that all the services Applicant proposes to offer are competitive. Therefore, the Commission concludes that Applicant should be classified as a competitive company pursuant to Section 392.361, RSMo Cum. Supp. 1991.

IT IS THEREFORE ORDERED:

1. That U.S. Long Distance, Inc., 9311 San Pedro, Suite 300, San Antonio, Texas 78216, be granted hereby a certificate of service authority to provide intrastate interexchange telecommunications services in Missouri. This certificate of service authority is subject to the conditions of certification set out herein and shall not become effective until the Commission approves Applicant's tariffs.

2. That U.S. Long Distance, Inc. be classified hereby as a competitive telecommunications company for which the effect of the following statutory and regulatory requirements shall be waived:

Section 392.240(1)	Commission ratemaking
Section 392.270	Property valuation
Section 392.280	Depreciation accounts
Section 392.290)	Carrier's issuance of stocks, bonds, and
Section 392.310)	other indebtedness as well as a carrier's
Section 392.320)	reorganization of its capitalization.
Section 392.330)	
Section 392.340)	
4 CSR 240-30.010(2)(C)	Copies of rate schedules
4 CSR 240-30.060(5)	Rate case requirements
4 CSR 240-32.030(1)(C)	Access line and grade of service complaints
4 CSR 240-32.050(3)	Information at business offices
4 CSR 240-32.050(4)	Telephone directories
4 CSR 240-32.050(5)	Call interception
4 CSR 240-32.050(6)	Telephone number changes
4 CSR 240-32.070(4)	Coin telephone
4 CSR 240-33.030	Inform customers of lowest priced service.

3. That U.S. Long Distance, Inc. shall file tariffs within thirty (30) days of the effective date of this Report and Order.

4. That nothing contained herein shall be construed as a finding by the Commission of the value for ratemaking purposes of the properties herein involved, nor as an acquiescence in the values placed upon said properties by the Applicant.

5. That U.S. Long Distance, Inc. shall file with the Commission's Staff on a quarterly basis reports showing its percentage of interstate use and intrastate interLATA and intraLATA use. The first such report shall be filed in the next quarterly period following the effective date of this Report and Order and quarterly thereafter on a confidential basis, unless otherwise ordered by the Commission.

6. That this Report and Order shall become effective on the 4th day of February, 1992.

BY THE COMMISSION

Brent Stewart

Brent Stewart
Executive Secretary

(S E A L)

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

Dated at Jefferson City, Missouri,
on this 22nd day of January, 1992.