

BEFORE THE PUBLIC SERVICE COMMISSION

OF THE STATE OF MISSOURI

In the matter of the application of Fiberoptic)
Alternative Systems Technologies, Inc. for)
permission, approval and certificate of) Case No. TA-91-257
authority to provide intrastate private line)
telecommunications services in the State)
of Missouri.

APPEARANCES: Richard S. Brownlee, Hendren & Andrae, The Monroe House,
235 East High, P.O. Box 1069, Jefferson City, Missouri
65102

HEARING

EXAMINER: Janet L. Sievert

REPORT AND ORDER

On January 16, 1991, Fiberoptic Alternative Systems Technologies, Inc. (Applicant) filed its verified application for a certificate of service authority authorizing it to provide intrastate interexchange telecommunications services.

The Commission issued its Order and Notice on February 13, 1991, directing its Executive Secretary to send notice of this application. No applications to intervene or motions to schedule a hearing were filed. On May 13, 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. 1990, Applicant requests authority to provide intrastate interexchange telecommunications services in the State of Missouri.

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 March 15, 1991. Since no proper party or governmental entity filed an application to intervene and neither the Staff nor the Office of Public Counsel requested 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 Missouri corporation authorized to do business in the state of Missouri, with its principal office or place of business located at 40 Timber Lane, Arnold, Missouri 63010. 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. 1990, 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. 1990, 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 service: private line.

Pursuant to Section 392.470, RSMo Cum. Supp. 1990, 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 Cum. Supp. 1990;
- (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. 1990, 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. 1990, and Section 392.400, RSMo Cum. Supp. 1990;
- (4) Applicant is required by Sections 386.570, RSMo 1986, and 392.360, RSMo Cum. Supp. 1990 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. 1990;
- (5) Applicant is required to file a Missouri-specific annual report pursuant to Section 392.210, RSMo Cum. Supp. 1990, and Section 392.390.1, RSMo Cum. Supp. 1990;
- (6) Applicant will be required 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. 1990, upon offering additional services;

- (7) Pursuant to Section 392.390.3, RSMo Cum. Supp. 1990, 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.

On May 24, 1991, Applicant filed a request to be classified as a competitive telecommunications company pursuant to Section 392.361, RSMo Cum. Supp. 1990, to provide interexchange private line service. In support of its request, Applicant states that interexchange private line service has been classified competitive in the Commission's Case No. TO-88-142, In re: The investigation for the purpose of determining the classification of the services provided by interexchange companies within the State of Missouri (1989). Applicant further states, in its original application, that interexchange private line service is the only service Applicant will provide.

The Commission is of the opinion that proper parties should be given an opportunity to intervene in Applicant's request for competitive status. A proper party shall be defined as any party who has the desire to contest the competitiveness of Applicant's service. Applications to intervene on this limited issue should be submitted to the Executive Secretary of the Missouri Public Service Commission, P.O. Box 360, Jefferson City, Missouri 65102, and copies sent to Richard Brownlee, III, Hendren and Andrae, 235 East High Street, P.O. Box 1069, Jefferson City, Missouri 65102 on or before June 25, 1991. The Executive Secretary of the Commission shall send a copy of this order to each telephone company rendering local exchange service in Missouri.

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 an intrastate interexchange telecommunications company subject to the Commission's jurisdiction pursuant to Chapters 386 and 392, RSMo Cum. Supp. 1990.

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 further determines that notice of Applicant's request for competitive status shall be given as provided above.

IT IS THEREFORE ORDERED:

1. That Fiberoptic Alternative Systems Technologies, Inc., 40 Timber Lane, Arnold, Missouri 63010 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 Fiberoptic Alternative Systems Technologies, Inc. shall file tariffs within thirty (30) days of the effective date of this Report and Order.

3. 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.

4. That any interested party wishing to intervene in Case No. TA-91-257 shall notify the Executive Secretary of the Missouri Public Service Commission and the aforementioned parties on or before June 25, 1991.

5. That this Report and Order shall become effective on June 7, 1991.

BY THE COMMISSION

Brent Stewart

Brent Stewart
Executive Secretary

(S E A L)

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

Dated at Jefferson City, Missouri,
on this 28th day of May, 1991.