

BEFORE THE PUBLIC SERVICE COMMISSION  
OF THE STATE OF MISSOURI

In the matter of the application of )  
WilTel, Inc. for a certificate of service )  
authority to provide intrastate interexchange )  
telecommunications services within the State )  
of Missouri as a competitive telecommunications )  
company, and for cancellation of the )  
certificate of WTG Network, Inc. )

Case No. TA-92-68

APPEARANCES: Brad E. Mutschelknaus, Attorney at Law, and Jane A. Fisher,  
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HEARING

EXAMINER: Janet L. Sievert

REPORT AND ORDER

On October 9, 1991, WilTel, Inc. and WTG Network, Inc. (WilTel) filed a joint verified application for a certificate of service authority authorizing WilTel to provide intrastate interexchange telecommunications services. Additionally, the application requested that WTG's certificate of service authority be cancelled upon the Commission granting WilTel's certificate of service authority.

The Commission issued its Order and Notice on November 1, 1991 directing its Executive Secretary to send notice of this application. No applications to intervene or motions to schedule a hearing were filed. On December 24, 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, WillTel requests authority to provide intrastate interexchange telecommunications services in the State of Missouri. Pursuant to Section 392.361, RSMo Cum. Supp. 1990, WillTel also requests that the Commission classify it as a competitive telecommunications company.

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 December 2, 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 WillTel is a Delaware corporation authorized to do business in the state of Missouri, with its principal office or place of business located at One William Center, P.O. Box 21348, Tulsa, Oklahoma 74121. The Commission further finds that WillTel 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 WillTel a certificate of service authority.

Based upon the verified statements of WilTel and the recommendations of Staff, the Commission finds that WilTel 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 WilTel a certificate of service authority to provide intrastate interexchange telecommunications services.

WilTel proposes to provide a variety of telecommunications services including message toll service, WATS/800, private line services, operator services to payphone systems and private networks at traffic aggregator locations. By its recommendation filed herein Staff states that these services are similar to services provided by other telecommunications companies which have previously received competitive classification by this Commission.

Based upon the verified statement of WilTel and Staff's recommendation, the Commission finds that all of the services WilTel proposes to offer are competitive and that WilTel 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. 1990, should be waived for WilTel, as listed hereinafter.

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 WilTel proposes to operate as a reseller of telecommunications services in this state, the Commission finds that the following regulatory requirements should be imposed upon WilTel as reasonable and necessary conditions of certification:

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

Staff further states that it has no objection to the transfer of WTG's customers to WilTel as long as the affected customers are properly notified. Staff recommends that notice should be given to WTG's existing customers at least ten (10) days prior to the proposed effective date of WilTel's tariff and should include information concerning any rate impact resulting from the transfer.

On November 7, 1991, WilTel filed a petition for emergency interim authority or expedited treatment of the application for permanent authority requesting authority to serve selected former customers of Telesphere Network, Inc. (TNI) and Telesphere Limited, Inc. (TLI). TNI and TLI are subsidiaries of Telesphere Communications, Inc. which filed for bankruptcy under Chapter 11 on September 11, 1991. Staff recommended that WilTel's request for interim authority or expedited treatment be denied as TNI and TLI have not been granted certificate of service authority by this Commission.

#### Conclusions of Law

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

WilTel 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. 1990.

Based upon the verified application of WilTel and the recommendation of its Staff, the Commission has found that WilTel 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 WilTel proposes to offer are competitive. Therefore, the Commission concludes that WilTel should be classified as a competitive company pursuant to Section 392.361, RSMo Cum. Supp. 1990.

The Commission determines that ten (10) days prior to the effective date of WilTel's tariffs, WTG shall give notice to its existing customers of the transfer to WilTel. The notice shall include any rate impact as a result of the transfer. The Commission further determines that WTG's certificate of service authority shall be cancelled when WilTel's tariffs are approved. Upon review of Staff's recommendation and the petition filed November 8, 1991, the Commission will deny WilTel's request for interim authority or expedited treatment of its request for permanent authority as TNI and TLI have not been granted a certificate of service authority by this Commission.

IT IS THEREFORE ORDERED:

1. That WilTel, Inc. 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 WilTel's tariffs.

2. That WilTel, 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
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)(B)(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 240-10.020	Prescribing the use of investment from depreciation funds

3. That WilTel, 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 WilTel.

5. That WilTel, 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 WTC's existing customers be given notice of the transfer and of any rate impact to WilTel ten (10) days prior to the effective date of WilTel's tariffs.

7. That WilTel's petition for interim authority or expedited treatment for permanent authority be, and is, hereby denied.

8. That this Report and Order shall become effective on January 14, 1992.

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 3rd day of January, 1992.