

BEFORE THE PUBLIC SERVICE COMMISSION

OF THE STATE OF MISSOURI

In the matter of the application of Prime-Link Communica-)
tions Corp. for a certificate of public convenience and) Case No. TA-90-281
necessity to provide intrastate intraLATA and interLATA)
toll telecommunications services.)

In the matter of the application of Columbia-Tel, Inc., to)
sell and transfer its franchise, works or system to Prime-) Case No. TM-90-199
Link Communications Corp.)
)

APPEARANCES: Dana L. Frese, Carson & Coil, P.C., Post Office Box 235,
Jefferson City, Missouri 65202, for Prime-Link Communications Corp.
and Columbia-Tel, Inc.

REPORT AND ORDER GRANTING CERTIFICATE OF AUTHORITY
AND AUTHORIZING SALE OF SYSTEM

On April 16, 1990, Prime-Link Communications Corp. (Prime-Link) applied for a certificate of authority under Section 392.440, R.S.Mo. (Cum. Supp. 1989) to provide intrastate intraLATA and interLATA toll telecommunications service. The Commission issued its Order And Notice on April 24, 1990, directing that notice be sent and setting an intervention deadline of May 24, 1990. No one sought to intervene or requested a hearing.

A companion case, TM-90-199, was filed by verified application by Columbia-Tel, Inc. (Columbia-Tel) on February 16, 1990, wherein Columbia-Tel sought Commission approval to sell its franchise, works or system to Prime-Link.

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.

In Case No. TA-90-281, Prime-Link requests authority to provide intrastate toll telecommunications services in the state of Missouri. In Case No. TM-90-199, Columbia-Tel seeks approval to sell its system to Prime-Link.

Prime-Link is a Missouri corporation with its principal office or place of business located at 209G East Green Meadows Road, Columbia, Missouri.

On September 28, 1987, House Bill 360 went into effect repealing Section 392.260, R.S.Mo. 1986, as well as twenty other sections of Chapters 386 and 392. Consequently, in considering Prime-Link's application, the Commission is bound by the terms of Sections 392.410, 392.430, and 392.440, R.S.Mo. (Cum. Supp. 1989). These sections permit the Commission to grant a certificate of service authority if it shall find that the granting of the authority is in the public interest. The Commission notes that in Case No. TX-85-10 at 10 Mo. Reg. 1048 (1985), the Commission made a Statement of Policy which set out certain standards pertaining to applicants requesting authority to provide interLATA telecommunications services. In *Re: Investigation into WATS resale by hotels/motels*, Case No. TO-84-222, et al. (effective on August 26, 1986), the Commission found it was reasonable to apply the same standards to applicants which desire to provide intraLATA toll services. The Commission believes this is consistent with the policy set forth in Section 392.530, R.S.Mo. (Cum. Supp. 1989).

Based upon the verified statements of Prime-Link and the recommendations, stated *infra*, of the Commission's Staff, the Commission finds that Applicant has complied with the Commission's standards and is qualified to perform the service proposed. In Case No. TX-85-10, the Commission stated that if an applicant is found to be fit pursuant to the Commission's standards, then the Commission will assume that additional competition in the interLATA market is in the public interest and a certificate of public convenience and necessity (now a "certificate of service authority" pursuant to H.B. 360) should be granted. Since the intraLATA toll market has been opened for competition, the Commission did not deem it necessary in Case No. TO-84-222, et al., to determine a public need for each reseller's services as the market would eliminate any reseller for which there was no public need. The Commission has determined that the same reasoning is appropriate in this case. Consequently, a grant of authority to provide interexchange toll service or the resale of

interexchange toll service will be deemed to be in the public interest in accordance with Sections 392.430 and 392.440, R.S.Mo. (Cum. Supp. 1989).

The Commission finds that Prime-Link has filed current financial information and a brief description of what type of service it proposes to provide, and has agreed to comply with all applicable Commission rules and regulations and any terms and conditions which the Commission may impose.

The Commission in Case No. TO-84-222, et al., determined that certain regulatory requirements should be imposed upon resellers which were authorized to provide intrastate interLATA and intraLATA telecommunications services in Missouri. The Commission notes that in Case No. TO-84-222, et al., it stated that for purposes of authorizing intraLATA competition, it could not find a rational basis to distinguish between resellers and facilities-based carriers. The Commission believes that the regulatory requirements imposed upon resellers should also be imposed upon facilities-based carriers (this term does not include basic local telecommunications service) which request authority to provide the same services. Therefore, the Commission finds that the following regulatory requirements should be imposed upon Prime-Link as reasonable and necessary conditions of certification:

- (1) Prime-Link 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, R.S.Mo. 1986;
- (2) Prime-Link 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, R.S.Mo. (Cum. Supp. 1989), and 4 CSR 240-30.010;
- (3) Prime-Link is precluded from unjustly discriminating between and among its customers pursuant to Section 392.200, R.S.Mo. (Cum. Supp. 1989), and Section 392.400, R.S.Mo. (Cum. Supp. 1989);
- (4) Prime-Link is required by Sections 386.570 and 392.360, R.S.Mo. (Cum. Supp. 1989), to comply with all applicable Commission rules

except those which are specifically waived by the Commission pursuant to Section 392.420, R.S.Mo. (Cum. Supp. 1989);

- (5) Prime-Link is required to file a Missouri-specific annual report pursuant to Section 392.210, R.S.Mo. (Cum. Supp. 1989), and Section 392.390(1), R.S.Mo. (Cum. Supp. 1989);
- (6) Prime-Link is required to submit Percentage of Interstate Use (PIU) reports, including the percentage of interstate use and the percentage of intrastate use, on a quarterly basis to the local exchange companies pursuant to Section 392.390(3), R.S.Mo. (Cum. Supp. 1989);
- (7) Prime-Link is required, until the Commission orders otherwise, to submit to the Public Service Commission Staff on a confidential basis, quarterly reports showing its percentage of intrastate intraLATA use pursuant to Section 392.390(3), R.S.Mo. (Cum. Supp. 1989);
- (8) Pursuant to Section 392.390(3), R.S.Mo. (Cum. Supp. 1989), Prime-Link is required to comply with the jurisdictional reporting requirements as set out in each local exchange company's access services tariff.

The Commission finds that Prime-Link should file appropriate tariffs within 30 days of the effective date of this Report And Order. The Commission also finds the certificate of authority granted herein should become effective on the effective date of the tariffs. The Commission finds that Prime-Link should file its PIU reports and its quarterly reports with the Staff within 30 days of the effective date of this Report And Order.

On May 22, 1990, the General Counsel's Office and the Staff recommended that Columbia-Tel, Inc.'s application to sell its system to Prime-Link be approved, stating that Prime-Link's marketing, financial and technical resources are sufficient to provide adequate service and that the sale is not detrimental to the public interest.

In the same recommendation, Staff states that Prime-Link's application for a certificate of authority should be approved, that doing so is not detrimental to

the public interest, and that Prime-Link and its services should be classified as "competitive" under Chapter 392, R.S.Mo.

The Commission finds that Prime-Link's application for a certificate of authority should be granted, and that granting said certificate is in the public interest.

The Commission also finds that Columbia-Tel's application to sell its system to Prime-Link, Case No. TM-90-199, is not detrimental to the public interest and should be approved.

Inasmuch as no one sought to intervene in either of these two cases by May 24, 1990, or requested a hearing thereon, the Commission finds that a hearing is not required. The requirement for a hearing in Section 392.440, R.S.Mo., is satisfied when, as here, the opportunity to be heard has been provided and no proper party requests same. *State ex rel. Deffenderfer Enterprises, Inc. v. PSC*, 776 S.W.2d 494, 496 (Mo. App. 1989). Applicants Columbia-Tel and Prime-Link have submitted their evidence by verified statements which, pursuant to Section 536.070(12), R.S.Mo. 1986, suffices to support the grants of authority herein contained.

Conclusions of Law

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

Applicant Prime-Link proposes to provide service to the public as a public utility subject to the Commission's jurisdiction under Chapters 386 and 392, R.S.Mo. (Cum. Supp. 1989). Applicant Columbia-Tel seeks Commission authorization to sell its system under Section 392.300, R.S.Mo. 1986.

Based on the verified applications of each applicant, the Commission has found that each has satisfied the statutory requirements and Commission standards pertaining to their applications. The Commission has also concluded that additional competition in the state telecommunications market is in the public interest and a certificate of authority should be granted to Prime-Link.

IT IS THEREFORE ORDERED:

1. That Prime-Link Communications Corp. be, and hereby is, granted a certificate of service authority to provide intrastate toll telecommunications services in Missouri. This certificate is subject to the conditions of certification set out in this Report And Order.

2. That nothing herein contained 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 Prime-Link Communications Corp.

3. That Prime-Link Communications Corp. is a competitive telecommunications carrier offering competitive services and is exempt from those statutes and rules specified in Commission Case No. TO-88-142.

4. That Prime-Link Communications Corp. file any additional request for variance from the Commission's rules that may be necessary as a result of the grant of this authority within thirty (30) days of the effective date of this Report And Order.

5. That Prime-Link Communications Corp. file its PIU reports as discussed herein within thirty (30) days of the effective date of this Report And Order.

6. That the sale and transfer of the franchise, works and system of Columbia-Tel, Inc., to Prime-Link Communications Corp. be hereby approved, and the certificate of authority authorizing Columbia-Tel, Inc. to provide telecommunications service be hereby canceled.

7. That this Report And Order shall become effective on the 10th day of July, 1990.

BY THE COMMISSION



Harvey G. Hubbs
Secretary

(S E A L)

Steinmeier, Chm., Mueller, Rauch,
McClure and Letsch-Roderique, CC.,
concur.

Dated at Jefferson City, Missouri,
on this 29th day of June, 1990.