

BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI

In the matter of the application of Long Distance)
Network, Inc., for a certificate of service authority) CASE NO. TA-92-70
to provide intrastate interexchange telecommunications)
services.)

APPEARANCES: James M. Fischer, Attorney at Law, Akre, Wendt & Fischer,
120 East High Street, Suite 200, Jefferson City,

HEARING

EXAMINER: Mark A. Grothoff

REPORT AND ORDER

On October 9, 1991, Long Distance Network, Inc., (Applicant) filed a 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.

On October 22, 1991, the Commission issued its Order and Notice directing its Executive Secretary to send notice of the application. No applications to intervene were filed. On October 16, 1991, the Office of the Public Counsel (OPC) filed a motion requesting a hearing. On October 22, 1991, the Commission scheduled a hearing for December 5, 1991. On October 25, 1991, OPC filed a request for permission to withdraw its motion for hearing. On November 1, 1991, the Commission canceled the scheduled hearing. On January 17, 1992, the Staff of the Commission (Staff) filed a memorandum recommending the Commission approve 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.

Applicant requests authority to provide intrastate interexchange telecommunications services in the State of Missouri, pursuant to Section 392.440, RSMo (Cum. Supp. 1990). Applicant also requests that the Commission classify it as a competitive telecommunications company, pursuant to Section 392.361, RSMo (Cum. Supp. 1990).

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 were directed to intervene on or before November 22, 1991. Since no one filed an application to intervene, the Staff did not request a hearing, and OPC withdrew its hearing request, the Commission determines that an oral hearing is not necessary and 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 2400 Lakeside Boulevard, Richardson, Texas 75082. 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 its memorandum filed on January 17, 1992, 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 resell competitive long distance services. By its recommendation, Staff states that these services are the same as 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 the services Applicant proposes to offer are competitive and that Applicant should 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 Applicant, 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 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 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), 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. 1990).

Based upon Applicant's verified application and Staff's recommendation, 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 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. 1990).

IT IS THEREFORE ORDERED:

1. That Long Distance Network, Inc. be hereby granted a certificate of service authority to provide intrastate interexchange telecommunications services in Missouri.
2. That the certificate of service authority granted in Ordered Paragraph 1 is subject to the conditions of certification set out herein and shall not become effective until the Commission approves Applicant's tariffs.
3. That Long Distance Network, Inc. be hereby classified as a competitive telecommunications company for which the effect of the following statutory and regulatory requirements shall be waived:

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|------------------------|------------------------------|
| Section 392.240(1) | Commission ratemaking |
| Section 392.270 | Property valuation |
| Section 392.280 | Depreciation accounts |
| Section 392.310 | Issuance of stocks and bonds |
| Section 392.320 | Stock dividends |
| Section 392.340 | Reorganization |
| 4 CSR 240-30.010(2)(C) | Copies of rate schedules |

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|----------------------------|---------------------------------------------|
| 4 CSR 240-30.060(5)(B)-(O) | 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 | Information on lowest price available. |

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

5. 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 Applicant.

6. That Long Distance Network, 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.

7. That this Report and Order shall become effective on the 8th day of February, 1992.

BY THE COMMISSION

Brent Stewart

Brent Stewart
Executive Secretary

(S E A L)

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

Dated at Jefferson City, Missouri,
on this 29th day of January, 1992.