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**STATE OF MISSOURI
PUBLIC SERVICE COMMISSION**

At a session of the Public Service
Commission held at its office
in Jefferson City on the 8th
day of August, 1997.

In the Matter of the Application of Speer Virtual)
Media Limited Partnership for a Certificate of)
Service Authority to Resell Intrastate Inter-)
exchange Telecommunications Services Within the)
State of Missouri.)
)

Case No. TA-97-505

ORDER LIFTING SUSPENSION,
GRANTING INTEREXCHANGE CERTIFICATE OF SERVICE AUTHORITY,
AND APPROVING TARIFF

Speer Virtual Media Limited Partnership (SVM) applied to the Missouri Public Service Commission on May 19, 1997, for a certificate of service authority to provide intrastate interexchange telecommunications services within the State of Missouri, for classification as a competitive telecommunications company, and for waiver of certain statutes and Commission rules as authorized by statute. The Commission issued its Notice of Applications on May 27, directing parties wishing to intervene in the case to do so by June 11. SVM also filed a proposed tariff with its application, carrying a 45-day effective date, reflecting the rates, rules and regulations under which it proposes to offer services in Missouri. The proposed tariff was filed on May 19, to become effective on July 3; the effective date was later extended to July 17. Substitute sheets were filed on June 4 and July 3. There were no applications filed for intervention.

SVM is proposing to offer a prepaid calling card on an individual case basis, known as an ICB. The calling card is designed as an

advertising medium - SVM's customers will purchase the cards and pass them on to end users at no charge. The end user will hear an audio billboard on each use. The long distance service rate will be a tariffed rate, but the end user will not be charged for the time during which the audio billboard is playing.

The Commission Staff filed a memorandum on July 8 recommending that the Commission approve SVM's application for a certificate of service authority and approve the proposed tariff to become effective on July 17. Staff pointed out that the service being proposed in this case is the first of its kind to be offered in Missouri. Staff's recommendation included a discussion of the payphone surcharge of \$.35 per call that SVM had proposed and of possible inconsistencies between this tariff provision and that Federal Communication Commission's (FCC) Order in CC Docket 96-128¹.

Staff's analysis of the legal issues involved caused the Commission sufficient concern to issue an order suspending the tariff sheets until November 14 or until otherwise ordered. In that order, issued on July 16, the Commission established a procedural schedule.

SVM filed a Motion to Lift Suspension of Tariffs and Cancel Procedural Schedule on July 18. SVM stated that it believed its proposed tariffs, including the \$.35 surcharge for dial-around calls from payphone locations in Tariff Sheet No. 81, are lawful. However, rather than litigate the matter at this time, SVM withdrew Tariff Sheet No. 81 by letter dated July 18, eliminating the \$.35 surcharge. SVM asked the Commission to lift the suspension of the proposed tariff sheets, as amended, cancel the procedural schedule, and issue an order approving the

¹ Implementation of the Pay Telephone Reclassification and Compensation Provisions of the Telecommunications Act of 1996, CC Docket No. 96-128, Report and Order, FCC 96-388 (Fed. Comm. Comm'n, Sept. 20, 1996).

certificate of service authority requested and the amended set of tariff sheets.

Staff filed a response on July 29 stating that, since SVM has withdrawn Tariff Sheet No. 81, there is no longer any dispute regarding the company's application or tariff filing. Staff supported SVM's request for relief.

The Commission has reviewed the entire case file, SVM's motion, and Staff's response and finds that SVM's motion is reasonable and should be granted. The company has withdrawn the tariff sheet that created the concern and no dispute remains. Therefore, the Commission will grant the certificate of service authority requested and approve SVM's tariff, as amended. The requirement for a hearing is met when the opportunity for hearing has been provided and no proper party has requested the opportunity to present evidence. State ex rel. Rex Deffenderfer Enterprises, Inc. v. Public Service Commission, 776 S.W.2d 494, 496 (Mo. App. 1989). Since no one has asked permission to intervene or requested a hearing in this case, the Commission may grant the relief requested based on the verified application.

The Commission finds that competition in the intrastate interexchange telecommunications market is in the public interest and SVM should be granted a certificate of service authority. The Commission finds that the services SVM proposes to offer are competitive and SVM should be classified as a competitive company. Waiving the statutes and Commission rules set out in Ordered Paragraph 4 is reasonable and not detrimental to the public interest.

The Commission determines, by authority of Section 392.470, that SVM should comply with the following regulatory requirements as reasonable and necessary conditions of certification:

- (1) SVM must comply with reasonable requests by Staff for financial and operating data to allow Staff to monitor the intraLATA toll market. § 386.320.3.
- (2) SVM must file tariffs containing rules and regulations applicable to customers, a description of the services provided, and a list of rates associated with those services in accordance with 4 CSR 240-30.010 and Section 392.220.
- (3) SVM may not unjustly discriminate between its customers. §§ 392.200, 392.400.
- (4) SVM must comply with all applicable rules of the Commission except those specifically waived by this order. §§ 386.570, 392.360.
- (5) SVM must file a Missouri-specific annual report. §§ 392.210, 392.390.1.
- (6) SVM must comply with jurisdictional reporting requirements as set out in each local exchange company's access services tariffs. § 392.390.3.
- (7) SVM must submit to the staff, on a confidential basis, a copy of the jurisdictional report it submits to local exchange companies. The report must be submitted within ten (10) days of the date on which it is submitted to the local exchange company.

The Commission finds that SVM's proposed tariff details the services, equipment and pricing it proposes to offer, and is similar to

tariffs approved for other Missouri certificated interexchange carriers. The Commission finds that the proposed tariff filed on May 19 should be approved, as amended, to become effective on August 11.

IT IS THEREFORE ORDERED:

1. That the Motion to Lift Suspension of Tariffs and Cancel Procedural Schedule filed by Speer Virtual Media Limited Partnership on July 18, 1997, is granted.

2. That the procedural schedule established by the Commission in its order issued on July 16, 1997, is canceled.

3. That Speer Virtual Media Limited Partnership is granted a certificate of service authority to provide intrastate interexchange telecommunications services in the State of Missouri, subject to the conditions of certification set out above.

4. That Speer Virtual Media Limited Partnership is classified as a competitive telecommunications company. The following statutes and regulatory rules shall be waived:

Statutes

392.240(1) - ratemaking
392.270 - valuation of property (ratemaking)
392.280 - depreciation accounts
392.290 - issuance of securities
392.310 - stock and debt issuance
392.320 - stock dividend payment
392.330 - issuance of securities, debts and notes
392.340 - reorganization(s)

Commission Rules

4 CSR 240-10.020 - depreciation fund income
4 CSR 240-30.010(2)(C) - rate schedules
4 CSR 240-30.040 - Uniform System of Accounts
4 CSR 240-32.030(1)(B) - exchange boundary maps
4 CSR 240-32.030(1)(C) - record-keeping
4 CSR 240-32.030(2) - in-state record-keeping
4 CSR 240-32.050(3) - local office record-keeping

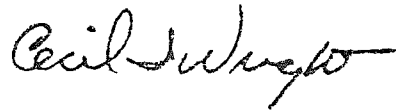
4 CSR 240-32.050(4)	- telephone directories
4 CSR 240-32.050(5)	- call intercept
4 CSR 240-32.050(6)	- telephone number changes
4 CSR 240-32.070(4)	- public coin telephone
4 CSR 240-33.030	- minimum charges rule
4 CSR 240-33.040(5)	- financing fees

5. That the tariff filed by Speer Virtual Media Limited Partnership on May 19, 1997, is approved as amended to become effective on August 11, 1997. The tariff approved is:

P.S.C. Mo. No. 1

6. That this order shall become effective on August 11, 1997.

BY THE COMMISSION



**Cecil I. Wright
Executive Secretary**

(S E A L)

Crumpton, Drainer, Murray
and Lumpe, CC., concur.
Zobrist, Chm., absent.

ALJ: Wickliffe