

STATE OF MISSOURI
PUBLIC SERVICE COMMISSION

At a Session of the Public Service
Commission held at its office
in Jefferson City on the 12th
day of July, 1996.

In the Matter of the Application)	
of Communication Systems Development,)	
Inc. for a Certificate of Authority)	CASE NO. TA-96-413
to Provide Competitive Intrastate)	
Interexchange Telecommunications)	
Service.)	

ORDER APPROVING INTEREXCHANGE CERTIFICATE OF SERVICE AUTHORITY AND
ORDER APPROVING TARIFF

Communication Systems Development, Inc. (CSD) applied to the Public Service Commission on May 31, 1996, for a certificate of service authority to provide intrastate interexchange telecommunications services in Missouri under § 392.440 RSMo 1994¹. CSD asked the Commission to classify it as a competitive company and waive certain statutes and rules as authorized by §§ 392.361 and 392.420. Applicant is an Illinois corporation, with its principal office located at R.R. 1, P.O. Box 315, Dorsey, Illinois 62021.

The Commission issued a Notice of Applications and Opportunity to Intervene on June 11, 1996, directing parties wishing to intervene in the case to do so by June 26, 1996. Since no one requested a hearing or permission to intervene, the Commission determines that no hearing is

¹All statutory references are to Revised Statutes of Missouri 1994.

necessary. *State ex rel. Rex Deffenderfer Enterprises, Inc. v. Public Service Commission*, 776 S.W.2d 494, 496 (Mo.App. 1989).

CSD filed a proposed tariff at the time of its application, on May 31, 1996, with an effective date of July 15, 1996. CSD's tariff describes the rates, rules, and regulations it intends to use, identifies CSD as a competitive company, and lists the waivers requested. CSD intends to provide interexchange telecommunications services, including the provision of dark fiber facilities for lease by other telecommunication companies.

In its Memorandum filed July 1, 1996, the Staff of the Commission stated that Applicant's proposed services are the same or equivalent to those 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*, 30 Mo. P.S.C. (N.S.) 16 (September 1989). Staff recommended that the Commission grant Applicant a certificate of service authority, competitive status, and waiver of the statutes and rules listed in the Notice. Staff also recommended that the Commission approve the proposed tariff, effective July 15, 1996.

In addition, Staff noted that Applicant intends to lease dark fiber facilities to other telecommunications companies. Staff explained that while it is not aware of any legal requirement that an official certificate and tariff be issued for the resale of facility usage, Staff believes that issuing a certificate and approving the tariff is

appropriate based on the premise that Applicant is reselling a service to other regulated utilities.

The Commission finds that CSD is seeking a certificate of service authority to provide intrastate interexchange telecommunications services in the state of Missouri, and that CSD has complied with the prerequisites for such certification. The Commission notes that § 386.020(42) defines a telecommunications company as every company "owning, operating, controlling or managing any facilities used to provide telecommunications service for hire, sale or resale within this state." Telecommunications facilities are defined in § 386.020(43) as facilities which include "lines, conduits, ducts, poles, wires, cables, crossarms, receivers, transmitters, instruments, machines, appliances and all devices, real estate, easements, apparatus, property and routes used, operated, controlled or owned by any telecommunications company to facilitate the provision of telecommunications service."

The Commission is of the opinion that dark fiber falls within the ambit of the broad definition of telecommunications facilities found in § 386.020(43). The Commission notes that § 386.020(42) does not require the company owning or controlling facilities used to provide telecommunications service to be the same company which is actually providing the telecommunications service. Under the circumstances the Commission is of the opinion that it would be appropriate to grant the requested certificate to CSD.

The Commission finds that competition in the intrastate interexchange telecommunications market is in the public interest and Applicant should be granted a certificate of service authority. The Commission finds that the services Applicant proposes to offer are competitive and Applicant should be classified as a competitive company. The Commission is of the opinion that waiving the statutes and Commission rules set out in Ordered Paragraph 2 is reasonable and not detrimental to the public interest.

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

- (1) Applicant 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) Applicant 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 § 392.220.
- (3) Applicant may not unjustly discriminate between its customers. §§ 392.200, 392.400.
- (4) Applicant must comply with all applicable rules of the Commission except those specifically waived by this order. §§ 386.570, 392.360.

(5) Applicant must file a Missouri-specific annual report.

§§ 392.210, 392.390.1.

(6) Applicant must comply with jurisdictional reporting requirements as set out in each local exchange company's access services tariffs. § 392.390.3.

(7) Applicant 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 CSD'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 31, 1996, should be approved, effective July 15, 1996.

IT IS THEREFORE ORDERED:

1. That Communication Systems Development, Inc. be 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.

2. That Communication Systems Development, Inc. be 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(1) - Uniform System of Accounts
- 4 CSR 240-30.040(2) - Uniform System of Accounts
- 4 CSR 240-30.040(3) - Uniform System of Accounts
- 4 CSR 240-30.040(5) - Uniform System of Accounts
- 4 CSR 240-30.040(6) - 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

3. That the tariff filed by Communication Systems Development, Inc. on May 31, 1996, be approved, effective July 15, 1996.

The tariff approved is:

P.S.C. Mo. No. 1

4. That this order shall become effective on July 15, 1996.

BY THE COMMISSION



David Rauch
Executive Secretary

(SEAL)

Zobrist, Chm., Kincheloe, Crumpton
and Drainer, CC., Concur.
McClure, CC., Absent

ALJ: Bensavage