

BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI

In the matter of the application of)
VarTec National, Inc. for a certificate)
of public convenience and necessity to)
operate as a reseller of competitive)
telecommunications services within)
the State of Missouri.)

Case No. TA-92-117

APPEARANCES: Richard S. Brownlee, III, Hendren & Andrae, 235 E. High
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HEARING

EXAMINER: Janet L. Sievert

REPORT AND ORDER

On November 27, 1991, VarTel National, Inc. (Applicant) filed its 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.

The Commission issued its Order and Notice on December 10, 1991 directing its Executive Secretary to send notice of this application. No applications to intervene were filed. On February 27, 1992, 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. 1991, Applicant requests authority to provide intrastate interexchange telecommunications services in the State of Missouri. Pursuant to Section 392.361, RSMo Cum. Supp. 1991, Applicant 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 January 9, 1992. No proper party or governmental entity filed an application to intervene and the Staff did not request a hearing. On December 4, 1991, the Office of the Public Counsel (Public Counsel) filed a motion requesting a hearing unless Applicant agreed not to collect interexchange access surcharges for payphones services through its billing agreement with local exchange companies. On January 6, 1992, Applicant filed a letter stating it will not provide operator services or any service to payphones in Missouri. On January 8, 1992, Public Counsel withdrew its motion requesting 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 Applicant is a Texas corporation authorized to do business in the state of Missouri, with its principal office or place of

business located at 3200 W. Pleasant Run Road #100, Lancaster, Texas 65146.. 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 memorandum filed herein 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. 1991, 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. 1991, 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 provide the following service: message toll. By its recommendation filed herein Staff states that this service is similar to the services offered by other companies that have received status as competitive telecommunications companies. 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 service Applicant proposes to offer is competitive and that Applicant should, therefore, be classified as a competitive company.

Pursuant to Section 392.470, RSMo Cum. Supp. 1991, 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. 1991;
- (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. 1991, 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. 1991, and Section 392.400, RSMo Cum. Supp. 1991;
- (4) Applicant is required by Sections 386.570, RSMo 1986, and ~~392.30~~, RSMo Cum. Supp. 1991 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. 1991;
- (5) Applicant is required to file a Missouri-specific annual report pursuant to Section 392.210, RSMo Cum. Supp. 1991, and Section 392.390.1, RSMo Cum. Supp. 1991;
- (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. 1991;

(7) Pursuant to Section 392.390.3, RSMo Cum. Supp. 1991, 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. 1991.

Based upon the verified application of Applicant and the recommendation of its Staff, 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 all 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. 1991.

IT IS THEREFORE ORDERED:

1. That VarTec National, 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 Applicant's tariffs.

2. That VarTel National, Inc. be classified hereby as a competitive telecommunications company.

3. That VarTel National, 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 the Applicant.

5. That VarTel National, 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 this Report and Order shall become effective on March 17, 1992.

BY THE COMMISSION

Brent Stewart

Brent Stewart
Executive Secretary

(S E A L)

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

Dated at Jefferson City, Missouri,
on this 6th day of March, 1992.