

STATE OF MISSOURI
PUBLIC SERVICE COMMISSION

At a Session of the Public Service
Commission held at its office
in Jefferson City on the 31st
day of January, 1995.

In the matter of the application of AIS /)
Telecommunications Services, Inc.) for a)
certificate of public convenience and) CASE NO. TA-95-61
necessity to operate as a reseller of)
telecommunications services within the)
State of Missouri.)

ORDER REJECTING APPLICATION
FOR INTEREXCHANGE CERTIFICATE OF SERVICE AUTHORITY

On August 29, 1994, AIS Telecommunications Services, Inc. (AIS or Applicant) applied to the Public Service Commission (Commission) for a certificate of service authority to provide intrastate interexchange telecommunications services within the state of Missouri pursuant to § 392.440 RSMo 1994. Applicant stated in its application that the trade name of the services it provides is EZCall but did not include a fictitious name certificate as required by 4 CSR 240.2.060(2)(A).4. Along with its application AIS filed a Request for Waiver of Foreign Corporation Certification asking that the Commission grant it a waiver from Rule 4 CSR 240-2.060(2)(A).2. That rule requires any foreign corporation applying for a certificate of service authority to provide services in Missouri to file a copy of its certificate from the Secretary of State authorizing it to do business in Missouri. In support of its request AIS stated that it conducts its business through interstate commerce only and thus need not obtain a Secretary of State's certificate of authority pursuant to the exception found in § 351.572.2(8) RSMo 1994. AIS stated that it sells its services by mail order to "Independent Telephone Companies" who sell the product

to the end user. AIS carries the traffic and has a toll free number for end users to call.

On January 24, 1995, the Staff of the Commission (Staff) filed its Memorandum recommending denial of the requested waiver and rejection of AIS's application. Staff stated that the arrangement described by AIS in its pleadings is not significantly different from the arrangement used by other certificated interexchange carriers (IXC's) who use sales agents to market their services; the IXC remains the provider of the services to the end user. Staff also pointed out that Missouri end users could use the debit card offered by AIS to make intrastate calls and could contact AIS directly to voice complaints. Staff stated that the requirement that IXC applicants provide a Secretary of State's certificate of authority to do business in Missouri offers valuable protection to Missouri consumers and that no waiver should be granted for AIS. Staff recommended that the Commission reject AIS's application and dismiss the case.

Having reviewed AIS's application, request for waiver, Staff's recommendation, and the applicable statutes, the Commission finds that AIS Telecommunications Services, Inc. is an Oregon corporation and that its application for a certificate of service authority to provide interexchange services within the state is deficient in that it does not include a certificate from the Secretary of State authorizing AIS to do business in Missouri. § 392.440 RSMo 1994 provides that the Commission may grant a certificate of service authority upon a finding that the grant of authority is in the public interest. The Commission is of the opinion that granting a certificate to a foreign corporation that has failed to comply with the rule requiring Secretary of State's authorization to do business in Missouri is not in the public interest.

The Commission may modify or suspend the application of its rules pursuant to § 392.420 RSMo 1994 when the modification or suspension is not inconsistent with §§ 392.361 to 392.520 or with the purposes of Chapter 392. AIS argues that Rule 4 CSR 240-2.060(2)(A).2 should be waived because AIS is excepted from the requirement of obtaining a Secretary of State's certificate under § 351.572.2(8) RSMo 1994. The Commission is not persuaded that AIS operates only in interstate commerce. AIS itself states that it carries the traffic generated and provides a toll free number for Missouri customers to contact AIS directly. Although AIS may intend its debit card for interstate use, there is no restriction placed on the cards that would prevent a customer from making a call from one point in Missouri to another. The Commission believes that waiver of Commission Rule 4 CSR 240-2.060(2)(A).2 is not appropriate in this case. However, even if AIS's allegations regarding the interstate nature of its business were entirely accurate, that would not necessarily preclude this Commission from requiring the additional protection to consumers of authorization to do business in Missouri. The Commission concludes that AIS's request for waiver of Commission Rule 4 CSR 240-2.060(2)(A).2, and AIS's application for a certificate of service authority should be denied and the case dismissed.

IT IS THEREFORE ORDERED:

1. That the application for a certificate of service authority to provide intrastate interexchange telecommunication services in the state of Missouri filed by AIS Telecommunications Services, Inc. on August 29, 1994, be denied.

2. That the Request for Waiver of Foreign Corporation Certification filed by AIS Telecommunications Services, Inc. on August 29, 1994, be denied.

3. That this order shall become effective on February 10, 1995.

BY THE COMMISSION

David L Rauch

David L. Rauch
Executive Secretary

(S E A L)

Mueller, Chm., McClure, Perkins,
Kincheloe and Crumpton, CC., Concur.