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In the Matter of the Application of Gemini)
Communications Management, Inc. for a Certificate)
of Service Authority to Provide Intrastate Inter-) Case No. TA-98-118
exchange Telecommunications Services Within the)
State of Missouri.)
)

The Commission issued a Notice of Applications and Opportunity to Intervene on September 30, directing parties wishing to intervene to file their requests by October 15. 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

¹ All statutory references are to the Revised Statutes of Missouri 1994 unless otherwise indicated.

494, 496 (Mo. App. 1989). Since no one has asked permission to intervene or requested a hearing, the Commission may grant the relief requested based on the verified application.

Gemini filed a proposed tariff in conjunction with its application and filed substitute sheets on October 20 and November 4. The tariff's effective date was originally October 30, but was subsequently extended to November 20. Gemini's tariff describes the rates, rules, and regulations it intends to use, identifies Gemini as a competitive company, and lists the waivers requested. Gemini intends to provide interexchange telecommunications services including debit card, travel card, and "Affinity" Calling Card services.

In its Memorandum filed on November 12, the Staff of the Commission stated that Gemini's proposed services are similar to existing IXC offerings. However, Staff noted that one of the services proposed by Gemini is a postpaid, LEC-billed calling card service with a face value, as would normally be associated with a prepaid debit card. Staff explained that the service is essentially a travel card with a cap, the cap being the face value. Staff maintained that the proposed calling card service is in the public interest. In addition, Staff recommended that the Commission grant Gemini a certificate of service authority, competitive status, and waiver of the statutes and rules listed in the Notice. Staff recommended that the Commission approve the proposed tariff to become effective on November 20.

The Commission finds that competition in the intrastate interexchange telecommunications market is in the public interest and Gemini should be granted a certificate of service authority. The Commission finds that the services Gemini proposes to offer are competitive

and Gemini 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 Section 392.470, that Gemini should comply with the following regulatory requirements as reasonable and necessary conditions of certification:

- (1) Gemini 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) Gemini 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, RSMo Supp. 1996.
- (3) Gemini may not unjustly discriminate between its customers. §§ 392.200, RSMo Supp. 1996, 392.400.
- (4) Gemini must comply with all applicable rules of the Commission except those specifically waived by this order. §§ 386.570, 392.360.
- (5) Gemini must file a Missouri-specific annual report. §§ 392.210, 392.390.1.
- (6) Gemini must comply with jurisdictional reporting requirements as set out in each local exchange company's access services tariffs. § 392.390.3.
- (7) Gemini 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 days of the date on which it is submitted to the local exchange company.

The Commission finds that Gemini'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 September 15 shall be approved as amended to become effective on November 20.

IT IS THEREFORE ORDERED:

1. That Gemini Communications Management, Inc. 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.

2. That Gemini Communications Management, Inc. 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
392.340 - reorganization(s)
392.330, RSMo Supp. 1996 - issuance of securities,
debts and notes

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

3. That the tariff filed by Gemini Communications Management, Inc. on September 15, 1997, is approved as amended to become effective on November 20, 1997. The tariff approved is:

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4. That this order shall become effective on November 20, 1997.
5. That this case shall be closed on November 29, 1997.

BY THE COMMISSION



Dale Hardy Roberts
Secretary/Chief Regulatory Law Judge

(S E A L)

Lumpe, Ch., Crumpton, Drainer
and Murray, CC., concur.

Bensavage, Regulatory Law Judge