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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 9th day of December, 1997.

In the Matter of the Application of Intermedia)
Communications Inc. for a Certificate of Service) Case No. TA-97-264
Authority to Provide Basic Local Exchange and)
Local Exchange Services.)

ORDER APPROVING TARIFF

The Commission granted to Intermedia Communications, Inc. (Intermedia or company) a certificate of service authority to provide basic local and local exchange telecommunications services in Missouri by Report and Order issued on September 30, 1997. The order, which took effect on October 10, conditionally granted Intermedia a certificate of service authority to offer basic local and local exchange telecommunications services in specified exchanges within the area currently served by Southwestern Bell Telephone Company (SWBT).

Intermedia had an interconnection agreement with SWBT that was approved on March 7 in Case No. TO-97-260, but the September 30 Report and Order temporarily waived the filing of a 45-day tariff as required by 4 CSR 240-2.060(4)(H). The Commission ordered Intermedia to file tariff sheets reflecting the rates, rules, regulations it will use and the services it will offer for approval within 60 days¹. Intermedia was directed to give notice of the tariff filing to all the parties and participants, and to provide a written disclosure of all interconnection agreements affecting Intermedia's Missouri service areas. The September 30 Report and Order

¹ On October 10, the Commission issued a Notice Closing Case. This notice was issued in error.

provided that Intermedia's certificate would become effective concurrent with the effective date of the company's proposed tariffs.

Intermedia filed the required tariff sheets (File No. 9800284) on October 14, with an effective date of November 13. Intermedia filed its Certification Of Notice Of Tariff Filing And Disclosure of Interconnection Agreement on October 31. Substitute tariff sheets were filed on November 13, November 19, November 20, November 26 and December 2, and the company extended the effective date to December 12. The tariff sheets, as amended, comprise Intermedia's proposed Local Exchange Services Tariff (P.S.C.MO. NO. 2) and Intermedia's proposed Switched Access Service Tariff (P.S.C.MO. NO. 3) for its offerings in the SWBT exchanges covered by Intermedia's conditional certificate. The Commission's Staff (Staff) reviewed the tariff sheets and filed a memorandum on December 3 recommending that the Commission approve them as amended.

More specifically, Staff stated that P.S.C.MO. NO. 2 applies to resold Basic Local Residential and Business Service, Extended Area Service for a limited number of exchanges, Vertical Services, Operator Services, Directory Assistance, Digital Loop Service, Direct Inward Dialing (DID) and Digital Link Services (MegaLink II and MegaLink III). Staff also stated that this tariff provides for facilities-based Private Branch Exchange (PBX) Service, Primary Rate Interface (PRI) Service and an optional DID feature that can be purchased in conjunction with Intermedia-provided PBX trunks. Staff noted that, for two of its services, namely PBX and DID, Intermedia proposes to offer resold and facilities-based versions, charging different rates for the different versions. However, Staff is of the opinion that the proposed service offerings are in the public interest and do not pose a price discrimination problem because the resold versions differ somewhat from the facilities-based versions. For example, the

resold Digital Loop Service is offered in Intermedia's tariff with three payment options, while the facilities-based version offers only one rate structure, and the resold version also includes optional features not available in the facilities-based version. The DID services differ in that resold DID will be available to customers in blocks of 10 or 100, whereas Intermedia will offer DID to facilities-based customers in blocks of 20. Staff states that, because both versions of these services are available to all similarly situated customers, the differences in pricing are not discriminatory.

With respect to Intermedia's P.S.C.MO. NO. 3 tariff, Staff noted that Intermedia concurs in the rates, rules and regulations applying to and governing access service as set forth in the SWBT Access Service P.S.C. MO Tariff No. 36.

The Commission has reviewed the tariff sheets, the Staff's recommendation, and the pleadings in this case and the interconnection case discussed above. Intermedia's plans appear to be available to any similarly situated customer. The concept of discriminatory pricing is relevant only as applied to customers. The Commission must ask whether a proposed calling plan would result in similarly situated customers being forced to pay differing rates for the same services. See State of Missouri ex rel. DePaul Hospital School of Nursing v. Missouri Public Service Commission, 464 S.W.2d 737, 740 (Mo. App. 1970). In this case there are no customers who are captive in the sense that they are tied to one plan or the other. Neither are there captive customers in the sense that they have no option but to rely on Intermedia for basic local and local exchange services. The Commission finds that approval of the proposed tariff sheets would not result in unduly discriminatory pricing.

The Commission finds that the tariff sheets conform to the Commission's Report and Order of September 30 and should be approved as amended to become effective on December 12. The Commission concludes that the conditions stated in the September 30 Report and Order for Intermedia's certificate of service authority to provide basic local and local exchange telecommunications service will be fulfilled at the time P.S.C.MO. NO. 2 and P.S.C.MO. NO. 3 take effect.

THEREFORE, IT IS ORDERED:

1. That the substitute tariff sheets filed by Intermedia Communications, Inc. on October 14, 1997, are approved as amended to become effective on December 12, 1997. The tariff sheets approved are:

P.S.C.MO. NO. 2

Original Title Page through Original Page 97

P.S.C.MO. NO. 3

Original Title Page through Original Page 9

2. That the certificate of service authority granted to Intermedia Communications, Inc. on September 30, 1997, to provide basic local and local exchange telecommunications service shall take effect on December 12, 1997.

3. That this order shall become effective on December 12, 1997.

4. That this case shall be closed on December 15, 1997.

BY THE COMMISSION



Dale Hardy Roberts
Secretary/Chief Regulatory Law Judge

(S E A L)

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

Randles, Regulatory Law Judge