

**STATE OF MISSOURI
PUBLIC SERVICE COMMISSION**

At a session of the Public Service
Commission held at its office in
Jefferson City on the 13th day
of July, 2006.

In the Matter of the Application of Multiband, Inc.,)
for a Certificate of Service Authority to Provide)
Shared Tenant Services in the State of Missouri.)
Case No. ZA-2006-0346

ORDER DENYING MOTION FOR SUMMARY DETERMINATION

Issue Date: July 13, 2006

Effective Date: July 13, 2006

On March 6, 2006, Multiband, Inc., applied to the Commission for authority to provide private shared tenant services (STS). Staff recommends that the Commission grant the certificate. AT&T Missouri intervened, and asks the Commission to condition any certificate upon Multiband entering into an interconnection agreement with AT&T Missouri.

Multiband filed a motion for judgment on the pleadings, in which it claimed that it has already shown that it is legally entitled to the certificate. Staff agrees with Multiband, while AT&T Missouri disputes that it would be in the public interest for Multiband to receive the certificate.

While Multiband technically requests a judgment on the pleadings, the Commission will treat the request as a request for summary determination. Commission Rule 4 CSR 240-2.117 sets the standard that a movant must prove to receive summary determination. That rule requires that a movant prove: (1) there is no genuine issue of material fact; (2) the movant are entitled to relief as a matter of law; and (3) it is in the public interest to give summary relief.

The Commission finds that Multiband has not met its burden. The Commission finds that the parties have a factual dispute over who owns the facilities that Multiband uses to provide telecommunications services. Also, the Commission must decide whether it would be in the public interest for Multiband to receive a certificate when Multiband has provided telecommunications services without the required certificate since 2003. The Commission will deny the motion.

IT IS ORDERED THAT:

1. The Motion for Determination on the Pleadings and Motion to Dismiss Intervenor is denied.
2. This order shall become effective on July 13, 2006.

BY THE COMMISSION



Colleen M. Dale
Secretary

(S E A L)

Davis, Chm., Murray, Gaw,
and Clayton, CC., concur.
Appling, C., absent.

Pridgin, Regulatory Law Judge