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**BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI**

In the Matter of the Application of Vectris)
Telecom, Inc., for a Certificate of Service)
Authority to Provide Basic Local Telecom-)
munications Services in the State of Missouri)
and for Competitive Classification.)
Case No. TA-2000-408

**ORDER GRANTING CERTIFICATE TO PROVIDE
BASIC LOCAL TELECOMMUNICATIONS SERVICES**

Procedural History

Vectris Telecom, Inc. (Vectris or Applicant), applied to the Commission on January 7, 2000, for a certificate of service authority to provide competitive basic local telecommunications services on a facilities-based and resold basis in the state of Missouri pursuant to Sections 392.455, RSMo Supp. 1999.¹ Vectris requested competitive classification and an order waiving certain Commission rules and statutory provisions pursuant to the federal Telecommunications Act of 1996. Vectris seeks to provide its services throughout all exchanges currently served by the incumbent local exchange telecommunications companies of Southwestern Bell Telephone Company (SWBT), Sprint/United Telephone Company (Sprint), and GTE Midwest, Inc. (GTE).

¹ Vectris states that it is filing a separate application for a Certificate of Authority to provide all forms of resold and facilities-based inter-exchange and local exchange telecommunications services in the state of Missouri.

Applicant is a Delaware corporation registered to transact business in Missouri, with its principal offices located at 5000 Plaza on the Lake, Suite 305, Austin, Texas 78746. Applicant seeks classification as a competitive company and waiver of certain statutes and rules as authorized by Sections 392.361 and 392.420, RSMo.²

The Commission issued a notice and schedule of applicants on January 11, 2000, directing interested parties wishing to intervene to do so by February 10, 2000. There were no applications filed to request intervention. On February 29, 2000, the Commission's Staff filed its recommendation to grant Vectris a certificate of service authority to provide basic local telecommunications with certain conditions described below. Vectris did not file a response to the Staff recommendation.

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 494, 496 (Mo. App. 1989). Since no one has requested a hearing in this case, the Commission may grant the relief requested based on the application.

Discussion

Applicant seeks certification to provide basic local exchange telecommunications services on a facilities-based and resold basis in

² All statutory references are to the Revised Statutes of Missouri, 1994, unless otherwise indicated. :

portions of Missouri that are currently served by SWBT, GTE and Sprint. Applicant is not asking for certification in any area that is served by a small incumbent local exchange provider. Vectris proposes to provide service in the exchanges currently served by SWBT, GTE and Sprint as listed in those companies' Missouri local exchange tariffs. Applicant listed these exchanges in Exhibit 4 to its application. Vectris states that it initially intends to provide data transmission services only, but requests authority to provide all forms of basic local exchange telecommunications services.

Applicant is requesting that its basic local services be classified as competitive and that the application of certain statutes and regulatory rules be waived.

A. Requirements of 4 CSR 240-2.060(4)

Commission Rule 4 CSR 240-2.060(4) requires a foreign corporation applying for certification to provide telecommunications services in Missouri to include in its application a certificate from the Missouri Secretary of State showing that it is authorized to do business in Missouri, a description of the types of service it intends to provide, a description of the exchanges where it will offer service, and a proposed tariff with at least a 45-day effective date.

The Applicant has requested a temporary waiver of the tariff filing requirements. No party to this proceeding has objected. The Staff has stated certain conditions for this waiver. The Staff proposes that Vectris submit its tariff for Commission approval within 30 days of the effective date of any order approving its interconnection agreement with an underlying carrier, with such tariffs having a

minimum 45-day effective date. Staff proposes that any certificate granted in this case be effective when the Applicant's tariff becomes effective.

B. Basic Local Service Certification

Section 392.455, RSMo Supp. 1999, sets out the requirements for granting certificates to provide basic local telecommunications service to new entrants. A new entrant must: (1) possess sufficient technical, financial and managerial resources and abilities to provide basic local telecommunications service; (2) demonstrate that the services it proposes to offer satisfy the minimum standards established by the Commission; (3) set forth the geographic area in which it proposes to offer service and demonstrate that such area follows exchange boundaries of the incumbent local exchange telecommunications company and is no smaller than an exchange; and (4) offer basic local telecommunications service as a separate and distinct service. In addition, the Commission must give due consideration to equitable access for all Missourians to affordable telecommunications services, regardless of where they live or their income.

Applicant submitted as Exhibit 2 to its application a confidential copy of its financial qualifications. Vectris also described its sources of capital investment. Exhibit 3 to its application describes the telecommunications experience of its management. These materials demonstrate that the Applicant has sufficient technical, financial and managerial resources and abilities to provide basic local telecommunications service.

) Applicant wishes to be certificated to offer services in all the exchanges presently served by SWBT, GTE and Sprint as described in the basic local exchange tariffs of those companies.

Applicant represents that it will provide services that meet the minimum basic local service standards required by the Commission, including quality of service and billing standards. Applicant states that it will offer basic local telecommunications service as a separate and distinct service and will provide equitable access, as determined by the Commission, for all Missourians within the geographic area in which it will offer basic local services in compliance with Section 392.455, RSMo Supp. 1999.

Based on the application and its review, Staff concluded that:

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1. Vectris possesses sufficient technical, financial, and managerial resources to provide basic local exchange services.
 2. Vectris has identified the geographic area in which it proposes to offer its services and the area follows exchange boundaries of incumbent local exchange companies and is no smaller than an exchange.
 3. Vectris will provide basic local exchange service as a separate and distinct service.
 4. Vectris has demonstrated that the services it proposes to offer satisfy the minimum service standards established by the Commission and that it will comply with those minimum standards.
 5. Vectris will provide equitable access to affordable telecommunications services for all Missourians, regardless of where they live or their income.

C. Competitive Classification

) The Commission may classify a telecommunications provider as a competitive company if the Commission determines it is subject to

sufficient competition to justify a lesser degree of regulation. Section 392.361.2, RSMo. In making that determination, the Commission may consider such factors as market share, financial resources and name recognition, among others. In the Matter of the Investigation for the Purpose of Determining the Classification of the Services Provided by Interexchange Telecommunications Companies Within the State of Missouri, 30 Mo. P.S.C. (N.S.) 16 (1989); In the Matter of Southwestern Bell Telephone Company's Application for Classification of Certain Services as Transitionally Competitive, 1 Mo. P.S.C. 3d 479, 484 (1992). The Commission has found that whether a service is competitive is a subject for case-by-case examination and that different criteria may be given greater weight depending upon the service being considered. *Supra*, 1 Mo. P.S.C. 3rd at 487. In addition, all the services a competitive company provides must be classified as competitive. Section 392.361.3, RSMo.

The Applicant has requested, and Staff has agreed, that Vectris should be classified as a competitive telecommunications company. The Staff has also agreed that Applicant's switched exchange access services may be classified as a competitive service, conditioned upon certain limitations on Applicant's ability to charge for its access services. Specifically, Staff proposes that if Vectris later provides access services, Applicant's originating and terminating access rates will be no greater than the lowest Commission-approved corresponding access rates in effect at the date of certification for the incumbent local exchange carriers within whose service areas Applicant seeks to operate, unless otherwise authorized

) by the Commission pursuant to Sections 392.220, RSMo Supp. 1999, and 392.230.

Vectris states that it will comply with all applicable statutes and Commission rules, regulations, decisions, and orders governing the provision of its proposed services. Vectris did, however, request the waiver of the following statutes and Commission rules: Sections 392.210.2, 392.270, 392.280, 392.290.1, 392.300.2, 392.310, 392.320, 392.330, RSMo Supp. 1999, and 392.340, 4 CSR 240-10.020, 4 CSR 240-30.040, and 4 CSR 240-35. Staff recommended that the requested waivers be granted.

D. Proposed Tariff

) As noted above, the Applicant has requested a temporary waiver of the tariff filing requirements.

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:

- A. The Commission finds that competition in the basic local exchange telecommunications market is in the public interest.
- B. The Commission finds that Applicant has met the requirements of 4 CSR 240-2.060(4) for applicants for certificates of service authority to provide telecommunications services or requested an appropriate waiver.

- C. The Commission finds that Applicant meets the statutory requirements for provision of basic local telecommunications services and has agreed to abide by those requirements in the future. The Commission determines that granting Applicant a certificate of service authority to provide basic local exchange telecommunications services is in the public interest. Applicant's certificate shall become effective when its tariff becomes effective.
- D. The Commission finds that Applicant is a competitive company and should be granted waiver of the statutes and rules set out in the ordered paragraph below.
- D. The Commission finds that Applicant's certification and competitive status should be expressly conditioned upon the continued applicability of Section 392.200, RSMo Supp. 1999, and on the requirement that access services rates will be no greater than the lowest Commission-approved corresponding access rates in effect for the incumbent local exchange carriers within whose service areas the Applicant offers its service, unless authorized by the Commission pursuant to Sections 392.220, RSMo Supp. 1999, and 392.230.
- E. The Commission finds that a temporary waiver of the requirement to file a tariff under 4 CSR 240-2.060(4)(H) as requested, shall granted. Provided, however, this case shall not be held open pending the filing of tariffs.

Conclusions of Law

The Missouri Public Service Commission has reached the following conclusions of law:

The Commission has the authority to grant certificates of service authority to provide telecommunications service within the state of Missouri. Applicant has requested certification under Sections 392.420 - .440, and Sections 392.410 and .455, RSMo Supp. 1999, which permit the Commission to grant a certificate of service authority where it is in the public interest. Sections 392.361 and .420 authorize the Commission to modify or suspend the application of its rules and certain statutory provisions for companies classified as competitive or transitionally competitive.

The federal Telecommunications Act of 1996 and Section 392.455, RSMo Supp. 1999, were designed to institute competition in the basic local exchange telecommunications market in order to benefit all telecommunications consumers. See Section 392.185, RSMo Supp. 1999. Based upon the Commission's review of the applicable law, the application and the Staff recommendation, and upon its findings of fact, the Commission concludes that the application should be approved with the conditions suggested by Staff.

IT IS THEREFORE ORDERED:

1. That Vectris Telecom, Inc., is granted a certificate of service authority to provide basic local telecommunications services in the state of Missouri, subject to the conditions of certification set out in this order and to all applicable statutes and Commission rules except as specified in this order. The certificate of service

authority shall become effective when the company's tariff becomes effective.

2. That Vectris Telecom, Inc., is classified as a competitive telecommunications company. Application of the following statutes and regulatory rules shall be waived:

Statutes

392.210.2 - uniform system of accounts
392.270 - valuation of property (ratemaking)
392.280 - depreciation accounts
392.290.1 - issuance of securities
392.300.2 - acquisition of stock
392.310 - stock and debt issuance
392.320 - stock dividend payment
392.340 - reorganization(s)
392.330, RSMo Supp. 1999 - issuance of securities,
debts and notes

Commission Rules

4 CSR 240-10.020 - depreciation fund income
4 CSR 240-30.040 - uniform system of accounts
4 CSR 240-35 - reporting of bypass and
customer-specific arrangements

3. That the certification and competitive status herein awarded to Vectris Telecom, Inc., are expressly conditioned upon the continued applicability of Section 392.200, RSMo Supp. 1999, and on the requirement that any increases in switched access service rates above the maximum switched access service rates set forth in the agreement must be cost-justified pursuant to Sections 392.220, RSMo Supp. 1999, and 392.230, rather than Sections 392.500 and 392.510.

4. That the request by Vectris Telecom, Inc., for a temporary waiver of 4 CSR 240-2.060(4)(H) regarding its tariff filing is granted. Within 30 days of the effective date of an order approving an interconnection agreement with an underlying carrier, the company

shall submit its tariffs for Commission approval. Such tariffs shall have a minimum 45-day effective date and the company shall serve written notice upon the parties to this case of the tariff filing, and shall provide copies of the tariffs to such parties upon request. When filing its initial basic local tariff, the company shall also file and serve the parties to this case a written disclosure of all interconnection agreements that affect its Missouri service areas; a disclosure of all portions of its Missouri service areas for which it does not have an interconnection agreement with the incumbent local exchange carrier; and its explanation of why such an interconnection agreement is unnecessary in any such areas.

5. That this order shall become effective on April 18, 2000.

6. That this case may be closed on April 19, 2000.

BY THE COMMISSION



Dale Hardy Roberts
Secretary/Chief Regulatory Law Judge

(S E A L)

Keith Thornburg, Regulatory Law Judge,
by delegation of authority pursuant
to 4 CSR 240-2.120(1) (November 30,
1995) and Section 386.240, RSMo 1994.

Dated at Jefferson City, Missouri,
on this 7th day of April, 2000.