

**STATE OF MISSOURI  
PUBLIC SERVICE COMMISSION  
JEFFERSON CITY  
June 19, 2000**

**CASE NO: TA-2000-664**

**Office of the Public Counsel**  
P.O. Box 7800  
Jefferson City, MO 65102

**Sheldon K. Stock, Esq.**  
Greensfelder, Hemker & Gale, P. C.  
2000 Equitable Building  
10 South Broadway  
St. Louis, MO 63102

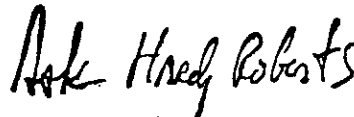
**Paul G. Lane/Leo J. Bub**  
**Anthony K. Conroy/Mimi B. MacDonald**  
Southwestern Bell Telephone Company  
One Bell Center, Room 3518  
St. Louis, MO 63101

**General Counsel**  
Missouri Public Service Commission  
P.O. Box 360  
Jefferson City, MO 65102

**Gerard J. Waldron, Esq.**  
**Mary Newcomer Williams, Esq.**  
Covington & Burling  
1201 Pennsylvania Avenue, N. W.  
Washington, D.C. 20004-2401

**Enclosed find certified copy of an ORDER in the above-numbered case(s).**

**Sincerely,**



**Dale Hardy Roberts**  
**Secretary/Chief Regulatory Law Judge**

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

In the Matter of the Application of Pathnet, Inc., )  
for a Certificate of Service Authority to Provide ) Case No. TA-2000-664  
Interexchange and Local Exchange Telecommunica- )  
tions Services. )

**ORDER APPROVING INTEREXCHANGE AND NONSWITCHED LOCAL**  
**EXCHANGE CERTIFICATES OF SERVICE AUTHORITY**

Pathnet, Inc. (Pathnet), applied to the Missouri Public Service Commission (Commission) on April 19, 2000, for a certificate of service authority under Section 392.410 - .450, RSMo 1994,<sup>1</sup> and RSMo Supp. 1999, to provide intrastate interexchange telecommunications services, and nonswitched local exchange telecommunications services restricted to dedicated private line services. Pathnet asked the Commission to classify it as a competitive company and waive certain statutes and rules as authorized by Sections 392.361 and 392.420. Pathnet is a Delaware corporation with its principal office located at 11720 Sunrise Valley Drive, Reston, Virginia 20191.

The Commission issued a Notice of Applications for Intrastate Certificates of Service Authority and Opportunity to Intervene on May 2, 2000, directing parties wishing to intervene to file their requests by May 17, 2000. The requirement for a hearing is met when the opportunity for hearing has been provided and no proper party has requested the

---

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

6

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 asked permission to intervene or requested a hearing, the Commission may grant the relief requested based on the application.

Pathnet did not file a tariff with its application. Instead, Pathnet requested a temporary waiver of 4 CSR 240-2.060(4)(H), which requires that an application for a certificate of service authority to provide interexchange, local exchange or basic local exchange service shall include a proposed tariff with a 45-day effective date. The application states that Pathnet is unable to develop tariffs at this time, but at such time as all facts necessary for the development of such tariff are known to Pathnet, it will promptly file tariffs bearing no less than a 30-day effective date. Pathnet intends to provide interexchange and nonswitched local exchange telecommunications services.

In its Memorandum filed on June 8, 2000, the Staff of the Commission (Staff) recommended that the Commission grant Pathnet a certificate of interexchange service authority and a certificate of service authority for local exchange telecommunications service on condition that the certificates become effective on the effective date of the tariff. Staff recommended that the Commission grant Pathnet competitive status and waiver of the statutes and rules listed in the Notice with the exception of 4 CSR 240-35 as Pathnet requested. Staff also recommends that the Commission direct Pathnet to file its tariff within 45 days.

The Commission finds that competition in the intrastate interexchange and nonswitched local exchange telecommunications markets is in the public interest and Pathnet should be granted certificates of service authority, to become effective on the effective date of its tariff. Although Pathnet's application indicates that it will file a tariff with a 30-day effective date, the Commission will require Pathnet to file a tariff with a 45-day effective date as required by 4 CSR 240-2.060(4)(H). The Commission finds that Pathnet should be classified as a competitive company. The Commission finds that waiving the statutes and Commission rules set out in the ordered paragraph below is reasonable and not detrimental to the public interest.

**IT IS THEREFORE ORDERED:**

1. That Pathnet, Inc., is granted a certificate of service authority to provide intrastate interexchange telecommunications services in the state of Missouri, subject to all applicable statutes and Commission rules except as specified in this order. The certificate shall not become effective until the effective date of the tariff.

2. That Pathnet, Inc., is granted a certificate of service authority to provide local exchange telecommunications services in the state of Missouri limited to providing dedicated, nonswitched local exchange private line services, subject to all applicable statutes and Commission rules except as specified in this order. The certificate shall not become effective until the effective date of the tariff.

3. That Pathnet, 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  
392.240.1 - rates-rentals-service & physical connections  
392.270 - valuation of property (ratemaking)  
392.280 - depreciation accounts  
392.290 - 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

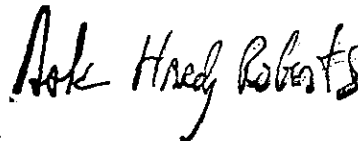
4 CSR 240-10.020 - depreciation fund income  
4 CSR 240-30.010(2)(C) - posting of tariffs  
4 CSR 240-30.040 - uniform system of accounts  
4 CSR 240-33.030 - minimum charges

4. That Pathnet, Inc., shall file its tariff within 45 days of the effective date of this order. The tariff shall bear an effective date of no less than 45 days.

5. That this order shall become effective on June 29, 2000.

BY THE COMMISSION

( S E A L )



Dale Hardy Roberts  
Secretary/Chief Regulatory Law Judge

Vicky Ruth, 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 19th day of June, 2000.

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

I have compared the preceding copy with the original on file in this office and  
I do hereby certify the same to be a true copy therefrom and the whole thereof.

WITNESS my hand and seal of the Public Service Commission, at Jefferson City,  
Missouri, this 19<sup>th</sup> day of June, 2000.

*Dale Hardy Roberts*

---

**Dale Hardy Roberts**  
**Secretary/Chief Regulatory Law Judge**

