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BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI

In the Matter of the Application of American)
Fiber Network, Inc. for a Certificate of)
Service Authority to Provide Basic Local) Case No. TA-2000-305
and Interexchange Telecommunications Services)
within the State of Missouri)

ORDER GRANTING INTERVENTION AND DIRECTING
FILING OF PROCEDURAL SCHEDULE

American Fiber Network, Inc. (AFN) applied to the Missouri Public Service Commission (Commission) on October 29, 1999, for a certificate of service authority to provide basic local and interexchange telecommunications services in portions of the state of Missouri under Sections 392.420-.440, RSMo 1994¹, and Sections 392.410 through 392.455, RSMo Supp. 1998. AFN 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. AFN is a Delaware corporation with principal offices located at 4513 Pin Oak Court, Sioux Falls, South Dakota 57103.

The Commission issued a notice and schedule of applicants for interexchange and nonswitched local exchange service authority on November 9, 1999, directing interested parties wishing to intervene to

¹ All statutory references are to Revised Statutes of Missouri 1994 unless otherwise indicated. The applicant refers to the source of some Missouri statutes as "RSMo. Cumm. Supp. 1992" which is an obvious scrivener's error.

do so by November 24, 1999. The Commission issued a notice and schedule of applicants for basic local and nonswitched local exchange service authority on November 9, 1999, directing interested parties wishing to intervene to do so by December 9, 1999.

On November 24, 1999, Southwestern Bell Telephone Company (SWBT) timely filed its application to intervene. SWBT stated that it has an interest in the Commission's decision in this case because it provides basic local exchange services and will be in direct competition with AFN if the certificate is granted. SWBT argued that no other party will adequately protect its interests in this matter and that its intervention would be in the public interest because of SWBT's expertise and experience in the telecommunications industry.

The Commission has reviewed the application and finds that it is in substantial compliance with Commission rules regarding intervention and that the applicant has an interest in this matter that is different from that of the general public. The Commission concludes that this request for intervention should be granted and that the parties should file a proposed procedural schedule. The procedural schedule must include either dates for the filing of testimony and for a hearing, or a date for the filing of a stipulation and agreement. If no party requests a hearing, the Commission may grant the service authority and competitive classification requested without a hearing. State ex rel. Rex Deffenderfer Enterprises, Inc. v. Public Service Commission, 776 S.W.2d 494, 496 (Mo. App. 1989).

IT IS THEREFORE ORDERED:

1. That Southwestern Bell Telephone Company is granted intervention in this case in accordance with 4 CSR 240-2.075(4).

2. That the parties shall file a proposed procedural schedule no later than 3:00 p.m. on January 17, 2000. The procedural schedule shall include dates for the filing of testimony and for a hearing.

3. That this order shall become effective on December 27, 1999.

BY THE COMMISSION



Dale Hardy Roberts
Secretary/Chief Regulatory Law Judge

(S E A L)

Bill Hopkins, Senior 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 17th day of December, 1999.