

BEFORE THE PUBLIC SERVICE COMMISSION  
OF THE STATE OF MISSOURI

In the matter of the application of Springfield )  
Fiber Net, Inc. for a certificate of service )  
authority to provide private line telecommunications )  
services in the state of Missouri and for )  
classification of such services as competitive )  
telecommunications services. )

CASE NO. TA-93-4

APPEARANCES: John C. Shapleigh, 7536 Forsyth Blvd., St. Louis, Missouri 63105,  
for Springfield Fiber Net, Inc.

HEARING

EXAMINER: Dale Hardy Roberts

REPORT AND ORDER

On July 7, 1992, Springfield Fiber Net, Inc. (Applicant or Company) applied for a Certificate of Service Authority under Chapter 392, RSMo (Supp. 1991) to provide local exchange telecommunication services in the state of Missouri. Company requested that these services be classified as "competitive" and also applied for the waiver of certain statutes and Commission rules, listed infra. The Commission issued its Order and Notice on July 15, 1992, setting an intervention date of August 14, 1992. There were no motions for hearing and no one requested intervention. On October 2, 1992, the Staff of the Missouri Public Service Commission filed its memorandum recommending approval of Company's application.

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.

Pursuant to Section 392.440, Applicant requests authority to provide local exchange private line telecommunication services in the state of Missouri. Pursuant to Section 392.361, Applicant also requests that the Commission classify

its private line service as a competitive telecommunications service and waive compliance with the statutes and Commission regulations referenced below.

The requirement of a hearing has been fulfilled when all those having a desire to be heard are offered such an opportunity. In this case, notice was sent by the Commission. Interested persons or entities were directed to intervene on or before August 14, 1992. Since no proper party or governmental entity filed an application to intervene and there are no outstanding requests for a hearing, the Commission determines that an oral hearing is not necessary and the Applicant may submit evidence in support of its application by verified statement. *State ex rel. Rex Deffenderfer Enterprises, Inc. v. Public Service Commission*, 776 S.W.2d 494, 496 (Mo. App. 1989).

The Commission finds that Applicant is a domestic corporation authorized to do business in the state of Missouri, with its principal office or place of business located at 1949 East Sunshine, Suite I-220, Springfield, Missouri 65804. Applicant was granted a certificate of service authority to provide competitive intrastate interexchange telecommunications services by the Commission on May 12, 1992, in Case No. TA-92-173. The Commission further finds that Applicant has filed current financial information and a brief description of the type of service it proposes to provide, and has agreed to comply with all applicable rules and regulations of the Commission and any terms and conditions which the Commission may impose.

Based upon the verified statements of Applicant and the recommendations of Staff, the Commission finds that Applicant is qualified to perform the service proposed. Pursuant to Sections 392.440 and 392.530, the Commission will assume that additional competition in the local exchange private line market is in the public interest. The Commission does not deem it necessary to determine a public need for each reseller's services as the market would eliminate any reseller for which there is no public need. Consequently, pursuant to Section 392.440, the

Commission finds that it is in the public interest to grant Applicant a certificate of local exchange telecommunication service authority to provide local exchange private line services.

By its recommendation filed herein, Staff states that Applicant's proposed services are comparable to those classified as competitive in Case No. TA-92-145, *In re the application of Digital Teleport, Inc. for permission, approval and authority to provide intrastate private line telecommunications services in the State of Missouri*. Staff therefore recommends that the Commission grant Applicant competitive status.

On October 6, 1992, the Office of Public Counsel (OPC) filed its motion requesting that the Commission include certain specific language from the Report and Order in Case Number TA-92-145 (Digital Teleport, Inc.) in this order to make clear the fact that the Applicant is being granted "a certificate of local exchange authority to provide dedicated, non switched local exchange private line telecommunication services as specified by this order." The Commission will grant the motion.

Based upon the Commission's finding that private line service of Applicant is a competitive service the Commission will grant the waiver of the following statutory and regulatory requirements.

Pursuant to Section 392.470, the Commission determines that certain regulatory requirements should be imposed upon resellers authorized to resell local exchange telecommunication services in Missouri. Since the Applicant proposes to operate as a reseller of local telecommunication services in this state, the Commission finds that the following regulatory requirements should be imposed upon Applicant as reasonable and necessary conditions of that certification:

- (1) Applicant is required to comply with reasonable requests by the Staff for financial and operating data to allow the Staff to monitor the intraLATA toll market pursuant to Section 386.320.3.
- (2) Applicant is required to file tariffs containing rules and regulations applicable to customers, a description of the services provided and a list of rates associated with the services pursuant to Section 392.220 and 4 CSR 240-30.010.
- (3) Applicant's tariff filing must also contain a preliminary section which states that Company is a competitive carrier and identifies the statutory and rule waivers herein granted.
- (4) Applicant is precluded from unjustly discriminating between and among its customers pursuant to Section 392.200 and Section 392.400.
- (5) Applicant is required by Sections 386.570, RSMo 1986, and 392.360, to comply with all applicable rules of the Commission except those which have specifically been waived by this Report and Order.
- (6) Applicant is required to file a Missouri-specific annual report pursuant to Section 392.210 and Section 392.390.1.
- (7) Applicant is required, until the Commission orders otherwise, to submit to the Staff on a confidential basis, quarterly reports showing its percentage of interstate use and intrastate interLATA and intraLATA use pursuant to Section 392.390.3.
- (8) Pursuant to Section 392.390.3, Applicant is required to comply with the jurisdictional reporting requirements as set out in each local exchange company's access services tariff.

Finally, the Commission finds that Applicant should file appropriate tariffs within thirty (30) days of the effective date of this Report and Order.

The certificate to be granted herein will become effective only upon approval by the Commission of these tariffs.

Conclusions of Law

The Missouri Public Service Commission has arrived at the following conclusions of law.

Applicant proposes to provide local exchange private line telecommunication service to the public as a competitive intrastate interexchange telecommunications company subject to the Commission's jurisdiction pursuant to Chapters 386 and 392.

Based upon the verified application of Applicant and the recommendation of its Staff, the Commission has found that Applicant has complied with the Commission's standards pertaining to applications requesting authority to provide local exchange telecommunication services and is qualified to perform said services. The Commission concludes that additional competition in the local exchange telecommunication market is in the public interest and a certificate of local exchange service authority should be granted. The Commission also has found that all the services Applicant proposes to offer are competitive and that waiving the statutes and Commission rules set out below is reasonable.

**IT IS THEREFORE ORDERED:**

1. That Springfield Fiber Net, Inc. be granted hereby a certificate for the resale of local exchange telecommunication services to provide dedicated, non-switched local exchange private line telecommunications services as specified by this order.

2. This certificate of service authority granted in ordered paragraph 1 is subject to the conditions of certification set out herein and shall not become effective until the Commission approves Applicant's tariffs.

3. That the following statutory and regulatory requirements shall be waived for Springfield Fiber Net, Inc.

### Statutes

- 392.240(1) - ratemaking
- 392.270 - valuation of property (ratemaking)
- 392.280 - depreciation accounts
- 392.290 - issuance of securities
- 392.310 - stock and debt issuance
- 392.320 - stock dividend payment
- 392.330 - issuance of securities, debt and notes
- 392.340 - reorganization(s)

### Commission Rules

- 4 CSR 240-10.020 - depreciation fund income
- 4 CSR 240-30.010(2)(C) - rate schedules
- 4 CSR 240-30.060(5)(B) through (O) - records re: ratemaking
- 4 CSR 240-32.030(1)(B) - exchange boundary maps
- 4 CSR 240-32.030(1)(C) - record keeping
- 4 CSR 240-32.030(2) - in-state record keeping
- 4 CSR 240-32.050(3) - local office record keeping
- 4 CSR 240-32.050(4) - telephone directories
- 4 CSR 240-32.050(5) - call intercept
- 4 CSR 240-32.050(6) - telephone number changes
- 4 CSR 240-32.070(4) - public coin telephone
- 4 CSR 240-33.030 - minimum charges rule

4. That Springfield Fiber Net, Inc. shall file tariffs, as described by this order, within thirty (30) days of the effective date of this Report and Order; which identify each statute or regulation waived by this order.

5. That Springfield Fiber Net, Inc. shall file its PIU reports as discussed herein within thirty (30) days of the effective date of this Report and Order.

6. That Springfield Fiber Net, Inc. shall file with the Commission Staff a report showing its percentage of intrastate intraLATA use. Said report shall be filed within thirty (30) days of the effective date of this Report and Order and on a confidential basis, unless the Commission orders otherwise.

7. That this Report and Order shall become effective on December 15,  
1992.

BY THE COMMISSION

*Brent Stewart*

Brent Stewart  
Executive Secretary

(S E A L)

McClure, Chm., Mueller, Rauch,  
Perkins and Kincheloe, CC., Concur.

Dated at Jefferson City, Missouri,  
on this 3rd day of December, 1992.