

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

APPLICATION OF MIDWEST FIBERNET)
INC. FOR A CERTIFICATE OF PUBLIC)
CONVENIENCE AND NECESSITY TO) CASE NO. 90-101
PROVIDE INTERLATA INTEREXCHANGE)
SERVICES WITHIN KENTUCKY AS A)
NON-DOMINANT CARRIER)

O R D E R

On April 24, 1990, Midwest Fibernet Inc. ("MFI") filed its application with the Commission seeking a Certificate of Public Convenience and Necessity to provide intrastate interLATA telecommunications services including operator-assisted services in the Commonwealth of Kentucky.

The Commission ordered MFI to file additional information by Order dated May 31, 1990. MFI filed its response on July 3, 1990.

On July 2, 1990, South Central Bell Telephone Company filed a motion for full intervention in this case which subsequently was granted.

On September 8, 1989, the Commission established Administrative Case No. 330¹ in order to address the restrictions and guidelines for the provision of operator-assisted services by all

¹ Administrative Case No. 330, Policy and Procedures in the Provision of Operator-Assisted Telecommunications Services.

non-local exchange carriers. The non-local exchange carriers were given 30 days from the date of the Order to provide evidence or testimony why they should not have to comply with the restrictions and conditions of service contained in that Order and request a public hearing. By Order dated January 15, 1990, the Commission modified some of those requirements. The case is still pending the Commission's final decision.

Based on its July 3, 1990 response, MFI appears fully aware of Administrative Case No. 330 and has shown its ability and stated its intent to comply with the Orders issued in that case.

The financial, managerial, and technical capabilities of MFI are adequately demonstrated in the application and July 3, 1990 response.

The Commission, having considered the evidence of record and being otherwise sufficiently advised, finds that:

1. MFI has the financial, technical, and managerial capabilities to provide service.

2. MFI should be granted authority to provide intrastate interLATA telecommunications services including intrastate interLATA operator-assisted services, subject to all guidelines, requirements, restrictions, and conditions of service addressed in Administrative Case No. 330.

IT IS THEREFORE ORDERED that:

1. MFI be and it hereby is granted authority to provide intrastate interLATA telecommunications services including intrastate interLATA operator-assisted services, subject to all

restrictions, conditions of service, and guidelines described in the September 8, 1989 and January 15, 1990 Orders in Administrative Case No. 330. Those requirements are:

a. Operator-assisted services shall be subject to rate regulation and rates shall not exceed AT&T Communications of the South Central States, Inc.'s ("AT&T's") maximum approved rates. "Maximum approved rates" is defined as the rates approved by this Commission in AT&T's most recent rate proceeding for measured toll service applicable to operator-assisted calls, as well as the additional charges for operator assistance. MFI is not permitted to include any other surcharge or to bill for uncompleted calls. Time-of-day discounts shall also be applicable. MFI is also required to rate calls using the same basis that AT&T uses to rate calls, i.e., distance calculations based on points-of-call origination and termination, definitions of chargeable times, billing unit increments, rounding of fractional units, and minimum usages. In Case No. 9889,² the Commission allowed AT&T a limited amount of rate flexibility in that it was allowed to reduce certain rates up to a maximum of 10 percent without filing the full cost support normally required in a rate proceeding. MFI is not required to match AT&T's rate reductions resulting from this rate flexibility. However, when there is any change in AT&T's maximum approved rates, MFI shall file tariffs necessary to comply with the requirements herein

² Case No. 9889, Adjustment of Rates of AT&T Communications of the South Central States, Inc.

within 30 days from the effective date of AT&T's rate change.

b. MFI shall be subject to regulation as delineated in the May 25, 1984 and October 26, 1984 Orders in Administrative Case No. 273,³ as well as any subsequent modifications to non-dominant carrier regulations.

c. Access to the operator services of competing carriers shall not be blocked or intercepted; however, this requirement does not pertain to situations where the customers who have control of premises equipment are also the users and billpayers of the services.

d. Access to the local exchange companies' operators shall not be blocked or otherwise intercepted by traffic aggregators. Specifically, all "0 minus"⁴ calls shall be directed to the local exchange companies' operators. In equal access areas, "0 plus"⁵ intraLATA calls shall not be intercepted or blocked. In non-equal access areas, MFI is prohibited from blocking or intercepting "0 minus" calls; however, it is permissible to intercept "0 plus" calls.

e. Blocking and interception prohibitions shall be included in MFI's tariffs and contracts by stating that violators

³ Administrative Case No. 273, An Inquiry Into Inter- and IntraLATA Intrastate Competition in Toll and Related Services Markets in Kentucky.

⁴ A "0 minus" or "0-" call occurs when an end-user dials zero without any following digits.

⁵ A "0 plus" or "0+" call occurs when an end-user dials zero and then dials the digits of the called telephone number.

will be subject to immediate termination of service after 20 days notice to the owners of non-complying customer premises equipment.

f. MFI shall provide tent cards and stickers to be placed near or on telephone equipment provided by its traffic aggregators. MFI shall include provisions in tariffs and contracts that subject violators to termination of service.

g. MFI's operators shall be required to identify MFI as "Midwest Fibernet" to end-users, at least once during every call before any charges are incurred.

h. MFI's operators shall provide an indication of its rates to any caller upon request.

i. MFI shall not accept calling cards for billing purposes if it is unable to validate the card.

2. This authority to provide service is strictly limited to those services described in this Order, MFI's application and MFI's July 3, 1990 response.

3. MFI shall fully comply with the Commission's prohibition against offering intraLATA services.

4. MFI shall comply with any further Orders in Administrative Case No. 330.

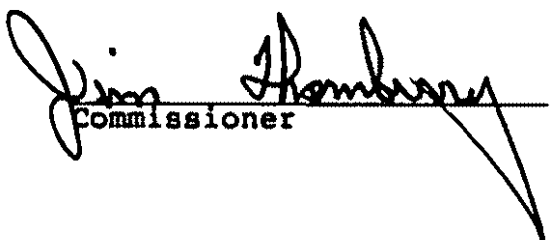
5. Within 30 days from the date of this Order, MFI shall file its tariff sheets in accordance with 807 KAR 5:011 to conform to the restrictions and conditions of service contained herein and consistent with MFI's response to the Commission's May 31, 1990 Order.

Done at Frankfort, Kentucky, this 6th day of August, 1990.

PUBLIC SERVICE COMMISSION


Chairman


Vice Chairman


Commissioner

ATTEST:


Executive Director