

**BEFORE THE TENNESSEE PUBLIC SERVICE COMMISSION  
NASHVILLE, TENNESSEE**

**August 24, 1995**

**IN RE: APPLICATION OF METROPOLITAN FIBER SYSTEMS OF TENNESSEE,  
INC. FOR CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY  
TO PROVIDE INTRASTATE PRIVATE LINE AND  
TELECOMMUNICATIONS ACCESS SERVICE WITHIN THE STATE OF  
TENNESSEE**

**DOCKET NO. 94-02564**

**ORDER**

This matter is before the Commission upon the application of Metropolitan Fiber Systems of Tennessee, Inc. (hereafter "MFS") for a certificate of convenience and necessity to provide dedicated, non-switched telecommunications services, both interexchange and intraexchange, in Tennessee. MFS files this application as a competing telecommunications service provider pursuant to Section 7 of Chapter 408 of the Public Acts of 1995. In accordance with Section 7(d), MFS seeks authority to provide intrastate service to customers located in territory served by an incumbent local exchange telephone company with more than 100,000 total access lines. MFS does not seek authority to provide service in any area presently served by a telephone cooperative.

This matter was heard by the Commission on June 28, 1995. The following appearances were entered:

For the Applicant:

Metropolitan Fiber Systems of Tennessee, Inc.

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For the Intervenor:

South Central Bell:

Charles Howorth  
South Central Bell  
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United Telephone Company and  
Tennessee Telephone Company:

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Bass, Berry & Sims  
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Nashville, Tennessee 37238

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ICG Access Services, Inc.:

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Waller, Lansden, Dortch & Davis  
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Time Warner, ASX Tennessee, L.P.

Charles B. Welch, Jr.  
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Nashville, Tennessee 37219

General Utility Counsel  
for the Tennessee Public Service Commission:

Jeanne Moran  
General Utility Counsel  
Tennessee Public Service Commission  
460 James Robertson Parkway  
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Cindy Z. Schonhaut, vice president of government affairs for MFS Communications Company, Inc., the parent company of the applicant, testified in support of the application. No other witnesses testified. No party opposed the application.

At the conclusion of the hearing, the Commission voted unanimously to grant the application of MFS. In support of that decision, the Commission makes the following findings of fact and conclusions of law based on the record of this proceeding.

1. MFS seeks to provide intrastate, non-switched, dedicated telecommunications services, including dedicated, point-to-point private line services, special access services and dedicated portions of switched transport access services. MFS seeks to provide these services on an interLATA and intraLATA, interexchange and intraexchange basis as a non-dominant provider. Customer services will include high-speed video, data, and voice communications, including, but not limited to, DS1 and DS3 digital transmission services. These services are equivalent to intrastate, non-switched private line and access services currently being offered in Tennessee by South Central Bell Telephone Company.

MFS is not seeking authority to provide switched local exchange service, but MFS or an affiliate may seek such authority at a future date. By virtue of the nature of the services — high speed, non-switched private line services — MFS does not anticipate that it will have any residential customers. MFS plans to be a communications company for business, not residential, customers.

2. MFS seeks authority to provide intrastate service to customers located throughout Tennessee except in those areas served by an incumbent local exchange company

with fewer than 100,000 access lines. MFS seeks no authority to serve customers located in an area served by a telephone cooperative. MFS does not presently have any franchise agreements with local governments.

3. MFS is a wholly-owned subsidiary of MFS Telecom, Inc., which in turn is a wholly-owned subsidiary of MFS Communications Company, Inc. MFS Telecom, Inc., through its operating subsidiaries, is the largest competitive access provider in the country, currently provides service in over twenty-two cities. MFS Communications Company, Inc. has more than one billion dollars in total assets and about \$280 million in working capital. The MFS companies have consistently been able to raise capital in the stock market to finance the company's expansion into new markets such as Tennessee. Initially, MFS estimates the company will invest \$3 to \$5 million in a network to serve the Nashville area and will move to other parts of the state based on market demand in those areas. The MFS network will be a fiber optic, self-healing, double ring-star configuration featuring redundant electronics and diverse routing. The company has considerable expertise in the design, operation and construction of such networks. The principal officers and directors responsible for the operation of MFS in Tennessee have extensive managerial and technical experience with which to execute MFS's business plan.

Based upon these facts as described in the testimony and exhibits of Ms. Schonhaut, the Commission finds that MFS possesses sufficient managerial, financial, and technical abilities to provide the telecommunications services it proposes to offer.

4. MFS has demonstrated that it will adhere to all applicable Commission policies, rules, and orders. At this time, Ron Beaumont, president of MFS Telecom, Inc. and a director of MFS in Tennessee, is responsible for MFS's Tennessee operations.

5. In accordance with Section 16 of Chapter 408, MFS has filed a small and minority-owned telecommunications businesses participation plan. The plan filed by MFS, described in Schonhaut Exhibit 2, fulfills the statutory requirements of Section 16.

6. Approval of this application will serve the public interest by creating greater competition in the intrastate telecommunications marketplace. MFS anticipates that its proposed services will provide its users with better quality services and enhanced features and will increase consumer choice through innovative, diversified, and reliable service offerings.

In particular, the public will benefit both directly, through the use of the competitive telecommunications services to be offered by MFS, and indirectly because the presence of MFS in this market will increase the incentives for other telecommunications services providers — including the incumbent local exchange carrier — to operate more efficiently, offer more innovative services, reduce its prices, and improve its quality of service. This result will, in turn, further stimulate economic development in Tennessee.

Granting this application will also further the public interest by expanding the availability of technologically advanced telecommunications facilities with features such as security, survivability, and redundancy. The MFS network will also provide Tennessee customers with the option of selecting from a wide range of innovative, customized services designed to meet specific customer needs. MFS's entry into the intrastate non-switched, point-to-point and access markets will therefore enhance the telecommunications infrastructure in Tennessee.

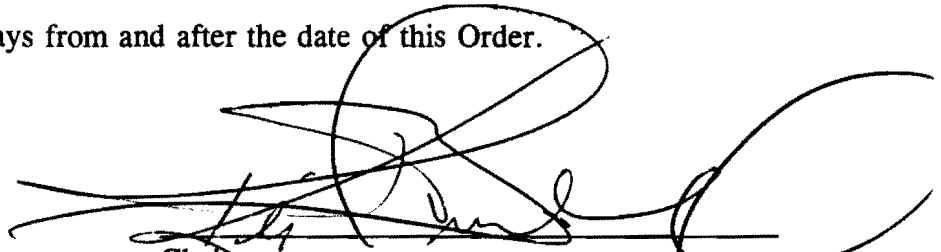
Therefore, the Commission finds that the public convenience and necessity will be served by the issuance of a certificate to MFS as the company has requested. The Commission has previously recognized that the provision of intrastate, high capacity, special access services is in the public interest. See In Re: Application of AT&T Communications of


Therefore, the Commission finds that the public convenience and necessity will be served by the issuance of a certificate to MFS as the company has requested. The Commission has previously recognized that the provision of intrastate, high capacity, special access services is in the public interest. See In Re: Application of AT&T Communications of the South Central States, Inc. for Limited IntraLATA Telecommunications Certificate of Public Convenience and Necessity, Order of June 27, 1991, Docket Nos. 89-11065, 89-11735, 89-12677; Re AT&T Communications of the South Central States, Inc., Docket No. U-87-7492, 91 PUR 4th 1 (March 17, 1988).

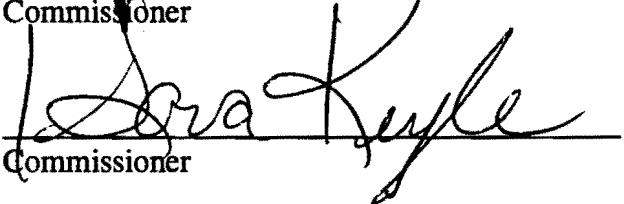
IT IS THEREFORE ORDERED THAT:

1. The application of Metropolitan Fiber Systems of Tennessee, Inc. for a statewide certificate of convenience and necessity as a Competing Telecommunications Service provider, pursuant to Section 7 of Chapter 408 of the Public Acts of 1995, except in those areas served by an incumbent local exchange company with less than 100,000 total access lines and those areas served by a telephone cooperative, is hereby granted;
2. Before providing service pursuant to this certificate, MFS shall file tariffs describing the areas which MFS proposes to serve, the services which the company proposes to offer, and such other information as the Commission may require;
3. Any party aggrieved with the Commission's decision in this matter may file a Petition for Reconsideration with the Commission within ten (10) days from and after the date of this Order; and


4. Any party aggrieved with the Commission's decision in this matter has the right of judicial review by filing a Petition for Review in the Tennessee Court of Appeals, Middle Section, within sixty (60) days from and after the date of this Order.

  
Chairman

  
Commissioner

  
Commissioner

ATTEST:

  
Executive Director