



Commissioners

SHEILA LUMPE
Chair

HAROLD CRUMPTON

CONNIE MURRAY

ROBERT G. SCHEMENAUER

M. DIANNE DRAINER
Vice Chair

Missouri Public Service Commission

POST OFFICE BOX 360
JEFFERSON CITY, MISSOURI 65102
573-751-3234
573-751-1847 (Fax Number)
<http://www.ecodev.state.mo.us/psc/>

February 22, 2000

GORDON L. PERSINGER
Acting Executive Director
Director, Research and Public Affairs

WESS A. HENDERSON
Director, Utility Operations

ROBERT SCHALLENBERG
Director, Utility Services

DONNA M. KOLILIS
Director, Administration

DALE HARDY ROBERTS
Secretary/Chief Regulatory Law Judge

DANA K. JOYCE
General Counsel

FILED³

FEB 22 2000

Missouri Public
Service Commission

Mr. Dale Hardy Roberts
Secretary/Chief Regulatory Law Judge
Missouri Public Service Commission
P. O. Box 360
Jefferson City, MO 65102

RE: Case No. TA-2000-204

Dear Mr. Roberts:

Enclosed for filing in the above-captioned case are an original and fourteen (14) conformed copies of a **JOINT STIPULATION AND AGREEMENT**.

This filing has been mailed or hand-delivered this date to all counsel of record.

Thank you for your attention to this matter.

Sincerely yours,

Bruce H. Bates
Assistant General Counsel
(573) 751-7434
(573) 751-9285 (Fax)

BB/df
Enclosure
cc: Counsel of Record

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

FILED³

FEB 22 2000

IN THE MATTER OF THE APPLICATION OF)
MISSOURI STATE DISCOUNT TELEPHONE)
FOR A CERTIFICATE OF AUTHORITY TO)
PROVIDE BASIC LOCAL)
TELECOMMUNICATIONS SERVICE AND)
LONG DISTANCE SERVICE IN THE STATE)
OF MISSOURI AND TO CLASSIFY SAID)
SERVICES AND MISSOURI STATE DISCOUNT)
TELEPHONE AS COMPETITIVE.)

Missouri Public
Service Commission

CASE NO. TA-2000-204

JOINT STIPULATION AND AGREEMENT

February 15, 2000

1. Missouri State Discount Telephone ("M-SDT" or "Applicant") initiated this proceeding on September 1, 1999 by filing an Application requesting certificate of service authority to provide resold non facilities basic local telecommunications service in all exchanges currently serviced by all incumbent Telephone Companies in the State of Missouri. Missouri State Discount Telephone intends to provide its proposed services through the use of other Incumbent Providers equipment and facilities.

2. The Commission issued a standard notice of Applications, which included this case, on September 14, 1999 and set an intervention deadline of October 14, 1999.

SWBT filed its Application to Intervene on October 7, 1999 through Anthony Conroy. By Order issued on October 19, 1999 the Commission granted SWBT intervention and directed the parties to file a proposed procedural schedule on or before December 20, 1999.

Small Telephone Company Group filed its Application to Intervene on October 13, 1999 through Sondra Morgan. By Order issued on October 19, 1999 the Commission granted Small Telephone Company Group intervention and

BEFORE THE PUBLIC SERVICE COMMISSION STATE OF MISSOURI

directed the parties to file a proposed procedural schedule on or before October 14, 1999.

Mid-Missouri Group of Local Exchange Companies filed its Application to Intervene on November 8, 1999 through Craig Johnson. By Order issued on November 22, 1999 the Commission granted Mid-Missouri Group of Local Exchange Companies intervention and directed the parties to file a proposed procedural schedule on or before October 14, 1999.

3. For purposes of this Stipulation and Agreement, the parties agree that applications for basic local exchange authority in exchanges serviced by "large" local exchange companies (LEC's) should be processed in a manner similar to that in which applications for interexchange and local exchange authority are currently handled. In addition, since this application also seeks authority to serve exchanges served by small incumbent local exchange companies, the parties agree that Applicant must agree to comply with 392.451.1 RSMo 1998.

4. In determining whether Applicant's application for certificate of service authority should be granted, the Commission should consider Applicant's technical, financial and managerial resources and abilities to provide basic local telecommunications service. Applicant must demonstrate that the basic local services it proposes to offer satisfy the minimum standards established by the commission, including, but not limited to, the Applicant agreeing to file and maintain basic local service tariff(s) with the Commission in the same manner and form as the Commission requires of incumbent local exchange telecommunications companies with which the applicant seeks to compete. Further, Applicant agrees to meet the minimum basic local service standards, including quality of service and billing standards, as the Commission requires of the incumbent local exchange

BEFORE THE PUBLIC SERVICE COMMISSION STATE OF MISSOURI

telecommunications companies with which the applicant seeks to compete.

Notwithstanding the provisions of Section 392.500 RSMo 1994, as a condition of certification and competitive classification, Applicant agrees that, unless otherwise ordered by the Commission, the Applicant's originating and terminating access rates will be no greater than the lowest Commission approved corresponding access rates in effect for each incumbent LEC(s) within whose service area(s) Applicant seeks authority to provide service. Further, Applicant agrees to offer basic local telecommunications service as a separate and distinct service and must sufficiently identify the geographic service area in which it proposes to offer basic local service. Such area must follow exchange boundaries of the incumbent local exchange telecommunications companies and must be no smaller than an exchange. Finally, Applicant agrees to provide equitable access to affordable telecommunications services, as determined by the Commission, for all Missourians within the geographic area in which it proposes to offer basic local service, regardless of residence or their income. See Section 392.455 RSMo Supp. 1998.

5. Applicant has submitted its application without tariffs and seeks a temporary waiver of 4 CSR 240-2.060(4)(H)2. Applicant agrees to file its initial tariff(s) in this certification case and serve all parties with written notice at the time the initial tariff(s) are submitted to afford them an opportunity to participate in the tariff approval process. Copies of the tariff(s) will be provided by Applicant to such parties immediately upon request. Any service authority granted pursuant to this Application shall be regarded as conditional and shall not be exercised until such time as the tariff for services shall have become effective. When filing its initial basic local tariff(s), Applicant shall also file and serve a written disclosure of all resale or interconnection agreements which affect Applicant's Missouri service areas, all portions of its Missouri service areas for which it does not have an

BEFORE THE PUBLIC SERVICE COMMISSION STATE OF MISSOURI

interconnection agreement with the incumbent local exchange carrier; and its explanation of why such an interconnection agreement is unnecessary for such areas.

6. Applicant has requested, pursuant to Section 392.420 RSMo 1994 that the Commission waive the application of any or all of the following statutory provisions and rules to basic local telecommunications services, and all parties agree that the Commission should grant such request provided that Section 392.200 RSMo should continue to apply to all of the Applicant's services:

STATUTORY PROVISION

COMMISSION RULES

Section 392.210.2
Section 392.270
Section 392.280
Section 392.290.1
Section 392.300.2
Section 392.310
Section 392.320
Section 392.330
Section 392.340

4 CSR 240-10.020
4 CSR 240-30.040
4 CSR 240-35

7. In negotiating the remaining provisions of this Stipulation and Agreement, the parties have employed the foregoing standards and criteria, which are intended to meet the requirements of existing law and Sections 392.450 ; 392.451 ; and 392.455 RSMo Supp. 1998 regarding applications for certificates of local exchange authority to provide basic local telecommunications services.

MISSOURI STATE DISCOUNT TELEPHONE CERTIFICATION

8. Applicant proposes to provide its services in every exchange throughout the State of Missouri. The exchanges so identified are those currently served by SWBT, GTE, Sprint, Alltel, Mid-Missouri Group of Local Exchange Companies consisting of:

BEFORE THE PUBLIC SERVICE COMMISSION STATE OF MISSOURI

**Alma Telephone Company
Chariton Valley Telephone Corporation
Choctaw Telephone Company
Mid-Missouri Telephone Company
Modern Tele Communications Company
Mo-Kan Dial Company, Inc.
Northeast Missouri Rural ("MMG") Telephone Company**

and Small Telephone Company Group consisting of:

**BPS Telephone Company
Cass County Telephone Company
Citizens Telephone Company of Higginsville, Missouri, Inc.
Craw-Kan Telephone Cooperative, Inc.
Ellington Telephone Company
Farber Telephone Company
Goodman Telephone Company, Inc.
Granby Telephone Company
Grand River Mutual Telephone Corporation
Green Hills Telephone Corporation
Holway Telephone Company
KLM Telephone Company
Kingdom Telephone Company
Lathrop Telephone Company
Le-Ru Telephone Company
Mark Twain Rural Telephone Company
McDonald County Telephone Company
Miller Telephone Company
New Florence Telephone Company
New London Telephone Company
Orchard Farm Telephone Company
Oregon Farmers Mutual Telephone Company
Ozark Telephone Company
Peace Valley Telephone Company
Rock Port Telephone Company
Seneca Telephone Company
Steelville Telephone Exchange, Inc.
Stoutland Telephone Company**

Applicant hereby agrees that its Application should be deemed further amended as required to include by reference the terms and provisions described in paragraphs 4-6 hereinabove and paragraph 11 below to the extent that its Application might be

BEFORE THE PUBLIC SERVICE COMMISSION STATE OF MISSOURI

inconsistent therewith. Since the Applicant will be providing service in an area served by small incumbent local exchange companies, Applicant also agrees that, consistent with the requirements of 392.451.1, RSM 1998, it shall 1) throughout the service area of the incumbent local exchange telecommunication company, offer all telecommunications services which the Commission has determined are essential for purposes of qualifying for state universal service fund support, and 2) advertise the availability of such essential services and the charges therefor using media of general distribution.

9. Based upon its verified Application, as amended by this Stipulation and Agreement, Applicant asserts and no other party makes a contrary assertion, that there is sufficient evidence from which the Commission should find and conclude that Applicant:

- A. possesses sufficient technical, financial and managerial resources and abilities to provide basic local telecommunications service and local exchange telecommunications service, including exchange access service;**
- B. proposes and agrees to offer basic local services that will satisfy the minimum standards established by the Commission;**
- C. has sufficiently identified the geographic area in which it proposes to offer basic local service and such area follows exchange boundaries of the incumbent local exchange telecommunications companies in the same areas, and such area is no smaller than an exchange;**

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

- D. will offer basic local telecommunications services as a separate and distinct service;**
- E. has agreed to provide equitable access, as determined by the Commission, for all Missourians within the geographic area in which it proposes to offer basic local service, regardless of where they live or their income, to affordable telecommunications services; and**
- F. has sought authority which will serve the public interest.**

10. Applicant asserts, and no party opposes, that Applicant's application and request for authority to provide basic local telecommunications service, including exchange access service, should be granted. All services authorized herein should be classified as competitive telecommunications services, provided that the requirements of Section 392.200 RSMo Supp. 1998 continue to apply, and Applicant shall be classified as a competitive telecommunications company. Applicant asserts, and no party opposes, that such services will be subject to sufficient competition by the services of the incumbent LECs to justify a lesser degree of regulation of Applicant's services consistent with the protection of ratepayers and the promotion of the public interest. Such classification should become effective upon the tariffs for the services becoming effective. Such authority should be conditional, not to be exercised until such time as tariffs for those services have been filed (together with the written disclosure as stipulated above) and have become effective. The Commission's Order should state the foregoing conditions substantially as follows:

"The service authority and service classification herein granted are subject to the requirements of Section 392.200 RSMo and are conditional and shall not be exercised until such time as tariffs for services have become effective."

BEFORE THE PUBLIC SERVICE COMMISSION STATE OF MISSOURI

The parties recognize the pendency of Case No. TO-99-596, regarding access rates to be charged by competitive local exchange telecommunications companies. Unless otherwise determined by the Commission in Case No. TO-99-596, any increases in switched access service rates as set forth in paragraph 4 herein shall be cost justified and shall be made pursuant to 392.220 and 392.230 and not 392.500 and 392.510 RSMo Supp. 1998. The Commission's order should state the foregoing conditions substantially as follows:

"Unless otherwise ordered by the Commission, the service authority and service classification for switched access service granted herein is expressly conditioned on the continued applicability of Section 392.200 RSMo Supp. 1998 and the requirement that any increases in switched access service rates above the maximum switched access service rates set forth herein shall be cost justified and shall be made pursuant to Sections 392.220 and 392.230 and not Sections 392.500 and 392.510 RSMo Supp. 1998."

11. Applicant's request for a temporary waiver of 4 CSR 240-2.060(4)(H)2, which requires applications to include a proposed tariff with a 45-day effective date, is not opposed by the parties and should be granted. Applicant agrees that at such time as all facts necessary for the development of tariffs become known, it will submit tariffs in the docket, with a minimum 45-day proposed effective date, to the Commission for its approval, together with the written disclosure as stipulated above. Applicant shall serve notice to all parties and participants in this docket of the filing of its tariffs and the time they are filed with the Commission, and serve them with the aforesaid written disclosure and shall upon request immediately provide any party with a copy of Applicant's proposed tariff(s). The Commission's

BEFORE THE PUBLIC SERVICE COMMISSION STATE OF MISSOURI

order should state these obligations to the temporary waiver of 4 CSR

240-2.060(4)(H), substantially as follow:

“Applicant’s request for temporary waiver of 4 CSR 240-2.060(4)(H) is hereby granted for good cause provided, when Applicant submits its tariffs in this docket to the Commission such tariffs shall have a minimum 45-day effective date and the Applicant shall serve written notice upon the parties hereto of such submittal, and shall provide copies of such tariffs to such parties immediately upon request. When filing its initial basic local service tariff in this docket, the Applicant shall also file and serve upon the parties hereto a written disclosure of: all resale or interconnection agreements which affect its Missouri service areas: all portions of its Missouri service areas for which it does not have a resale or interconnection agreement with the incumbent local exchange carrier; and its explanation of why such a resale or interconnection agreement is unnecessary for any such areas”

12. Applicant’s request for waiver of the applications of the following rules and statutory provisions as they relate to the regulations of Applicant’s new services should be granted:

STATUTORY PROVISIONS

**Section 392.210.2
Section 392.270
Section 392.280
Section 392.290.1
Section 392.300.2
Section 392.310
Section 392.320
Section 392.330
Section 392.340**

COMMISSION RULES

**4 CSR 240-10.020
4 CSR 240-30.040
4 CSR 240-35**

BEFORE THE PUBLIC SERVICE COMMISSION STATE OF MISSOURI

Applicant agrees to comply with all applicable rules, regulations and statutory obligations except for those which are specifically waived by the Commission.

13. This Stipulation and Agreement has resulted from extensive negotiations among the signatories and the terms hereof are interdependent. In the event the Commission does not adopt this Stipulation in total, then this Stipulation and Agreement shall be void and no signatory shall be bound by any of the agreements or provisions hereof. The Stipulations herein are specific to the resolution of this proceeding and are made without prejudice to the rights of the signatories to take other positions in other proceedings.

14. In the event the Commission accepts the specific terms of this Stipulation and Agreement, the parties and participants waive, with respect to the issues resolved herein: their respective rights pursuant to Sections 536.070(2) and 536.080.1 RSMo, to present testimony, to cross-examine witnesses, and to present oral argument or written briefs; their respective rights to the reading of the transcript by the Commission pursuant to Section 536.080 RSMo and to seek judicial review pursuant to Section 386.510, RSMo. The parties agree to cooperate with the Applicant and with each other in presenting this Stipulation and Agreement for approval to the Commission and shall take no action, direct or indirect, in opposition to the request for approval of Applicant's application made herein.

15. The Staff may submit a Staff Recommendation concerning matters not addressed in this Stipulation. In addition, if requested by the Commission, the Staff will submit to the Commission a memorandum explaining its rationale for entering

BEFORE THE PUBLIC SERVICE COMMISSION STATE OF MISSOURI

into this Stipulation and Agreement. Each party of record and participant herein shall be served with a copy of any memorandum and shall be entitled to submit to the Commission, within five (5) days of receipt of Staff's memorandum, a responsive memorandum which shall also be served on all parties and participants. All memoranda submitted by the parties shall be considered privileged in the same manner as settlement discussions under the Commission's rules, shall be maintained on a confidential basis by all parties and participants, and shall not become a part of the record of this proceeding or bind or prejudice the party submitting such memorandum in any future proceeding whether or not the Commission approves this Stipulation and Agreement. The contents of any memorandum provided by any party are its own and are not acquiesced in or otherwise adopted by the other signatories to the Stipulation and Agreement, whether or not the Commission approves and adopts this Stipulation and Agreement.

The Staff shall also have the right to provide, at any agenda meeting at which this Stipulation and Agreement is noticed to be considered by the Commission, whatever oral explanation the Commission requests, provided that the Staff shall, to the extent reasonably practicable, provide the other parties and participants with advance notice of the meeting in which the Staff will respond to the Commission's request if such explanation shall be subject to public disclosure.

16. The Office of the Public Counsel, while not a signatory to this Stipulation and Agreement, has been contacted with regard to its filing, and to the signatory parties' best information and belief, has offered no objection.

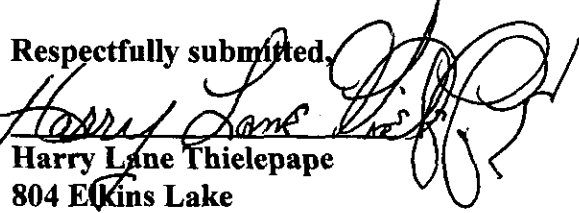
WHEREFORE, the signatories respectfully request the Commission to issue its Order approving the terms of this Stipulation and Agreement and issue its Order

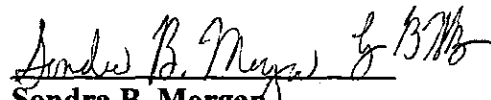
**BEFORE THE PUBLIC SERVICE COMMISSION
STATE OF MISSOURI**

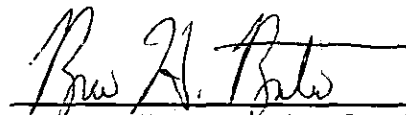
granting authority and classification as requested by Missouri State Discount

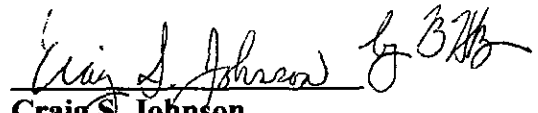
Telephone subject to the conditions described above, as expeditiously as possible.

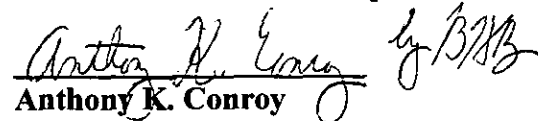
Respectfully submitted,


Harry Lane Thielepape
804 Elkins Lake
Huntsville, Texas 77340
(409) 435-1400
FOR: Missouri State Discount Telephone


Sondra B. Morgan
Brydon, Swearingen & England
P.O. Box 456
Jefferson City, Missouri 65102-0456
(573) 635-7166
FOR: Small Telephone Company Group


Bruce H. Bates, Mo Bar No. 35442
Missouri Public Service Commission
P.O. Box 360
Jefferson City, MO 65102
(573) 751-7434
(573) 751-9285
Attorney for the Staff of the
Missouri Public Service Commission


Craig S. Johnson
Andereck, Evans, Milne,
Peace, & Baumhoer
P.O. Box 1438
Jefferson City, MO 65102
(573) 634-3422
FOR: Mid-Missouri Group


Anthony K. Conroy
SWBT Company
One Bell Center, Rm 3516
St. Louis, Missouri 63101
(314) 235-6060
(314) 247-0014
FOR: Southwestern Bell
Telephone Company

The undersigned hereby certifies that a copy of the foregoing Stipulation and Agreement was served upon counsel for all parties of record in Case No. TA-2000-204 by depositing a true copy thereof in the United States Mail, postage prepaid, or by hand delivery, this 17th day of February 2000.

