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March 18, 2005

The Honorable Dale Hardy Roberts  
Secretary/Chief Regulatory Law Judge  
Missouri Public Service Commission  
P.O. Box 360  
Jefferson City, MO 65102-0360

**FILED<sup>3</sup>**

MAR 18 2005

Re: MCC Telephony of Missouri, Inc.  
Case No. LA-2005-0150

Missouri Public  
Service Commission

Dear Judge Roberts:

Please find enclosed for filing on behalf of MCC Telephony of Missouri, Inc. the original and five copies of a Nonunanimous Stipulation and Motion to Suspend Procedural Schedule.

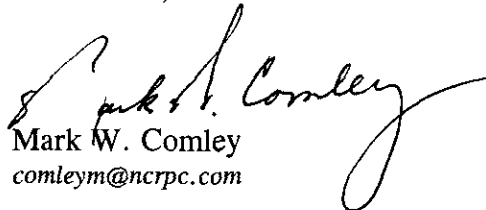
Would you please bring this filing to the attention of the appropriate Commission personnel.

Please contact me if you have any questions regarding this filing. Thank you.

Very truly yours,

NEWMAN, COMLEY & RUTH P.C.

By:

  
Mark W. Comley  
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MWC:lc

Enclosure

cc: Office of Public Counsel  
General Counsel's Office  
Craig Johnson  
Sondra B. Morgan  
Kate O'Donnell  
Doug Nelson

BEFORE THE PUBLIC SERVICE COMMISSION  
OF THE STATE OF MISSOURI

FILED<sup>3</sup>

MAR 18 2005

Missouri Public  
Service Commission

In the Matter of the Application of )  
MCC Telephony of Missouri, Inc. )  
for a Certificate of Service Authority )  
to Provide Basic Local Exchange, )  
Non-Switched Local Exchange and )  
Interexchange Telecommunications Service )  
In the State of Missouri and to Classify said )  
Services and the Company as Competitive )

Case No. LA-2005-0150

**NONUNANIMOUS STIPULATION**

Come now MCC Telephony of Missouri, Inc., (hereinafter "MCC" or "Applicant"), the Office of Public Counsel (OPC)<sup>1</sup>, the Small Telephone Company Group (STCG) and the Missouri Independent Telephone Company Group (MITG) and respectfully state to the Missouri Public Service Commission (Commission) that as a result of extensive negotiations, the undersigned Parties (Signatories), have reached the following stipulations and agreements:

**FOREWARD**

MCC initiated this proceeding on November 30, 2004 by filing an Application requesting certificate of service authority to offer and provide basic local exchange, local exchange and interexchange voice telephone service on a competitive basis in all areas defined by the existing exchange areas in which Southwestern Bell Telephone Company ("SWBT"), CenturyTel of Missouri L.L.C. (CenturyTel), Spectra Communications Group, LLC d/b/a CenturyTel ("Spectra") and Sprint Missouri, Inc. ("Sprint") are authorized to operate in Missouri.

The STCG and MITG both applied for intervention and both applications were granted.

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<sup>1</sup> OPC has signed this stipulation for a limited purpose described *infra*.

## STIPULATION

**For purposes of this Application only and in exchange for interveners' agreement not to oppose the application or its approval, MCC agrees that: .**

1. Through its Application for a Certificate of Service Authority to provide Basic Local Exchange, Non-Switched Local Exchange and Interexchange Services and for Competitive Classification filed on or about November 30, 2004, MCC did not seek authority to provide basic or non-switched local exchange services in any of the exchanges or rate centers currently served by members of the STCG or MITG.

2. MCC will not obtain or assign any NXX codes within any exchange or rate center in which MCC has not sought and received authority to provide basic or non-switched local exchange services.

3. MCC will not provide basic or non-switched local exchange services, including the intrastate point-to-point dedicated service arrangements as referenced in its application, within any exchange or rate center in which MCC has not sought and received authority to provide basic or non-switched local exchange services.

4. To the extent MCC originates any non-local, non-EAS, and non-MCA traffic that is destined to terminate to exchanges or rate centers currently served by STCG or MITG member companies, MCC will comply with any applicable and legally valid access tariffs of the STCG and MITG member companies.

5. To the extent MCC originates any non-local, non-EAS, and non-MCA traffic that is destined to terminate to exchanges or rate centers served by STCG or MITG member companies, MCC will create and pass the appropriate industry standard traffic records to the STCG & MITG member companies that are necessary for the STCG or MITG member

companies to identify and, if appropriate, accurately bill MCC for termination of such traffic pursuant to an applicable and legally valid access tariff.

**For purposes of this Application only, all parties agree that:**

6. The separate stipulations made by MCC in paragraphs 1-5 are without prejudice to a) MCC filing at some subsequent time an application before this Commission for certificate of service authority to offer and provide basic or non-switched local exchange service in the exchanges or rate centers served by members of the STCG or MITG; and b) MCC exercising any rights it may have now or in the future, pursuant to any federal or state law, order or regulation.

7. Based upon its verified application, and MCC's stipulations above, MCC asserts, and no undersigned party makes a contrary assertion, that there is adequate and sufficient evidence in the record upon which the Commission may conclude that MCC possesses sufficient technical, financial and managerial resources and abilities to provide basic local exchange service, non-switched local exchange service, including exchange access service, and interexchange service.

8. MCC asserts, and no undersigned party makes a contrary assertion, that MCC's application and request for authority to provide basic local exchange service, non-switched local exchange service, including exchange access service, and interexchange service should be granted.

9. MCC asserts, and no undersigned party makes a contrary assertion, that granting of MCC's application would serve the public interest.

10. This Stipulation 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 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 all stipulations are made without prejudice to the rights of the Signatories to take other positions in other proceedings.


11. In the event the Commission accepts the specific terms of this Stipulation, the Signatories waive, with respect to the issues resolved herein the following rights: their respective rights to present testimony and to cross examine witnesses pursuant to Section 536.070(2) RSMo.; their respective rights to present oral argument or written briefs pursuant to Section 536.080.1 RSMo.; their respective rights to the reading of the transcript by the Commission pursuant to §536.080.2 RSMo.; and their respective rights to seek rehearing pursuant to §386.500 RSMo. and to seek judicial review pursuant to §386.510, RSMo. The parties agree to cooperate with the Applicant and with each other in presenting this Stipulation for approval to the Commission and shall take no action, direct or indirect, in opposition to the request for approval of MCC's application made herein.

12. Although it is not a signatory, the Staff has indicated that it does not oppose the Stipulation and shall file in separate pleadings a Statement regarding this Nonunanimous Stipulation and its Recommendation on MCC's application.

13. The Office of the Public Counsel is a signatory to this Stipulation only for the purposes of stating that it does not have any objections to the Nonunanimous Stipulation and Agreement.

WHEREFORE, the Signatories respectfully request the Commission to issue its Order approving the terms of this Nonunanimous Stipulation and issue its Order granting authority as set forth herein.

Respectfully submitted,



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Certificate of Service

I hereby certify that a true and correct copy of the above and foregoing document was sent via e-mail on this 18<sup>th</sup> day of March, 2005, to General Counsel's Office at [gencounsel@psc.state.mo.us](mailto:gencounsel@psc.state.mo.us); Office of Public Counsel at [opcservice@ded.state.mo.us](mailto:opcservice@ded.state.mo.us); Craig Johnson at [cjohnson@aempb.com](mailto:cjohnson@aempb.com); and Sondra Morgan at [smorgan@brydonlaw.com](mailto:smorgan@brydonlaw.com)

