

gl

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

In the Matter of the Application of Focal)
Communications Corporation of Missouri for a)
Certificate of Service Authority to Provide)
Basic Local Telecommunications Service) Case No. TA-99-403
in the State of Missouri, and to Classify)
Said Services as Competitive)

REQUEST FOR MEMORANDUM ON STIPULATION AND AGREEMENT

On March 25, 1999, Focal Communications of Missouri (Focal) filed an application for authority to provide switched and dedicated, resold and facilities-based basic local telecommunications services in the state of Missouri. On March 30, 1999, the Commission issued notice and schedule of applicants, directing interested parties to file applications to intervene no later than April 29, 1999.

On April 2, 1999, Southwestern Bell Telephone Company (SWBT) filed a timely application to intervene. On May 5, 1999, the Commission issued its Order Granting Intervention and Directing Filing of Procedural Schedule, allowing SWBT to intervene and ordering that a procedural schedule be filed no later than June 4, 1999.

On June 3, 1999, Focal filed its Request for Additional Time to File Stipulation and Agreement. Focal stated that it was confident that the parties would be successful in negotiating a stipulation and agreement. However, Focal stated the press of other business had delayed the negotiations. Focal stated that the parties should be able to complete and file a stipulation and agreement no later than

June 25, 1999. Focal also stated that the Staff of the Missouri Public Service Commission (Staff) and SWBT did not oppose the request for additional time. On June 16, 1999, the Commission granted the parties until June 25, 1999, to file a stipulation and agreement or a procedural schedule.

On June 25, 1999, Focal filed the its second Request for Additional Time to File Stipulation and Agreement. Focal stated that on June 15, 1999, the Commission entered its Order Establishing Case and Directing Notice, creating Case No. TO-99-596, styled: In the Matter of Access Rates to be Charged by Competitive Local Exchange Telecommunications Companies, in which the Commission expressed its concern with the possible anti-competitive effect of the access rate cap provision contained in the "standard" stipulation and agreement entered into in competitive local exchange company application cases. Focal stated that it desired additional time to attempt to negotiate a stipulation and agreement regarding its application in the present case, which takes into consideration the pendency of the access rate investigation in TO-99-596. Focal also stated that the Staff did not oppose the request for additional time. Focal requested a continuance until July 16, 1999, to file a stipulation and agreement or procedural schedule. On June 30, 1999, the Commission entered its Second Order Granting Additional Time, giving the parties until August 27, 1999, to file a stipulation and agreement or procedural schedule.

On August 27, 1999, Focal filed a third Request for Additional Time to File Stipulation and Agreement. Focal stated that although the parties had worked diligently to negotiate a stipulation and

agreement to resolve any issues regarding certification of Focal as a competitive local exchange carrier, additional time was needed for authorization for execution of a stipulation. Focal stated that approximately ten (10) days would be sufficient to complete the authorization process. Focal stated that Staff had no objection to this request. Focal stated that it requested until September 7, 1999, to complete a stipulation and agreement.

Due to the complexity of this matter, the Commission ordered the parties to file either a proposed procedural schedule or a stipulation and agreement, no later than September 8, 1999.

Focal and the Staff of the Missouri Public Service Commission filed their proposed Stipulation and Agreement (Agreement) on September 8, 1999. On the same day, Focal filed its Suggestions in Support of Stipulation and Agreement

The Agreement stated, *inter alia*, that, if requested by the Commission, the Staff shall have the right to submit to the Commission a memorandum explaining the rationale for entering into the Agreement. Each party shall be served with a copy of the memorandum and shall have the right to submit to the Commission a responsive memorandum served on all parties. The responsive memorandum shall be served on all parties within five (5) business days of the service of the Staff's memorandum.

Thus, the Commission will request a memorandum from the Staff as set forth above.

IT IS THEREFORE ORDERED:

1. That the Staff of the Missouri Public Service Commission shall furnish a memorandum explaining its rationale for entering into the proposed Stipulation and Agreement between the parties, filed on September 8, 1999, the said memorandum to be filed no later than October 14, 1999.

2. That this order shall become effective on September 27, 1999.

BY THE COMMISSION



Dale Hardy Roberts
Secretary/Chief Regulatory Law Judge

(S E A L)

Bill Hopkins, Senior Regulatory Law Judge,
by delegation of authority pursuant
to 4 CSR 240-2.120(1) (November 30,
1995) and Section 386.240, RSMo 1994.

Dated at Jefferson City, Missouri,
on this 16th day of September, 1999.

RECEIVED
SEP 16 1999
COMMISSION COUNSEL
PUBLIC SERVICE COMMISSION