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July 12, 2000

**FILED<sup>2</sup>**

JUL 12 2000

Missouri Public  
Service Commission

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

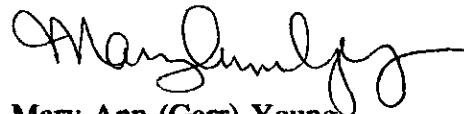
RE: Case No. TA-2000-752  
Digital Access Corporation of Missouri, Inc.'s Application for Certificates of Service  
Authority and for Competitive Classification

Dear Mr. Roberts:

Enclosed please find an original and eight copies of the Unanimous Stipulation and Agreement of the parties to this case for filing with the Commission in the above-referenced case. The Stipulation is filed in lieu of a procedural schedule in this matter.

Thank you for your assistance in processing this filing. Copies are being served on the Office of Public Counsel, the General Counsel's office and counsel for Southwestern Bell Telephone Company. If there are any questions, please call me at 634-8109.

Sincerely,



Mary Ann (Garr) Young

Enclosure

cc: Michael Dandino, Office of Public Counsel  
Marc Poston, General Counsel's Office  
Mimi MacDonald, SWBT  
Cara Sheppard, Fleishman and Walsh

BEFORE THE PUBLIC SERVICE COMMISSION  
STATE OF MISSOURI

FILED<sup>2</sup>  
JUL 12 2000

Missouri Public  
Service Commission

In the Matter of the Application of )  
Digital Access Corporation of Missouri, Inc. )  
for a Certificate of Service Authority to )  
Provide Basic Local Service, )  
Nonswitched Local Exchange Service )  
and Interexchange Telecommunications )  
Services within the State of )  
Missouri and for Competitive Classification )

Case No. TA-2000-752

UNANIMOUS STIPULATION AND AGREEMENT

Digital Access Corporation of Missouri, Inc., d/b/a Digital Access (Applicant or Digital Access) initiated this proceeding on May 12, 2000, by filing an Application requesting certificate of service authority to provide basic local telecommunications services in those portions of Missouri that are currently served by Southwestern Bell Telephone Company (SWBT), GTE Midwest, Incorporated (GTE) and Sprint Missouri, Inc. d/b/a Sprint (Sprint), as well as nonswitched local exchange and interexchange service throughout the state of Missouri.

The Missouri Public Service Commission (Commission) has granted the timely application to intervene of Southwestern Bell Telephone Company (SWBT).

A. Standards and Criteria

1. For purposes of this Unanimous Stipulation and Agreement, the parties agree that applications for basic local exchange service authority in exchanges served by "large" local exchange companies (LECs)<sup>1</sup> should be processed in a manner similar to that in which applications for interexchange and local exchange authority are currently handled.

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<sup>1</sup>Large LECs are defined as LECs who serve 100,000 or more access lines §386.020 RSMo. In Missouri, the current large LECs are SWBT, GTE and Sprint.

2. In determining whether Digital Access'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 filing and maintenance of basic local service tariffs with the Commission in the same manner and form as the Commission requires of incumbent local exchange telecommunications companies (ILECs) with which 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 ILECs with which applicant seeks to compete. Notwithstanding the provisions of §392.500 RSMo., as a condition of certification and competitive classification, Applicant agrees that, unless otherwise ordered by the Commission, Digital Access's originating and terminating access rates will be no greater than the lowest Commission approved corresponding access rates in effect for each large ILEC within whose service area(s) Applicant seeks authority to provide service. Additionally, Applicant agrees that if the ILEC in whose service area the Applicant is operating decreases its originating and/or terminating access service rates, Applicant shall file an appropriate tariff amendment to reduce its originating and/or terminating access rates within thirty (30) days of the ILEC's reduction of its originating and/or terminating access rates in order to maintain the cap, consistent with the Commission's Report and Order in Case No. TO-99-596. Further, Applicant agrees to offer basic local telecommunications service as a separate and distinct service and has sufficiently identified the geographic service area in which it proposes to offer basic local service. Such area follows exchange boundaries of the ILECs in the same area and is 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 income. See §392.455 RSMo.

3. Digital Access submitted its application without a tariff and seeks a temporary waiver of 4 CSR 240-2.060(6)(C). Digital Access agrees to file its initial tariff in this certification docket and serve all parties thereto with written notice at the time the initial tariff is submitted to afford them an opportunity to participate in the tariff approval process. Copies of the tariff will be provided by Applicant to such parties immediately upon request. Any service authority shall be regarded as conditional and shall not be exercised until such time as a tariff for service has become effective. When filing its initial basic local tariff, Digital Access shall also file and serve a written disclosure of all resale and/or interconnection agreements which affect its Missouri service areas, all portions of its Missouri service areas for which it does not have a resale and/or interconnection agreement with the incumbent local exchange carrier, and its explanation of why such a resale and/or interconnection agreement is unnecessary for such areas.

4. Digital Access has, pursuant to §392.420 RSMo., requested that the Commission waive the application of the following statutory provisions and rules to its basic local telecommunications services, and the parties agree that the Commission should grant such request provided that §392.200 RSMo. should continue to apply to all of Digital Access's services:

STATUTORY PROVISIONS

§392.210.2  
§392.270  
§392.280  
§392.290  
§392.300.2  
§392.310

COMMISSION RULES

4 CSR 240-10.020  
4 CSR 240-30.010(2)(C)  
4 CSR 240-30.040  
4 CSR 240-32.030(4)(C)  
4 CSR 240-33.030  
4 CSR 240-35

Statutory Provisions, continued

§392.320  
§392.330  
§392.340

Digital Access has, pursuant to §392.420 RSMo., requested that the Commission waive the application of the following statutory provisions and rules to its interexchange and local exchange telecommunications services, and the parties agree that the Commission should grant such request provided that §392.200 RSMo. should continue to apply to all of Digital Access's services:

STATUTORY PROVISIONS

§392.210.2  
§392.270  
§392.280  
§392.290  
§392.300.2  
§392.310  
§392.320  
§392.330  
§392.340

COMMISSION RULES

4 CSR 240-10.020  
4 CSR 240-30.010(2)(C)  
4 CSR 240-30.040  
4 CSR 240-33.030  
4 CSR 240-35

5. In negotiating the remaining provisions of this Unanimous Stipulation and Agreement, the parties employed the foregoing standards and criteria, which are intended to meet the requirements of existing law and §§392.450 and 392.455 RSMo. regarding applications for certificates of local exchange service authority to provide basic local telecommunications service

B. Digital Access' Certification

6. Digital Access hereby agrees that its application should be deemed amended to include by reference the terms and provisions described in paragraphs 2-5 above.

7. Based upon its verified Application, as amended by this Unanimous Stipulation and Agreement, Digital Access asserts, and no party makes a contrary assertion, that there is sufficient evidence from which the Commission can find and conclude that Digital Access:

- A. possesses sufficient technical, financial and managerial resources and abilities to provide basic local telecommunications service, including exchange access service;
- B. proposes and agrees to offer basic local services that 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;
- D. will offer basic local telecommunications service as a separate and distinct service;
- E. has agreed 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 where they live or their income; and
- F. has sought authority which will serve the public interest.

8. Digital Access asserts, and no party opposes, that Digital Access's application and request for authority to provide basic local telecommunications services and interexchange and local exchange telecommunications services should be granted. All services authorized herein should be classified as competitive telecommunications services provided that the requirements of §392.200 RSMo. continue to apply, and Digital Access shall remain classified as a competitive telecommunications company. Digital Access asserts, and no party opposes, that such services will be subject to sufficient competition by the services of the ILECs to justify a lesser degree of regulation of Digital Access'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 §392.200 RSMo. and are conditional and shall not be exercised until such time as tariffs for services have become effective.

The parties agree that Applicant's switched exchange access services may be classified as competitive services. The parties further agree that Applicant's intrastate switched exchange access services are subject to §392.200 RSMo. Unless otherwise determined by the Commission, any increases in intrastate switched access service rates above the maximum switched access service rates as set forth in paragraph 2 herein shall be made pursuant to §§392.220 and 392.230 RSMo. and not §§392.500 and 392.510 RSMo. Applicant agrees that if the ILEC in whose service area Applicant is operating decreases its originating and/or terminating access service rates, Applicant shall file an appropriate tariff amendment to reduce its originating and/or terminating access rates within thirty (30) days of the ILEC's reduction of its originating and/or terminating access rates in order to maintain the cap. The Commission's Order should state the foregoing conditions substantially as follows:

The service authority and service classification for switched exchange access granted herein is expressly conditioned on the continued applicability of §392.200 RSMo. and the requirement that any increases in switched access service rates above the maximum switched access service rates set forth herein shall be made pursuant to §392.220 and 392.230 RSMo. and not §392.500 and 392.510 RSMo. Furthermore, if the ILEC in whose service area Applicant is operating decreases its originating and/or terminating access service rates, Applicant shall file an appropriate tariff amendment to reduce its originating and/or terminating access rates within thirty (30)

days of the ILEC's reduction of its originating and/or terminating access rates in order to maintain the cap.

9. Digital Access's request for a temporary waiver of 4 CSR 240-2.060(6)(C), which requires applications to include a proposed tariff with a 45-day effective date, is not opposed by the parties and should be granted. Digital Access does not yet have approved resale and/or interconnection agreements with any incumbent local exchange companies. Applicant agrees that at such time as all facts necessary for the development of tariffs become known, it will submit tariffs in this docket, with a minimum 45-day proposed effective date, to the Commission for its approval, together with the written disclosure as stipulated above. Digital Access shall serve notice to all parties and participants in this docket of the filing of its tariffs at 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 those tariffs. The Commission's Order should state these obligations as conditions to the waiver of 4 CSR 240-2.060(6)(C), substantially as follows:

Applicant's request for temporary waiver of 4 CSR 240-2.060(6)(C) is hereby granted for good cause in that applicant does not yet have approved resale and/or interconnection agreements with incumbent local exchange companies within whose service areas it seeks to provide service. When applicant submits its tariffs in this docket to the Commission, such tariffs shall have a minimum of a 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 tariff in this docket, the applicant shall also file and serve upon the parties hereto a written disclosure of: all resale and/or interconnection agreements which affect its Missouri service areas; all portions of its Missouri service areas for which it does not have a resale and/or interconnection agreement with the incumbent local exchange carrier; and its explanation of why such a resale and/or interconnection agreement is unnecessary for any such areas.



10. Digital Access's request for waiver of the application of the following rules and statutory provisions as they relate to the regulation of Applicant's basic local services should be granted:

STATUTORY PROVISIONS

§392.210.2  
§392.270  
§392.280  
§392.290  
§392.300.2  
§392.310  
§392.320  
§392.330  
§392.340

COMMISSION RULES

4 CSR 240-10.020  
4 CSR 240-30.010(2)(C)  
4 CSR 240-30.040  
4 CSR 240-32.030(4)(C)  
4 CSR 240-33.030  
4 CSR 240-35

Digital Access's request for waiver of the application of the following rules and statutory provisions as they relate to the regulation of Applicant's interexchange and local exchange services should be granted:

STATUTORY PROVISIONS

§392.210.2  
§392.270  
§392.280  
§392.290  
§392.300.2  
§392.310  
§392.320  
§392.330  
§392.340

COMMISSION RULES

4 CSR 240-10.020  
4 CSR 240-30.010(2)(C)  
4 CSR 240-30.040  
4 CSR 240-33.030  
4 CSR 240-35

11. This Unanimous 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 Unanimous Stipulation in total, then this Unanimous 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 are made without prejudice to the rights of the signatories to take other positions in other proceedings.

12. In the event the Commission accepts the specific terms of this Unanimous Stipulation and Agreement, the parties and participants waive, with respect to the issues resolved herein: their respective rights pursuant to §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 §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 Unanimous Stipulation for approval to the Commission and shall take no action, direct or indirect, in opposition to the request for approval of Digital Access's application made herein.

13. The Staff shall file suggestions or a memorandum in support of this Unanimous Stipulation and the other parties shall have the right to file responsive suggestions or prepared testimony. All responsive suggestions, prepared testimony or memorandum shall be subject to the terms of any Protective Order that may be entered in this case.

14. The Staff shall also have the right to provide, at any agenda meeting at which this Unanimous 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 when the Staff shall respond to the Commission's request for such explanation once such explanation is requested from Staff. The Staff's oral explanation shall be subject to public disclosure, except to the extent

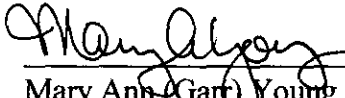
that it refers to matters that are privileged or protected from disclosure pursuant to any Protective Order issued in this case.

15. The Office of Public Counsel is a signatory to this Unanimous Stipulation and Agreement for the sole purpose of stating that it has no objection to this Unanimous Stipulation and Agreement.

16. Finally, Digital Access will comply with all applicable Commission rules and regulations except those which are specifically waived by the Commission.

WHEREFORE, the signatories respectfully request the Commission to issue its Order approving the terms of this Unanimous Stipulation and Agreement and issue its Order granting authority and classification, and waiver of certain statutes and rules, as requested by Digital Access, subject to the conditions described above, at its earliest convenience.

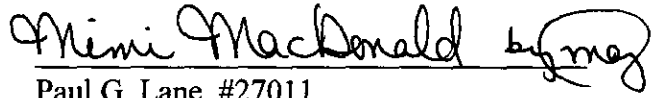
Respectfully submitted,



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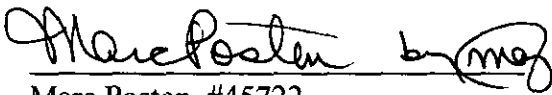
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FOR: Digital Access Corporation  
of Missouri, Inc.



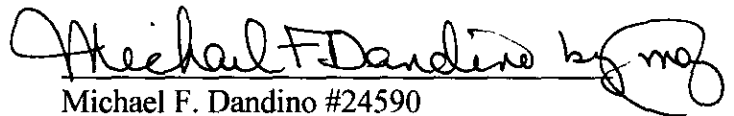
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FOR: Staff of the Missouri  
Public Service Commission

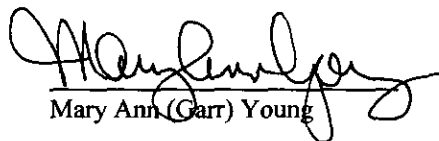


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FOR: Office of the Public Counsel

#### CERTIFICATE OF SERVICE

I hereby certify that a copy of this document has been hand delivered or mailed by first class mail, postage prepaid, to the Office of Public Counsel, General Counsel and counsel for Southwestern Bell Telephone Company this 12th day of July 2000.



Mary Ann (Garr) Young