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May 24, 2000

VIA HAND DELIVERY

Mr. Dale Roberts
Executive Secretary
Missouri Public Service Commission
301 West High Street, Suite 530
Jefferson City, Missouri 65101

FILED²
MAY 24 2000
Missouri Public
Service Commission

Re: *In the Matter of the Application of Ionex Communications, Inc. for a Certificate of Service Authority to Provide Basic Local Telecommunications Service, for Waiver of Certain Statutory and Regulatory Provisions, And for Designation as a Competitive Telecommunications Company*
Case No. TA-2000-600

Dear Mr. Roberts:

Enclosed for filing with the Commission is the Unanimous Stipulation and Agreement in the above-referenced matter. The original and 14 copies of this document will be forwarded by Federal Express for delivery on May 25, 2000.

Please do not hesitate to contact me if you should have any questions. Thank you for bringing this matter to the attention of the Commission.

Very truly yours,



Lisa C. Creighton

LCC/cmw
Enclosures

cc: Michael F. Dandino, Office of the Public Counsel
William K. Haas, Office of General Counsel
Paul G. Lane, et al., Southwestern Bell Telephone Company

BEFORE THE PUBLIC SERVICE COMMISSION
STATE OF MISSOURI

FILED²
MAY 24 2000

Missouri Public
Service Commission

In the matter of the Application of)
Ionex Communications, Inc. for a)
Certificate of Service Authority to)
Provide Basic Local Telecommunications)
Service, for Waiver of Certain)
Statutory and Regulatory Provisions,)
And for Designation as a Competitive)
Telecommunications Company.)

Case No. TA-2000-600

UNANIMOUS STIPULATION AND AGREEMENT

Ionex Communications, Inc. ("Applicant" or "Ionex") initiated this proceeding on March 27, 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/United Telephone Company ("Sprint"). The Missouri Public Service Commission ("Commission") has granted the timely application to intervene of SWBT.

A. Standards and Criteria

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

¹ Large LECs are defined as LECs who serve 100,000 or more access lines. Section 386.020 RSMo Supp. 1998. In Missouri, the current large LECS are SWBT, GTE and Sprint.

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2. In determining whether Ionex' 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 (1994), as a condition of certification and competitive classification, Applicant agrees that, unless otherwise ordered by the Commission, Applicant's originating and terminating access rates will be no greater than the lowest Commission approved corresponding access rates in effect for the large ILEC(s) within whose service areas Applicant seeks authority to provide service. 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. Supp. 1999.

3. The parties acknowledge that the Commission is currently examining the extent to which competitive LEC ("CLEC") switched access rates should be regulated in Case No. TO-99-596. Ionex will comply with any applicable Commission order regarding intrastate CLEC switched access rates, and the parties acknowledge that Ionex can comply with any such order notwithstanding any contrary terms contained in this Stipulation.

4. Ionex shall also file and serve a written disclosure of: all interconnection agreements which affect its Missouri service areas; all positions of its Missouri service area for which it does not have an interconnection agreement with an ILEC; and its explanation of why such an interconnection agreement is unnecessary for such areas.

5. Ionex 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 Ionex' 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 C.S.R. 240-10.020
4 C.S.R. 240-30.010(2)(C)
4 C.S.R. 240-30.040
4 C.S.R. 240-32.030(4)(C)
4 C.S.R. 240-33.030
4 C.S.R. 240-35

6. In negotiating the remaining provisions of this 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 authority to provide basic local telecommunications service.

B. Ionex' Certification

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

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

- (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.

9. Ionex asserts, and no party opposes, that Ionex' application and request for authority to provide basic local 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 Ionex shall remain classified as a competitive telecommunications company. Ionex 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 Ionex' services consistent with the protection of ratepayers and the promotion of the public interest. Such classification should become effective upon the issuance of a certificate and 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 become effective and the written disclosure stipulated above has been filed. 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 and are conditional and shall not be exercised until such time as tariffs for services have become effective.

The parties agree that Ionex' 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. Any increases in intrastate switched access service rates above the maximum switched access service rates as set forth in paragraph 2 herein shall be cost justified and shall be made pursuant to §§ 392.220 and 392.230 RSMo and not §§ 392.500 and 392.510 RSMo. 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 cost justified and shall be made pursuant to §§ 392.220 and 392.230 RSMo and not §§ 293.500 and 392.510 RSMo.

Ionex agrees that, no later than May 24, 2000, it will file and serve a written disclosure of all of its interconnection agreements which affect its Missouri service areas; all portions of its Missouri service areas for which it does not have an interconnection agreement with an ILEC, and its explanation of why such an interconnection agreement is unnecessary for such areas. The Commission's Order should state these obligations substantially as follows:

The Applicant has filed and served upon the parties hereto a written disclosure of: all interconnection agreements which affect its Missouri service areas; all portions of its Missouri service areas for which it does not have an interconnection agreement with an ILEC; and its explanation of why such an interconnection agreement is unnecessary for any such areas.

10. Ionex' request for waiver of the application of the following rules and statutory provisions as they relate to the regulation of Ionex' 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 C.S.R. 240-10-020
4 C.S.R. 240-30.010(2)(C)
4 C.S.R. 240-30.040
4 C.S.R. 240-32.030(4)(C)
4 C.S.R. 240-33.030
4 C.S.R. 240-35

11. 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 and Agreement 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.

12. 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 § 536.070(2) and § 536.080.1 RSMo 1994, 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 1994; and their respective rights to seek rehearing pursuant to § 386.500 RSMo 1994 and to seek judicial review pursuant to § 386.510 RSMo 1994. 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 the Ionex application made herein.

13. The Staff shall file suggestions or a memorandum in support of this Stipulation and Agreement, and the other parties shall have the right to file responsive suggestions or prepared testimony. All responsive suggestions or prepared testimony shall be filed within five (5) days from the date of receipt of Staff's suggestions or memorandum in support. All suggestions, prepared testimony or memorandum shall be subject to the terms of the Protective Order entered into in this case.

14. 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 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 the Staff. Staff's oral explanation shall be subject to public disclosure, except to the extent it refers to matters that are privileged or protected by disclosure pursuant to any protective order issued in this case.

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

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

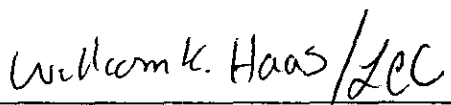
WHEREFORE, the signatories respectfully request the Commission to issue its Order approving the terms of this Stipulation and Agreement and issue its Order granting authority and classification as requested by Ionex, subject to the conditions described above, at its earliest convenience.

RESPECTFULLY SUBMITTED,



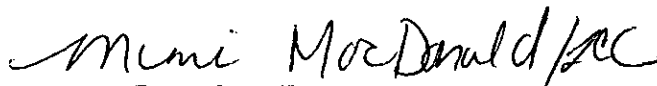
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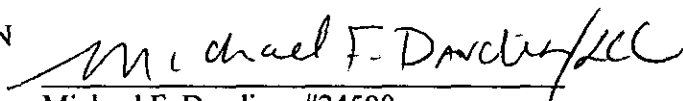
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