

**STATE OF MISSOURI
PUBLIC SERVICE COMMISSION
JEFFERSON CITY
August 8, 2000**

CASE NO: TA-2000-661

Office of the Public Counsel
P.O. Box 7800
Jefferson City, MO 65102

Kurt D. Maahs
Morrow Willnauer & Klosterman, P.C.
1001 E. 101st Terr., Suite 240
Kansas City, MO 64131-3368

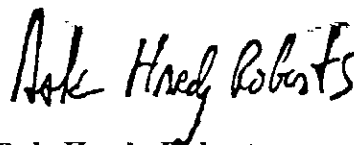
Paul G. Lane/Leo J. Bub
Anthony K. Conroy/Mimi B. MacDonald
Southwestern Bell Telephone Company
One Bell Center, Room 3510
St. Louis, MO 63101

General Counsel
Missouri Public Service Commission
P.O. Box 360
Jefferson City, MO 65102

Jon C. Bruning, Esq.
Bruning Law Office
1079 N. 204th Ave.
Elkhorn, NE 68022

Enclosed find certified copy of an ORDER in the above-numbered case(s).

Sincerely,



Dale Hardy Roberts
Secretary/Chief Regulatory Law Judge

STATE OF MISSOURI
PUBLIC SERVICE COMMISSION

At a session of the Public Service Commission held at its office in Jefferson City on the 8th day of August, 2000.

In the Matter of the Application of Cox)
Missouri Telecom LLC for a Certificate of)
Service Authority to Provide Basic Local) Case No. TA-2000-661
Telecommunications in Portions of the State)
of Missouri and to Classify Said Services)
and the Company as Competitive.)

ORDER GRANTING CERTIFICATE OF SERVICE AUTHORITY
TO PROVIDE BASIC LOCAL AND LOCAL EXCHANGE
TELECOMMUNICATIONS SERVICES

Procedural History

Cox Missouri Telecom LLC (Cox or Applicant) applied to the Commission on April 17, 2000, for a certificate of service authority to provide basic local and local exchange telecommunications services in Missouri under Chapter 392 of the Missouri Revised Statutes. Cox asked the Commission to classify it as a competitive company and to waive certain statutes and rules as authorized by Section 392.420, RSMo. Cox is a limited liability company organized under the laws of Delaware and is authorized to transact business in Missouri. Cox's principal offices in Missouri are located at 231 East Fourth Street, Post Office Box 696, Carthage, Missouri 64836.

The Commission issued a notice and schedule of applicants on May 16, 2000, directing interested parties wishing to intervene to do so by

June 15, 2000. The Commission granted permission to intervene to Southwestern Bell Telephone Company (SWBT) on July 18, 2000.

On July 21, 2000, the parties filed a Unanimous Stipulation and Agreement (Agreement), which is included with this order as Attachment 1. The Staff of the Commission (Staff) filed suggestions in support of the Agreement on July 25, 2000. In the Agreement, the parties waived their rights to present testimony, cross-examine witnesses, present oral argument or briefs, and to seek rehearing or judicial review. The Agreement also provided that one of the statutes originally proposed for waiver by Cox, Section 392.240.1, RSMo 1994, would not be waived.

On August 1, 2000, the Commission issued its Notice and Order Directing Staff Appearance and Response. This order directed the Staff of the Commission to appear at the Commission's Agenda meeting on August 3, 2000, to explain why Section 392.240.1, RSMo 1994, originally requested for waiver by Cox, was no longer among the statutes whose waiver was requested. Such an appearance was specifically approved by the parties in their Agreement:

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 Staff shall respond to the Commission's request for such explanation once such explanation is requested from the Staff.

The order also provided notice to all parties that Staff would appear at the Agenda meeting on August 3, 2000, and respond to questions by the Commission.

On August 3, 2000, the Staff of the Commission and counsel for SWBT did appear at the Commission's Agenda meeting. Staff, and counsel for SWBT explained that SWBT believed that waiver of Section 392.240.1, RSMo 1994, was not in the public interest as it would deprive the Commission of a useful enforcement mechanism in the event that Cox should ever charge unlawful, unjust or unreasonable rates. However, discussion of this point satisfied the Commission that it would continue to possess ample enforcement powers even if Section 392.240.1, RSMo 1994, were to be waived as originally requested by Cox. Counsel for SWBT stated that SWBT would not object to the waiver of that section, if ordered by the Commission.

The requirement for a hearing is met when the opportunity for hearing has been provided and no proper party has requested the opportunity to present evidence. State ex rel. Rex Deffenderfer Enterprises, Inc. v. Public Service Commission, 776 S.W.2d 494, 496 (Mo. App. 1989). Since no one has requested a hearing in this case, the Commission may grant the relief requested based on the application.

Discussion

Cox proposes to provide facilities-based and resold basic local and local exchange telecommunications services, as separate and distinct services, throughout all Missouri exchanges currently served by SWBT, Sprint/United Telephone Company (Sprint), and GTE Midwest, Inc. (GTE). The specific exchanges in which Cox proposes to operate are listed in the companies' local exchange tariffs. Applicant is not asking for certification in any area that is served by a small incumbent local exchange provider. Cox is requesting that its basic local and local

exchange services be classified as competitive and that the application of certain statutes and regulatory rules be waived.

A. Requirements of 4 CSR 240-2.060(4)

Commission rule 4 CSR 240-2.060(4) requires a foreign corporation applying for certification to provide telecommunications services to include in its application a certificate from the Secretary of State showing it is authorized to do business in Missouri, a description of the types of services it intends to provide, a description of the exchanges where it will offer service, and a proposed tariff with a 45-day effective date. Cox has provided all the required documentation except for the proposed tariff. The company requested a temporary waiver of 4 CSR 240-2.060(4) (H) until it has entered into an interconnection agreement with one of the underlying local exchange carriers and that agreement has been approved by the Commission.

The Applicant agreed to submit to the Commission for approval a proposed tariff with a minimum 45-day effective date once it is party to the appropriate interconnection agreement. The Stipulation and Agreement provides that Cox will file the tariff in this case and give notice of the tariff filing to all the parties. Along with that filing, Cox has agreed to provide a written disclosure of all interconnection agreements it has entered into which affect its Missouri service areas. However, the Commission has found that holding open the certificate case until a tariff is filed may result in the case being left open without any activity for an extended period. Therefore, this case will be closed and when Cox files the required tariff, it will be assigned a new case number. Cox will be

directed to provide the notice and disclosures required by the Stipulation and Agreement when it files its proposed tariff.

B. Basic Local Service Certification

Section 392.455, RSMo Supp. 1999, sets out the requirements for granting certificates to provide basic local telecommunications service to new entrants. A new entrant must: (1) possess sufficient technical, financial and managerial resources and abilities to provide basic local telecommunications service; (2) demonstrate that the services it proposes to offer satisfy the minimum standards established by the Commission; (3) set forth the geographic area in which it proposes to offer service and demonstrate that such area follows exchange boundaries of the incumbent local exchange telecommunications company and is no smaller than an exchange; and (4) offer basic local telecommunications service as a separate and distinct service. In addition, the Commission must give due consideration to equitable access for all Missourians to affordable telecommunications services, regardless of where they live or their income.

Cox submitted as Exhibit C to its application the financial documents which demonstrates its financial resources and abilities. Exhibit B to the application lists the names and qualifications of the applicant's management team. The parties agreed that Cox possesses sufficient technical, financial and managerial resources and abilities to provide basic local telecommunications service.

Cox has agreed to provide services that meet the minimum basic local service standards required by the Commission, including quality of service and billing standards. The parties agreed that Applicant proposes

to offer basic local services that satisfy the minimum standards established by the Commission.

Cox wishes to be certificated to offer services in all the exchanges presently served by SWBT, Sprint, and GTE as described in the basic local exchange tariffs of those companies. The parties agreed that Cox has sufficiently identified the geographic area in which it proposes to offer basic local service and that the area follows the incumbent local exchange carrier's exchange boundaries and is no smaller than an exchange.

Cox has agreed to offer basic local telecommunications service as a separate and distinct service and to provide equitable access, as determined by the Commission, for all Missourians within the geographic area in which it will offer basic local services in compliance with Section 392.455(5), RSMo Supp. 1999.

C. Competitive Classification

The Commission may classify a telecommunications provider as a competitive company if the Commission determines it is subject to sufficient competition to justify a lesser degree of regulation. Section 392.361.2. In making that determination, the Commission may consider such factors as market share, financial resources, and name recognition, among others. In the Matter of the Investigation for the Purpose of Determining the Classification of the Services Provided by Interexchange Telecommunications Companies Within the State of Missouri, 30 Mo. P.S.C. (N.S.) 16 (1989); In the Matter of Southwestern Bell Telephone Company's Application for Classification of Certain Services as Transitionally Competitive, 1 Mo. P.S.C. 3d 479, 484 (1992). The

Commission has found that whether a service is competitive is a subject for case-by-case examination and that different criteria may be given greater weight depending upon the service being considered. *Supra*, 1 Mo. P.S.C. 3d, at 487. In addition, all the services a competitive company provides must be classified as competitive. Section 392.361.3, RSMo.

The parties have agreed that Cox should be classified as a competitive telecommunications company. Cox 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 Cox seeks to compete. Notwithstanding the provisions of Section 392.500 RSMo 1994, as a condition of certification and competitive classification, Cox's originating and terminating access rates will be no greater than the Commission-approved corresponding access rates in effect for each large incumbent local exchange company (ILEC) within whose service area(s) Cox seeks authority to provide service.

Additionally, Cox agrees that if the ILEC, in whose service area Applicant is operating, decreases its originating or terminating access service rates, Applicant shall file an appropriate tariff amendment to reduce its originating or terminating access rates within 30 days of the ILEC's reduction of its originating or terminating access rates in order to maintain the cap.

The parties have agreed that the grant of service authority and competitive classification to Cox should be expressly conditioned on the continued applicability of Section 392.200, RSMo Supp. 1999, and on the requirement that any increases in switched access services rates set forth

herein shall be cost-justified and made pursuant to Sections 392.220, RSMo Supp. 1999, and 392.230, and not Sections 392.500 and 392.510.

Subject to the continued application of Section 392.200, RSMo, SWBT does not object and the other parties have agreed that waiver of the following statutes and Commission rules is appropriate: Sections 392.210.2, 392.240.1, 392.270, 392.280, 392.290., 392.300.2, 392.310, 392.320, 392.330, and 392.340, RSMo, 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, and 4 CSR 240-35.

Findings of Fact

The Missouri Public Service Commission, having considered all of the competent and substantial evidence upon the whole record, makes the following findings of fact.

- A. The Commission finds that competition in the basic local exchange telecommunications markets is in the public interest.
- B. The Commission finds that Cox has met the requirements of 4 CSR 240-2.060(4) for applicants for certificates of service authority to provide telecommunications services with the exception of the filing of a tariff with a 45-day effective date.
- C. The Commission finds that Cox has demonstrated good cause to support a temporary waiver of the tariff filing requirement and the waiver shall be granted.
- D. The Commission finds that the local exchange services market is competitive and that granting Cox a certificate of service authority to provide local exchange telecommunications

services is in the public interest. The Applicant's certificate shall become effective when its tariff becomes effective.

- E. The Commission finds that Cox meets the statutory requirements for provision of basic local telecommunications services and indicates it will abide by those requirements in the future. The Commission determines that granting Cox a certificate of service authority to provide basic local telecommunications services is in the public interest. The certificate of Cox shall become effective when its tariff becomes effective.
- F. The Commission finds that Cox is a competitive company and should be granted waiver of the statutes and rules set out in the ordered paragraph below.
- G. The Commission finds that certification and competitive status of Cox should be expressly conditioned on the requirement that, unless otherwise ordered by the Commission, if Cox provides access services, its originating and terminating access rates will be no greater than the lowest Commission-approved corresponding access rates in effect for the large ILEC within whose service areas Cox seeks to provide service.
- H. The Commission finds that the certification and competitive status of Cox should be expressly conditioned upon the continued applicability of Section 392.200, RSMo Supp. 1999, and on the requirement that any increases in switched access rates set forth herein shall be cost-justified and made

pursuant to Sections 392.200, RSMo Supp. 1999, and 392.230, RSMo 1994, rather than Sections 392.500 and 392.510, RSMo 1994.

Conclusions of Law

The Missouri Public Service Commission has reached the following conclusions of law.

The Commission has the authority to grant certificates of service authority to provide telecommunications service within the state of Missouri. Cox has requested certification under Sections 392.420 - .440, and Sections 392.410 and 392.450, RSMo Supp. 1999, which permit the Commission to grant a certificate of service authority where it is in the public interest. Sections 392.361 and 392.420 authorize the Commission to modify or suspend the application of its rules and certain statutory provisions for companies classified as competitive or transitionally competitive.

The federal Telecommunications Act of 1996 and Section 392.455, RSMo Supp. 1999, were designed to institute competition in the basic local exchange telecommunications market in order to benefit all telecommunications consumers. See Section 392.185, RSMo Supp. 1999.

Based upon the Commission's review of the applicable law and upon its findings of fact, the Commission concludes that certificate and competitive classification requested by Cox should be granted.

IT IS THEREFORE ORDERED:

1. That the Unanimous Stipulation and Agreement of the parties, filed on July 21, 2000, is approved as modified on August 3, 2000.

2. That Cox Missouri Telecom LLC is granted a certificate of service authority to provide local exchange telecommunications services in the state of Missouri, subject to the conditions of certification set out above and to all applicable statutes and Commission rules except as specified in this order. The certificate of service authority shall become effective when the company's tariff becomes effective.

3. That Cox Missouri Telecom LLC is granted a certificate of service authority to provide basic local exchange telecommunications services in the state of Missouri, subject to the conditions of certification set out above and to all applicable statutes and Commission rules except as specified in this order. The certificate of service authority shall become effective when the company's tariff becomes effective.

4. That Cox Missouri Telecom LLC is classified as a competitive telecommunications company. Application of the following statutes and regulatory rules shall be waived:

Statutes

- 392.210.2 - uniform system of accounts
- 392.240.1 - rates-rentals
- 392.270 - valuation of property (ratemaking)
- 392.280 - depreciation accounts
- 392.290 - issuance of securities
- 392.300.2 - acquisition of stock
- 392.310 - stock and debt issuance
- 392.320 - stock dividend payment
- 392.330 - issuance of securities, debts and notes
- 392.340 - reorganization(s)

Commission Rules

- 4 CSR 240-10.020 - depreciation fund income
- 4 CSR 240-30.010(2)(C) - central operating office

- 4 CSR 240-30.040 - uniform system of accounts
- 4 CSR 240-32.030(4)(C) - records and reports
- 4 CSR 240-33.030 - minimum charges rule
- 4 CSR 240-35 - reporting of bypass and
customer-specific arrangements

5. That the request for waiver of 4 CSR 240-2.060(4)(H), which requires the filing of a 45-day tariff, is granted.

6. That Cox Missouri Telecom LLC shall file tariff sheets with a minimum 45-day effective date reflecting the rates, rules, regulations and the services it will offer within 30 days after the effective date of a Commission order approving an interconnection agreement that will allow it provide services. The tariff shall include a listing of the statutes and Commission rules waived above.

7. That Cox Missouri Telecom LLC shall give notice of the filing of the tariffs described above to all parties or participants in this case.

In addition, Cox Missouri Telecom LLC shall file a written disclosure of all interconnection agreements which affect its Missouri service areas, all portions of Missouri service areas for which it does not have an interconnection agreement, and an explanation of why no interconnection agreement is necessary for those areas.

8. That as a condition of certification and competitive classification, Cox Missouri Telecom LLC'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) Cox seeks authority to provide service.

9. That Cox Missouri Telecom LLC's certification and competitive status are expressly conditioned upon the continued applicability of

Section 392.200, RSMo Supp. 1999, and on the requirement that any increases in switched access rates set forth herein shall be cost-justified and made pursuant to Sections 392.200, RSMo Supp. 1999, and 392.230, RSMo 1994, rather than Sections 392.500 and 392.510, RSMo 1994.

10. That this order shall become effective on August 18, 2000.

11. That this case may be closed on August 21, 2000.

BY THE COMMISSION



Dale Hardy Roberts
Secretary/Chief Regulatory Law Judge

(S E A L)

Lumpe, Ch., Drainer, Murray,
and Simmons, CC., concur.
Schemenauer, C., absent.

Thompson, Deputy Chief Regulatory Law Judge

FILED

JUL 21 2000

Missouri Public
Service Commission

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

In the Matter of the Application)	
of Cox Missouri Telecom, LLC for a)	
Certificate of Service Authority to Provide)	Case No. TA-2000-661
Basic Local Telecommunications Service)	
in Portions Of the State of Missouri and to)	
Classify Said Services as Competitive)	

UNANIMOUS STIPULATION AND AGREEMENT

Applicant initiated this proceeding on April 12, 2000, by filing an Application requesting a certificate of service authority to provide basic local and basic local exchange telecommunications services in those portions of Missouri that are currently served by Southwestern Bell Telephone Company ("SWBT"), Sprint/United Telephone Company ("Sprint"), and GTE Midwest, Incorporated ("GTE").

The Missouri Public Service Commission ("Commission") granted SWBT's timely application to intervene.

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)¹ should be processed in a manner similar to that in which applications for interexchange and local exchange authority currently are handled.

2. 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

¹Large LECs are defined as LECs that serve 100,000 or more access lines, § 386.020 R.S.Mo. Supp. 1998. In Missouri, the current large LECs are SWBT, Sprint, and GTE.

proposes to offer satisfy the minimum standards established by the Commission, including but not limited to filing and maintaining basic local service tariffs with the Commission in the same manner and form as the Commission requires of incumbent local exchange 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 Applicants seeks to compete. Notwithstanding the provisions of §392.500 R.S.Mo. (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 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 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. Further, Applicant agrees to offer basic local telecommunications service as a separate and distinct service and has sufficiently identified the geographic 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 R.S.Mo. Supp. 1999.

3. Applicant has submitted its Application without tariffs and seeks a temporary waiver of 4 CSR 240-2.060(6)(C). Applicant agrees to file its initial tariffs in

this certification docket and serve all parties thereto with written notice at the time the initial tariffs are submitted to afford them an opportunity to participate in the tariff approval process. Applicant will provide copies of the tariff immediately to a requesting Party. Any service authority shall be regarded as conditional and shall not be exercised until such time as tariffs for services have become effective. When filing its initial basic local tariff, Applicant also shall 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 ILEC; and an explanation of why such a resale and/or interconnection agreement is unnecessary for such areas.

4. Pursuant to § 392.420 R.S.Mo., Applicant has 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 R.S.Mo. should continue to apply to all of Applicant'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 240-32.030(4)(C)
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 R.S.Mo. regarding applications for certificates of local exchange service authority to provide or resell basic local telecommunications service.

B. Applicant Certification

6. Applicant 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, Applicant asserts, and no party makes a contrary assertion, that there is sufficient evidence from which the Commission can 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 satisfy the minimum standards established by the Commission;
- c. has sufficiently identified the geographic area in which it proposes offer basic local telecommunications service, and such area follows exchange boundaries of the ILECs 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 basic local telecommunications services, as determined by the Commission, for all Missourians within the geographic area in which Applicant 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. Applicant asserts, and no Party opposes, that Applicant's Application and request for authority to provide basic local telecommunications services and local exchange telecommunications services (including exchange access service) should be granted. All services authorized herein should be classified as competitive telecommunications services provided that the requirements of § 392.200 R.S.Mo. continue to apply, and Applicant shall remain 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 ILECs 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 §392.200 R.S.Mo. 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 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 R.S.Mo. 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 R.S.Mo. and not §§392.500 and 392.510. Applicant agrees that if the ILEC, in whose service area Applicant is operating, decreases its originating and/or terminating access 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 R.S.Mo. and the requirement that any increases in switched access service rates above the maximum switched access service rates set forth herein and shall be made pursuant to §§392.220 and 392.230 R.S.Mo. and not §§392.500 and 392.510 R.S.Mo. Further, if the ILEC, in whose service area Applicant is operating, decreases its originating and/or terminating access 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. Applicant'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, because at the time of filing its Application, Applicant does not yet have approved a resale or interconnection agreement with any ILEC. Applicant agrees that at such time as all facts necessary for the development of tariffs become known, it will submit the tariff(s) 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. Applicant shall serve notice to all parties and participants in this docket of the filing of its tariff(s) at the time filed with the Commission and serve the tariff(s) 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 order should state these obligations to the temporary 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 an approved resale or interconnection agreement with the incumbent local exchange carriers within whose service areas it seeks authority to provide service; provided, when Applicant submits its tariff(s) in this docket to the Commission such tariff(s) 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 tariff(s) to such Parties immediately upon request. When filing its initial basic local service tariff in this docket, the Applicant also shall 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 ILEC; and its explanation of why such resale or interconnection agreement is unnecessary for any such areas.

10. Applicant'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 telecommunications 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

11. This Unanimous Stipulation and Agreement has resulted from extensive negotiations among the signatories and the terms thereof are interdependent. In the event the Commission does not adopt this Stipulation in total, 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 Unanimous Stipulation and Agreement, the Parties and participants waive with respect to the issues resolved herein their respective rights pursuant to § 536.080.1 R.S.Mo. 1994 to present testimony, to cross-examine witnesses, to present oral argument or written briefs, their respective rights to the reading of the transcript by the Commission

pursuant to §536.080.2 R.S.Mo. 1994, and their respective rights to seek rehearing pursuant to §386.500 R.S.Mo. 1994 and their respective rights to seek judicial review pursuant to §386.510 R.S.Mo. 1994. The Parties agree to cooperate with Applicant and with each other in presenting this Unanimous 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 Applicant's Application made herein.

13. The Staff shall file suggestions or a memorandum in support of this Unanimous Stipulation and Agreement 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.

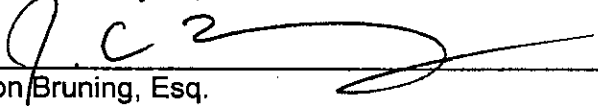
14. The Staff also shall have the right to provide, at any agenda meeting at which this Unanimous Stipulation and Agreement is noticed to be considered by the Commission, whatever oral explanation the Commission requests; provided that Staff shall provide, to the extent reasonably practicable, the other 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 that it refers to matters that are privileged or protected by disclosure pursuant to any protective order that may be issued in this case.

15. The Office of the 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, Applicant will comply with all applicable Commission rules and regulations, except those which specifically are 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 as requested by Applicant subject to the conditions described above, at its earliest convenience.

DATED: July 19, 2000




Jon Bruning, Esq.
Bruhing Law Office
1079 N. 204th Ave.
Elkhorn, NE 68022
(402) 289-1668
(402) 289-3140 (Fax)
jonbruning@home.com
Counsel for Cox Missouri Telcom, LLC



Kurt Maahs, Esq., MO Bar #45498
Morrow, Willnauer, Klosterman, P.C.
1001 E. 101st Terr., Ste. 240
Kansas City, MO 64131-3368
(816) 382-1382
(816) 382-1383 (Fax)
kmaahs@mwklaw.com
Counsel for Cox Missouri Telcom, LLC



Mimi MacDonald, Esq., MO Bar # 37606
Southwestern Bell Telephone Company
One Bell Center, Room 3510
St. Louis, MO 63101
(314) 235-4094
(314) 247-0014 (Fax)
mm8072@momail.sbc.com



Bruce Bates, Esq., MO Bar #35442
Assistant General Counsel, Staff of the Missouri Public Service Commission
P.O. Box 360
Jefferson City, MO 65102
(573) 751-7434
(573) 751-9285 (fax)
bbates@mail.state.mo.us

Michael Dandino by JCB

Michael F. Dandino, Esq.
Office of the Public Counsel, State of Missouri
301 W. High St., Ste. 250
Jefferson City, MO 65101
(573) 751-5559
(573) 751-5562 (Fax)
mdandino@mail.state.mo.us

VERIFICATION

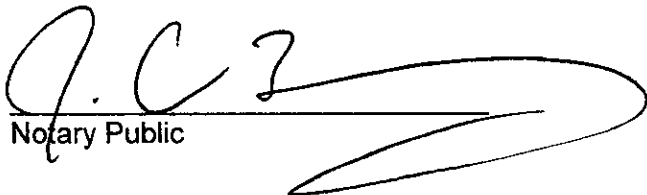
STATE OF MISSOURI)
) ss.
COUNTY OF JACKSON)

Kurt Maahs, of lawful age and being first duly sworn upon his oath, deposes and states:

That he is the attorney for COX MISSOURI TELCOM, LLC; that he has read the above Stipulation; and that the statements therein contained are true and correct to the best of his knowledge and belief.

Kurt Maahs by JCB
Kurt Maahs, Missouri Bar #45498

Subscribed and sworn to before me this 19th day of July, 2000.


Notary Public



I hereby certify that a true and correct copy of the foregoing Stipulation has been sent by overnight mail to:

The Honorable Dale Hardy Roberts
Secretary and Chief Regulatory Law Judge
Missouri Public Service Commission
301 W. High St., Floor 5A
Jefferson City, MO 65101

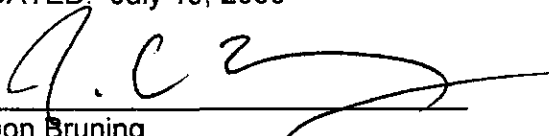
And that a true and correct copy of the foregoing Stipulation has been sent by both first class mail and electronic mail to:

Mimi MacDonald, Esq.
Southwestern Bell Telephone Company
One Bell Center, Room 3510
St. Louis, MO 63101
mm8072@momail.sbc.com

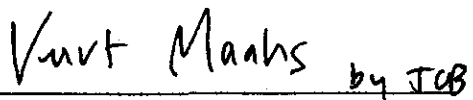
Bruce Bates, Esq.
Assistant General Counsel, Staff of the Missouri Public Service Commission
P.O. Box 360
Jefferson City, MO 65102
bbates@mail.state.mo.us

Michael F. Dandino, Esq.
Office of the Public Counsel, State of Missouri
301 W. High St., Ste. 250
Jefferson City, MO 65101
mdandino@mail.state.mo.us

DATED: July 19, 2000



Jon Bruning
Counsel for Cox Missouri Telcom, LLC



Kurt Maahs
Counsel for Cox Missouri Telcom, LLC

ALJ/Sec'y: Thompson/Pope

8-3
Date Circulated

TA-2000-661
CASE NO.

AD
Lumpe, Chair

rdl
Drainer, Vice Chair

Om p 3 + 8
Murray, Commissioner

advent
Schemenauer, Commissioner

KJS
Simmons, Commissioner

8-8
Agenda Date

Action taken: 4-0 AA
Must Vote Not Later Than _____

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

I have compared the preceding copy with the original on file in this office and I do hereby certify the same to be a true copy therefrom and the whole thereof.

WITNESS my hand and seal of the Public Service Commission, at Jefferson City, Missouri, this 8th day of Aug. 2000.

Dale Hardy Roberts

**Dale Hardy Roberts
Secretary/Chief Regulatory Law Judge**

