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August 3, 2000

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Secretary/Chief Regulatory Law Judge

DANA K. JOYCE
General Counsel

FILED³

AUG 03 2000

Missouri Public
Service Commission

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

RE: Case No. TA-2000-783

Dear Mr. Roberts:

Enclosed for filing in the above-captioned case are an original and eight (8) conformed copies of a **STAFF RECOMMENDATION**.

This filing has been mailed or hand-delivered this date to all counsel of record.

Thank you for your attention to this matter.

Sincerely yours,

Nathan Williams
Assistant General Counsel
(573) 751-8702
(573) 751-9285 (Fax)

NW/lb
Enclosure
cc: Counsel of Record

BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI

FILED³

AUG 03 2000

Missouri Public
Service Commission

In the Matter of the Application of Snappy)
Phone of Texas, Inc. d/b/a Snappy Phone)
for a Certificate of Authority to Provide)
Basic Local and Interexchange)
Telecommunications Services within the)
State of Missouri and to Classify Said)
Services and the Company as)
Competitive.)

Case No. TA-2000-783

STAFF RECOMMENDATION

COMES NOW the Staff of the Missouri Public Service Commission (Staff) and for its recommendation states:

1. In Case No. TA-2000-372, the Commission issued an Order that granted Snappy Phone of Texas d/b/a Snappy Phone ("Snappy Phone) certificates of authority to provide resold basic local telecommunications services in areas of Missouri served by Southwestern Bell Telephone Company and to provide interexchange telecommunications services. Snappy Phone having complied with the conditions of that Order, those certificates of authority are now effective. In that case, the Commission also classified Snappy Phone as a competitive company and waived certain statutes and rules.

2. In this case Snappy Phone seeks a certificate of authority to provide resold basic local telecommunications services in areas of Missouri served by GTE Midwest, Inc. and Sprint/United Telephone Company.¹ Sprint Missouri, Inc. is the incumbent local exchange provider in Missouri for the associated Sprint/United Telephone legal entities providing

5

telecommunications services in the State of Missouri. Although Snappy Phone states it seeks competitive classification, in light of the fact that the Commission has already granted Snappy Phone that status in Case No. TA-2000-372, such request should be treated as a request to have the services to be provided pursuant to this application classified as competitive and that Snappy Phone retain its classification as a competitive company.

3. In the attached Memorandum, which is labeled Appendix A, the Staff recommends that the Missouri Public Service Commission grant to Snappy Phone of Texas, Inc. d/b/a Snappy Phone modifications to its existing certificate of authority to provide basic local telecommunications services to permit it to expand these services to areas of Missouri served by GTE Midwest Incorporated and Sprint Missouri, Inc. Section 392.430, RSMo. 1994, requires that grants of authority to provide local exchange telecommunications services must be in the public interest as a precedent to obtaining a certificate of service authority. Section 392.530.1, RSMo 1994, inter alia, provides that the provisions of Chapter 392 are to be construed to "promote diversity in the supply of telecommunications services and products throughout the State of Missouri" and to "allow full and fair competition to function as a substitute for regulation when consistent with the protection of ratepayers and otherwise consistent with the public interest." In light of the foregoing, the Commission should apply the public interest standard in determining whether to approve modifications of certificates of authority to provide basic local service.

4. The Commission has the authority to amend a telecommunications corporation certificate pursuant to Section 392.410, RSMo. Supp. 1999, which provides:

Any certificate of service authority may be altered or modified by the commission

¹ The application states that Snappy Phone also seeks authority to provide interexchange telecommunications services; however, the Commission has already granted Snappy Phone that authority.

after notice and hearing, upon its own motion or upon application of the person or company affected.

"Hearing" as used in the foregoing statute means "opportunity for hearing"; therefore, the Commission need not hold a hearing, if, after proper notice and opportunity to intervene, no party requests such a hearing. *State ex rel. Rex Deffenderfer Enterprises, Inc. v. Public Service Commission*, 776 S.W.2d 494 (Mo. App. 1989).

5. The Commission may classify a telecommunications provider or its services as competitive if the Commission determines it is subject to sufficient competition to justify a lesser degree of regulation. (See §392.361.2 RSMo. 1994). All the services a competitive company provides must be classified as competitive. (See §392.361.3 RSMo. 1994). Snappy Phone is currently classified as a competitive company. The Staff has determined the services that Snappy Phone will provide under the additional service authority it seeks are also competitive services.

6. The Commission may waive the application of its rules and certain statutes if the Commission determines that waiver is consistent with the purposes of Chapter 392 RSMo. (See §§ 392.361.3 and 392.420 RSMo. 1994 and § 392.185 RSMo. Supp. 1999). The Commission, in Case No. TA-2000-372, granted to Snappy Phone the waivers that it has requested in the application filed in this case. The Staff has no objection to these waivers being extended to include the services to be provided by Snappy Phone in areas of Missouri served by GTE Midwest Incorporated and Sprint Missouri, Inc.

7. Where the Commission has suspended the application of a statutory provision under §392.361, RSMo. 1994, it may impose conditions that are reasonably necessary to protect the public interest due to suspension of the statutory provision. § 392.361.5 and .6, RSMo. 1994. The Staff recommends the Commission modify the conditions imposed on the certificate of

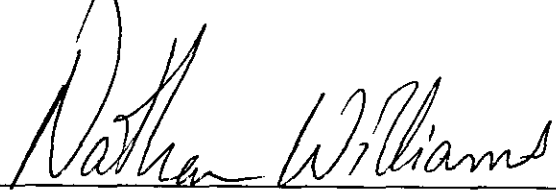
authority to provide basic local service issued to Snappy Phone in Case No. TA-2000-372 to eliminate the requirement that increases in switched access services rates be cost-justified, but leave all the other conditions in place:

8. The service area modifications to Snappy Phone's Certificate of Authority to Provide Basic Local Telecommunications Services should become effective on the respective dates tariffs filed by Snappy with 45-day effective dates for implementing basic local service in Sprint Missouri, Inc.'s and GTE Midwest, Inc.'s exchanges become effective.

WHEREFORE, the Staff recommends that the Missouri Public Service Commission grant to Snappy Phone of Texas, Inc. d/b/a Snappy Phone modifications to its existing Certificate of Authority to provide Basic Local Telecommunications Services to permit it to expand these services to areas of Missouri served by GTE Midwest Incorporated and Sprint Missouri, Inc. The Staff recommends the elimination of the condition to the existing certificate that increases in switched access services rates be cost-justified. The Staff also recommends that the service area modifications be made effective on the respective dates tariffs filed by Snappy with 45-day effective dates for implementing basic local service in Sprint Missouri, Inc.'s and GTE Midwest, Inc.'s exchanges become effective.

Respectfully submitted,

DANA K. JOYCE
General Counsel

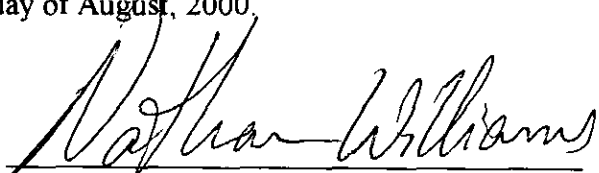


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Certificate of Service

I hereby certify that copies of the foregoing have been mailed or hand-delivered to all counsel of record as shown on the attached service list this 3rd day of August, 2000.



MEMORANDUM

To: Missouri Public Service Commission Official Case File
Case No. TA-2000-783

From: Walt Cecil WC
Telecommunications Department

Brian Wright 08-02-00
Utility Operations Division/Date

Wm K Haas 8/2/00
General Counsel's Office/Date

RECEIVED
AUG 02 2000
COMMISSION COUNSEL
PUBLIC SERVICE COMMISSION
NW 8/2/00 1:57 pm

Subject: Recommendation to Amend Certificate of Authority to Provide Basic Local Telecommunications Services in Southwestern Bell Exchanges to include Sprint Missouri, Inc. and GTE Midwest, Inc. Exchanges.

Date: August 2, 2000

On May 23, 2000 **Snappy Phone of Texas, Inc. d/b/a/ Snappy Phone** (Snappy Phone), a prepaid competitive basic local exchange carrier, submitted an application for authority to provide basic local telecommunications services in exchanges served by Sprint/United Telephone Company and GTE Midwest, Inc. Although the application refers to Sprint/United Telephone Company as one of the carriers whose services Snappy Phone wishes to resell, it is Sprint Missouri, Inc. that the Commission has certificated as the Incumbent Local Exchange Carrier and whose services Snappy Phone will be reselling. Further, the application also refers to interexchange services, the Commission granted Snappy Phone a certificate of authority to provide interexchange telecommunications services in Case No. TA-2000-372; therefore, to the extent this application seeks such authority, it is surplusage. The Commission issued a Notice of Applications on June 6, 2000 and established an intervention date of July 6, 2000. No one has sought intervention.

The Commission, in Case No. TA-2000-372 has previously authorized Snappy Phone to provide basic local telecommunications services in Southwestern Bell Telephone Company's (SWBT) exchanges. The certificate of authority became effective when the Commission approved tariff filed in that case. became effective. Further, on June 21, 2000, in Case No. TO-2000-768, the Commission approved an interconnection agreement between Snappy Phone and SWBT.

The Commission, in Case No. TO-2000-722, has approved an interconnection agreement between Snappy Phone, GTE Midwest, Inc. and GTE Arkansas, Inc. The Staff is unaware of any application for approval of an interconnection agreement between Snappy Phone and Sprint Missouri, Inc. pending before the Commission

Snappy Phone is not a new entrant into the Missouri telecommunications market. Therefore, although the application in this case seeks a new certificate of service authority, for reasons of administrative expedience and consistency the Telecommunications Department Staff (Staff) recommends that the Commission issue an order that modifies Snappy Phone's existing certificate of

service authority to provide basic local telecommunications services rather than granting to it a new certificate of service authority to provide basic local telecommunications services.

In Case No. TA-2000-372, Snappy Phone's "certification and competitive status [were] expressly conditioned upon . . . the requirement that any increases in switched access service rates above the maximum switched access service rates set forth in the agreement must be cost-justified" In Case No. TO-99-596, the Commission did away with this condition.¹ Therefore, the Staff recommends that the Commission modify Snappy Phone's certificate of service authority to provide basic local telecommunications services granted in Case No. TA-2000-372 as follows:

(1) Add authority to provide those services in Sprint Missouri, Inc. and GTE Midwest, Inc.'s exchanges. This additional authority should become effective on the date tariffs filed by Snappy Phone for implementing basic local service in Sprint Missouri, Inc.'s and GTE Midwest, Inc.'s exchanges become effective, respectively. The tariffs should be filed with 45-day effective dates.

(2) Unless otherwise determined by the Commission, any increases in intrastate switched access service rates above the maximum switched access service rates shall be made pursuant to §§ 392.220 and 392.230 and not §§ 392.500 and 392.510 RSMo.

Staff has reviewed the services Snappy Phone proposes to provide in Sprint Missouri, Inc.'s and GTE Midwest, Inc.'s exchanges and those services should be classified as competitive; therefore, Snappy Phone should retain its classification as a competitive telecommunications company.

Because the Staff is recommending modification to the existing certificate and SWBT was a party in Case No. TA-2000-372, the Staff has served this recommendation upon SWBT.

¹ Southwestern Bell Telephone Company was a party in Snappy Phone's certification case (TA-2000-372) and joined in an unanimous stipulation and agreement that the Commission approved which included the condition that increases in switched access service rates be cost-justified. Southwestern Bell Telephone Company was also a party in Case No. TO-99-596.

**Service List for
Case No. TA-2000-783
August 3, 2000**

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