

STATE OF MISSOURI
PUBLIC SERVICE COMMISSION

At a session of the Public Service Commission held at its office in Jefferson City on the 28th day of October, 1999.

In the Matter of the Application of Fidelity)
Communication Services I, Inc., for a Certifi-)
cate of Service Authority to Provide Basic) Case No. TA-2000-191
Local Telecommunications Service in Portions)
of the State of Missouri and to Classify Said)
Services and the Company as Competitive.)

ORDER GRANTING INTERVENTION, SETTING PREHEARING CONFERENCE,
AND DIRECTING FILING OF PROCEDURAL SCHEDULE

Fidelity Communication Services I, Inc. (Applicant or Fidelity), filed an application on August 26, 1999, for a certificate of service authority to provide basic local exchange telecommunications services in the State of Missouri under 4 CSR 240-2.060. Applicant wishes to provide resold and facilities-based local telecommunications services in exchanges currently served by Sprint Missouri, Inc. (formerly United Telephone Company), d/b/a Sprint. The Commission issued a notice directing interested parties to file applications to intervene no later than September 30, 1999.

Southwestern Bell Telephone Company (SWBT) filed an application to intervene on September 30, 1999. SWBT states that it has a direct interest in the Commission's decision regarding Fidelity's application because SWBT is authorized to provide local exchange telecommunications services and exchange access services within the state of Missouri, and

is authorized to provide the type of services within the state of Missouri that Fidelity seeks to provide. SWBT notes that Fidelity has requested service authority in exchanges served by Sprint/United. SWBT terminates intraLATA interexchange calls to these areas, and will be directly impacted by the level of access charges assessed by Fidelity on such calls. SWBT argues that no other party will adequately protect its interests in this matter and that its intervention would be in the public interest because of SWBT's expertise and experience in the telecommunications industry.

Fidelity filed an Objection to Application to Intervene on October 12, 1999, alleging that SWBT's concerns are matters to be dealt with in a tariff proceeding and not in the initial application for a certificate of authority. Fidelity further argues that SWBT's attempt to intervene is premature and is not relevant to the issues at hand, and that granting the intervention is not in the public interest.

On October 18, 1999, SWBT filed a response to Fidelity's Objection to Application to Intervene. SWBT contends that Fidelity's request for certification as a competitive telecommunications company makes the access charge issue both relevant and necessary for resolution in this proceeding. Under Section 392.361(3), RSMo 1994, the Missouri Public Service Commission may grant competitive status only if it finds that all of Fidelity's telecommunications services are competitive. SWBT states that by their very nature, Fidelity's switched access service will be noncompetitive.

SWBT alleges that in every case in which a common local exchange carrier (CLEC) has applied for certification to provide basic local service as a competitive telecommunications company, the Commission has addressed and resolved the statutory issue in the CLEC's basic local certification case and has not deferred the issue to the CLEC's tariff proceeding. SWBT also contends that in every case, the Commission has permitted carriers that will be affected by the level of the CLEC's access rates to intervene in the CLEC's certification proceeding.

SWBT states that in each of these certification cases, the access rate issue has been resolved through a stipulation between the parties. SWBT indicates that it is willing to enter into the same stipulation and agreement with Fidelity that it has entered into with the other CLECs, and upon which the Commission has routinely granted them certificates of service authority to provide basic local telecommunications service. SWBT further recognizes the pendency of Case No. TO-99-596 regarding the access rates to be charged by CLECs and is willing to condition the restrictions contained in any stipulation that might be reached with Fidelity on the outcome of that case so that Fidelity would be treated no differently than any other CLEC in Missouri.

The Commission has reviewed SWBT's application to intervene, Fidelity's objection to it, and SWBT's response. The Commission finds that the application to intervene is in substantial compliance with Commission rules regarding intervention and that SWBT has an interest in this matter which is different from that of the general public. The Commission concludes that SWBT's request for intervention should be

granted and that the parties should file a proposed procedural schedule. In order to assist in the development of the procedural schedule and to clarify the issues in dispute, an early prehearing conference will be scheduled. The procedural schedule shall include dates for the filing of testimony and for a hearing. If no party requests a hearing, the Commission may grant the service authority and competitive classification requested without a hearing. State ex rel. Rex Deffenderfer Enterprises, Inc. v. Public Service Commission, 776 S.W.2D 494, 496 (Mo. App. 1989).

IT IS THEREFORE ORDERED:

1. That Southwestern Bell Telephone Company is granted intervention in this case in accordance with 4 CSR 240-2.075(4).

2. That an early prehearing conference shall be held on November 18, 1999, beginning at 10:00 a.m. The prehearing conference shall be held at the Commission's offices on the fifth floor of the Harry S Truman State Office Building, 301 West High Street, Jefferson City, Missouri. Anyone wishing to intervene who has special needs as addressed by the Americans with Disabilities Act should contact the Missouri Public Service Commission at least ten (10) days before the prehearing conference at: Consumer Services Hotline - 1-800-392-4211 or TDD Hotline - 1-800-829-7541.

3. That the parties shall file a proposed procedural schedule no later than November 17, 1999.

3. That this order shall become effective on November 9, 1999.

BY THE COMMISSION

A handwritten signature in black ink that reads "Dale Hardy Roberts". The signature is written in a cursive style with a large initial "D".

Dale Hardy Roberts
Secretary/Chief Regulatory Law Judge

(S E A L)

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

Ruth, Regulatory Law Judge

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OCT 28 1999

COMMISSION COUNSEL
PUBLIC SERVICE COMMISSION