

STATE OF MISSOURI
PUBLIC SERVICE COMMISSION
JEFFERSON CITY
January 25, 2000

CASE NO: TA-2000-191

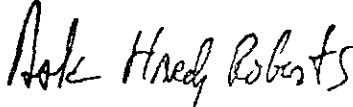
Office of the Public Counsel
P.O. Box 7800
Jefferson City, MO 65102

Sheldon K. Stock, Esq.
Greensfelder, Hemker & Gale, P. C.
10 South Broadway, Suite 2000
St. Louis, MO 63102

General Counsel
Missouri Public Service Commission
P.O. Box 360
Jefferson City, MO 65102
**Paul G. Lane/Leo J. Bub/Katherine C.
Swaller/Anthony K. Conroy**
Southwestern Bell Telephone Company
One Bell Center, Room 3520
St. Louis, MO 63101

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

Sincerely,



Dale Hardy Roberts
Secretary/Chief Regulatory Law Judge

Uncertified Copy:

STATE OF MISSOURI
PUBLIC SERVICE COMMISSION

At a session of the Public Service
Commission held at its office
in Jefferson City on the 25th
day of January, 2000.

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 REGARDING MOTION FOR CLARIFICATION

The Commission issued an Order Granting Certificate of Service Authority to Provide Basic Local Exchange Telecommunications Services on December 2, 1999. On December 7, 1999, Fidelity Communication Services I, Inc. (FCS I) filed a Motion for Clarification. FCS I states that although the Commission's December 2, 1999, order¹ expressly approves the Stipulation and Agreement (the Agreement), the order adopts language which differs somewhat from the language in the Agreement. FCS I requests clarification as to the discrepancies.

First, FSC I alleges in the Motion for Clarification that the order, in unnumbered paragraph 2 under Discussion Part C, states the following:

¹ The Motion for Clarification incorrectly refers to the Commission's December 2, 1999, order as the Order Granting FCS I a Certificate to Provide Basic Local and Exchange Access Telecommunications Services; the order was actually titled Order Granting Certificate of Service Authority to Provide Basic Local Exchange Telecommunications Services. The Motion for Clarification also incorrectly lists the date on which Southwestern Bell Telephone Company filed an application to intervene as September 29, 1999; the correct filing date is September 30, 1999.

FCS I has agreed that, unless otherwise ordered by the Commission, its 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 FCS I seeks to operate.

A review of the Commission's December 2, 1999, order indicates that FCS I has slightly misquoted the Commission, as the Commission's order actually refers to "large incumbent LECs" and not "large ILECs." Nonetheless, FCS I correctly notes that the actual Agreement is worded as follows:

Notwithstanding the provisions of Section 392.500 RSMo 1994, as a condition of certification and competitive classification, unless otherwise ordered or permitted by the Commission in any other case, the Applicant's originating and terminating access rates will be no greater than the lowest Commission approved corresponding access rates charged by the large incumbent ILEC(s) within whose area(s) Applicant provides service.

[Agreement, at ¶ 3, emphasis added, footnotes omitted.] Thus, the Commission's December 2, 1999, order omits the introductory phrase and the words "or permitted" and "in any other case", and it slightly rewords the rest of the sentence. Although the corresponding paragraph in the ordered section, paragraph 7, is worded nearly identically to unnumbered paragraph 7 under Discussion Part C, FCS I did not request that the Commission clarify the ordered paragraph.

Second, the Motion for Clarification contends, incorrectly, that the order's ordered paragraph 7 reads as follows:

That Fidelity Communication Services I, Inc.'s certification and competitive status are expressly conditioned upon the continued applicability of Section 392.200, RSMo Supp. 1998, and on the requirement that any increases in switched access service rates above the maximum switched access service rates set forth must be cost-justified pursuant to Sections 392.220, RSMo

Supp. 1998, and 392.230, rather than Sections 392.500 and 392.510.

The Commission notes that FCS I again slightly misquotes the December 2 order.² The referenced paragraph is actually ordered paragraph 8 (not ordered paragraph 7), and it is written as follows:

That Fidelity Communication Services I, Inc.'s certification and competitive status are expressly conditioned upon the continued applicability of Section 392.200, RSMo Supp. 1998, and on the requirement that any increases in switched access service rates above the maximum switched access service rates set forth in this order shall be made pursuant to Sections 392.220, RSMo Supp. 1998, and 392.230, rather than Sections 392.500 and 392.510.

[Ordered paragraph 8, emphasis added.] Thus, the order uses the phrase "in this order shall be made" instead of "must be cost-justified". Nonetheless, the Motion for Clarification correctly notes that the Agreement actually states:

Unless otherwise determined by the Commission in Case No. TO-99-596 or any other case, any increases in switched access service rates above the maximum switched access service rates set forth in paragraph 3 herein shall be cost justified and shall be made exclusively pursuant to 392.220 and 392.230, and not 392.500 and 392.510, RSMo Supp. 1998.

[Agreement at ¶ 9, emphasis added.] Thus, the December 2, 1999, order omitted the phrase "Unless otherwise determined by the Commission in Case

² The misquotes by FCS I seem to have been quoted from Case No. TA-2000-229, which involves Fidelity Communication Services II, Inc. The referenced section appears to be ordered paragraph 7 from Case No. TA-2000-229.

No. TO-99-596 or any other case" and modified the Agreement's phrase of "in paragraph 3 herein shall be cost justified and shall be made exclusively" to read "in this order shall be made."

The Commission has reviewed the Motion for Clarification and the Order Granting Certificate of Service Authority to Provide Basic Local Exchange Telecommunications Services, and determines that in order to avoid possible confusion, the Commission will clarify the December 2 order. Unnumbered paragraph 7 under Discussion Part C of the order shall be amended to mirror the Stipulation and Agreement. Also, ordered paragraph 8 shall be amended as follows:

8. Unless otherwise determined by the Commission in Case No. TO-99-596 or any other case, that Fidelity Communication Services I, Inc.'s certification and competitive status are expressly conditioned upon the continued applicability of Section 392.200, RSMo Supp. 1998, and on the requirement that any increases in switched access rates above the maximum switched access rates set forth in the Agreement must be cost-justified pursuant to Sections 392.200, RSMo Supp. 1998, and 392.230, RSMo 1994, rather than Sections 392.500 and 392.510, RSMo 1994.

IT IS THEREFORE ORDERED:

1. That the Motion for Clarification, filed on December 7, 1999, by Fidelity Communication Services I, Inc., is granted.

2. That unnumbered paragraph 2 under Discussion Part C, Competitive Classification, from the Commission's December 2, 1999, Order Granting Certificate of Service Authority to Provide Basic Local Exchange Telecommunications Services, is amended to read as follows:

Notwithstanding the provisions of Section 392.500 RSMo 1994, as a condition of certification and

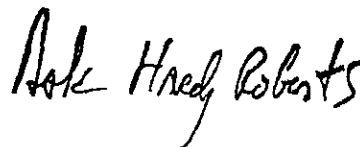
competitive classification, unless otherwise ordered or permitted by the Commission in any other case, the Applicant's originating and terminating access rates will be no greater than the lowest Commission approved corresponding access rates charged by the large incumbent LEC(s) within whose area(s) FCS I provides service.

3. That ordered paragraph 8 from the same December 2, 1999, Order, is amended to read as follows:

8. Unless otherwise determined by the Commission in Case No. TO-99-596 or any other case, that Fidelity Communication Services I, Inc.'s certification and competitive status are expressly conditioned upon the continued applicability of Section 392.200, RSMo Supp. 1998, and on the requirement that any increases in switched access rates above the maximum switched access rates set forth in the Agreement must be cost-justified pursuant to Sections 392.200, RSMo Supp. 1998, and 392.230, RSMo 1994, rather than Sections 392.500 and 392.510, RSMo 1994.

4. That this order shall become effective on February 4, 2000.

BY THE COMMISSION



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

ALY/Sec'y: Ruth Payne

1-20
Date Circulated

TA-2000-191
CASE NO.

[Signature]
Lumpe, Chair

absent
Crompton, Commissioner

[Signature]
Murray, Commissioner

[Signature]
Schemenauer, Commissioner

[Signature]
Drainer, Vice-Chair

1-25
Agenda Date

Action taken: 4-0 AS

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 25TH day of January 2000.



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