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BEFORE THE PUBLIC SERVICE COMMISSION

OF THE STATE OF MISSOURI

In the Matter of the Implementation of)
Number Conservation Methods in the St.) **Case No. TO-99-14**
St. Louis, Missouri Area.)

ORDER GRANTING INTERVENTION, ESTABLISHING PROCEDURAL
SCHEDULE, AND ORDER ADOPTING PROTECTIVE ORDER

The Commission issued its Order Giving Notice and Establishing Deadlines for Filing of Intervention Applications, Procedural Schedule and Final Report on July 22, 1998. In the July 22 order, the parties to Case No. TO-98-212 were made parties to this case for all purposes. The parties to Case No. TO-98-212 who are now parties to this case are:

Ameritech Mobile Communications, Inc. (AMCI);

AT&T Communications of the Southwest, Inc. (AT&T);

GTE Midwest Incorporated (GTE);

MCI Telecommunications Corporation (MCI);

Midwest Independent Coin Payphone Association (MICPA);

The Mid-Missouri Group of Telephone Companies

(Alma Telephone Company, Chariton Valley Telephone Corporation, Choctaw Telephone Company, Mid-Missouri Telephone Company, MoKan Dial Inc., Northeast Missouri Rural Telephone Company, and Peace Valley Telephone Company) **(Mid-Missouri Group);**

Orchard Farm Telephone Company (Orchard Farm)

Southwestern Bell Mobile Systems, Inc. (SWB Mobile);

Southwestern Bell Telephone Company (SWBT);

TCG St. Louis (TCG); and

United Telephone Company of Missouri d/b/a Sprint
(Sprint-United).

The Commission's July 22 order also required any person who wished to intervene or request a hearing to file their request by August 24, 1998. Timely requests for intervention were received from the following parties:

Sprint Spectrum L.P., d/b/a Sprint PCS (Sprint PCS)

Nextel West, Inc. (Nextel)

Brooks Fiber Communications of Missouri, Inc. (Brooks)

Citizens Telephone Company (Citizens)

Grand River Mutual Telephone Company (Grand River)

Lathrop Telephone Company (Lathrop)

Oregon Farmers Mutual Telephone Company (Oregon Farmers)

Sprint PCS stated that it has an interest in this proceeding as it will assign numbers in both the existing NPA and the new NPA code to its wireless customers. Sprint PCS further stated that its interests are different than the general public, that it seeks to enhance competition and that it seeks to ensure that any conservation measures are competitively neutral.

Nextel stated that it provides telecommunications services classified as Commercial Mobile Radio Service services pursuant to Specialized Mobile Radio licenses issued by the Federal Communications Commission. Nextel further stated that it provides enhanced SMR service in Missouri which employs digital technology offering users a menu of services in one handset including mobile telephone, alphanumeric

messaging, and "Direct Connect" dispatch-type services. Nextel stated that due to its unique service and technology, no other party represent Nextel's interest in this case.

Brooks Fiber Communications of Missouri, Inc., stated that the Commission's decision will affect its interests as a provider of competitive telecommunications services. Brooks stated further that its intervention in this case is in the public interest because of Brooks' interest in enhancing competition and its expertise in the telecommunications industry.

Citizens Telephone Company, Grand River Mutual Telephone Company, Lathrop Telephone Company, and Oregon Farmers Mutual Telephone Company all stated that they are potentially affected by the Commission's decision due to any precedent that may be created and, even though these telephone companies do not operate in the 314 NPA, this decision is likely to affect statewide policy regarding number conservation for any future cases. Further, Citizens, Grand River, Lathrop, and Oregon Farmers telephone companies stated that they have interest in this proceeding which is different from the general public and that the applicants' expertise in the provision of telecommunications services in this State will aid the Commission in this proceeding.

The Commission has reviewed these applications for intervention filed by Sprint PCS, Nextel, Brooks, Citizens, Grand River, Lathrop, and Oregon Farmers, and finds that these intervenors have an interest in this proceeding. The intervenors' interest is different from that of the general public and no other party represents their interest in this case.

The Commission finds that it is in the public interest to permit these applicants to intervene in this matter.

On September 15, the Staff of the Missouri Public Service Commission (Staff) filed its Motion to Establish Procedural Schedule requesting the Commission adopt its proposed procedural schedule. Staff states that the proposed procedural schedule was circulated among the parties and Staff received no objection. No objections or alternate proposals were received by the Commission following the filing of the Staff's Motion to Establish Procedural Schedule.

The Commission will adopt the proposed procedural schedule. In addition, the Commission finds that the following conditions should be applied to the schedule.

A. The Commission will require the prefiling of testimony as defined in 4 CSR 240-2.130. The practice of prefiling testimony is designed to give parties notice of the claims, contentions and evidence in issue and to avoid unnecessary objections and delays in the proceedings caused by allegations of unfair surprise at the hearing. The Commission expects the parties to comply with the requirements of 4 CSR 240-2.130, including the filing of testimony on line-numbered pages.

B. Testimony and schedules shall not be filed under seal and treated as proprietary or highly confidential unless a protective order has first been established by the Commission. The party that considers the information to be proprietary or highly confidential should request a protective order. Any testimony or schedule filed without a protective order first being established shall be considered information open to the public.

C. The parties shall file a hearing memorandum setting out the issues to be heard and the witnesses to appear on each day of the hearing and the order in which they shall be called, an appendix containing definitions of technical terms, each party's position on the disputed issues, and the order of cross-examination. The hearing memorandum will set forth the issues that are to be heard and decided by the Commission. Any issue not contained in the hearing memorandum will be viewed as uncontested and not requiring resolution by the Commission. Staff will be responsible for preparing and filing the hearing memorandum.

D. The Commission emphasizes the importance of the deadline for filing the hearing memorandum. Commission Staff will be responsible for preparing and filing the hearing memorandum, and, unless the Commission orders otherwise, the hearing memorandum shall be filed on or before the date set. Each party is required to provide Staff with its position on each unresolved issue at least two business days prior to the filing deadline for the hearing memorandum. Each party shall either present their signature element (a signed page), shall provide written authorization to permit the General Counsel to sign for that particular party, or shall be available to sign the final draft at the offices of the General Counsel prior to the filing deadline. A hearing memorandum which is not signed is considered noncompliant as to the party whose signature is missing and any party who fails or refuses to sign the final copy of the hearing memorandum is hereby ordered to file its own hearing memorandum, which follows the same numbering and topic outline, by the hearing memorandum filing date.

E. The Commission's general policy provides for the filing of the transcript within ten working days after the conclusion of the hearing. Any party seeking to expedite the filing of the transcript shall tender a written request to the regulatory law judge at least five days before the hearing.

F. Initial briefs shall be limited to 30 pages and reply briefs to 15 pages. All pleadings, briefs and amendments shall be filed in accordance with 4 CSR 240-2.080(7).

G. All parties are required to bring an adequate number of copies of exhibits which they intend to offer into evidence at the hearing. If an exhibit has been prefiled, only three copies of the exhibit are necessary for the court reporter. If an exhibit has not been prefiled, the party offering it should bring, in addition to the three copies for the court reporter, copies for the five Commissioners, the regulatory law judge, and opposing counsel.

On September 30, SWBT filed a Motion for Protective Order and stated in support of its motion that SWBT anticipates that it may be necessary to rely upon confidential data concerning the rate consolidation issue and potentially other issues to be addressed in the technical conference and subsequent hearings. Therefore, SWBT requested a standard protective order be issued.

The Commission has previously recognized the need to protect confidential information and the use of protective orders has helped minimize disputes in past cases. The Commission finds that a protective order should be granted.

IT IS THEREFORE ORDERED:

1. That the following parties to Case No. TO-98-212 are recognized as parties to this case:

**Ameritech Mobile Communications, Inc. (AMCI);
AT&T Communications of the Southwest, Inc. (AT&T);
GTE Midwest Incorporated (GTE);
MCI Telecommunications Corporation (MCI);
Midwest Independent Coin Payphone Association (MICPA);
The Mid-Missouri Group of Telephone Companies
(Alma Telephone Company, Chariton Valley Telephone
Corporation, Choctaw Telephone Company, Mid-Missouri Telephone
Company, MoKan Dial Inc., Northeast Missouri Rural Telephone
Company, and Peace Valley Telephone Company) (Mid-Missouri
Group);
Orchard Farm Telephone Company (Orchard Farm)
Southwestern Bell Mobile Systems, Inc. (SWB Mobile);
Southwestern Bell Telephone Company (SWBT);
TCG St. Louis (TCG); and
United Telephone Company of Missouri d/b/a Sprint
(Sprint-United).**

2. That the applications to intervene filed by Sprint Spectrum L.P., d/b/a Sprint PCS, Nextel West, Inc., Brooks Fiber Communications of Missouri, Inc., Citizens Telephone Company, Grand River Mutual Telephone Company, Lathrop Telephone Company, and Oregon Farmers Mutual Telephone Company are granted.

3. That the following procedural schedule is adopted:

All Direct Testimony filed	- January 28, 1999 by 3:00 p.m.
All Rebuttal Testimony filed	- March 4, 1999 by 3:00 p.m.
All Surrebuttal Testimony filed	- March 25, 1999 by 3:00 p.m.
Prehearing conference	- April 8, 1999 begins at 10:00 a.m.
Hearing Memorandum	- April 19, 1999 by 3:00 p.m.

Hearing

- May 3-7, 1999

First day begins at 9:00 a.m.

The prehearing conference and hearing will be held in the Commission's hearing room on the fifth floor of the Harry S Truman State Office Building, 301 West High Street, Jefferson City, Missouri. The evidentiary hearing will begin at 9:00 a.m. on May 3 and at 8:30 a.m. on each day of hearing thereafter. Any person(s) with special needs as addressed by the Americans with Disabilities Act should contact the Missouri Public Service Commission at least ten (10) days prior to the hearing at one of the following numbers: Consumer Services Hotline -- 1-800-392-4211, or TDD Hotline -- 1-800-829-7541.

4. That this order shall become effective on October 26, 1998.

BY THE COMMISSION



Dale Hardy Roberts
Secretary/Chief Regulatory Law Judge

(S E A L)

Shelly A. Register, Regulatory Law
Judge, by delegation of authority
pursuant to 4 CSR 240-2.120(1),
(November 30, 1995) and Section 386.240,
RSMo 1994.

Dated at Jefferson City, Missouri,
on this 16th day of October, 1998.

PROTECTIVE ORDER

- A. The following definitions shall apply to information which a party claims should not be made public.

HIGHLY CONFIDENTIAL: Information concerning (1) material or documents that contain information relating directly to specific customers; (2) employee-sensitive information; (3) marketing analyses or other market-specific information relating to services offered in competition with others; (4) reports, work papers or other documentation related to work produced by internal or external auditors or consultants; (5) strategies employed, to be employed, or under consideration in contract negotiations.

PROPRIETARY: Information concerning trade secrets, as well as confidential or private technical, financial and business information.

- B. During the course of discovery a party may designate information as HIGHLY CONFIDENTIAL or PROPRIETARY (hereinafter, "designated information") and shall make such designated information available to the party seeking discovery, if such information is not objectionable on any other ground, under the restrictions set out in paragraphs C and D. The party designating the information as HIGHLY CONFIDENTIAL or PROPRIETARY shall provide to counsel for the requesting party, at the time the designation is made, the ground or grounds for the designation. The requesting party may then file a motion challenging the designation. The party designating the information confidential shall have five (5) days after the filing of the challenge to file a response. No other filings are authorized.

- C. Materials or information designated as HIGHLY CONFIDENTIAL may at the option of the furnishing party, be made available only on the furnishing party's premises and may be reviewed only by attorneys or outside experts

who have been retained for the purpose of this case, unless good cause can be shown for disclosure of the information off-premises and the designated information is delivered to the custody of the requesting party's attorney. Outside expert witnesses shall not be employees, officers or directors of any of the parties in this proceeding. No copies of such material or information shall be made and only limited notes may be taken, and such notes shall be treated as the HIGHLY CONFIDENTIAL information from which notes were taken.

- D. Disclosure of PROPRIETARY information shall be made only to attorneys, and to such employees who are working as consultants to such attorney or intend to file testimony in these proceedings, or to persons designated by a party as outside experts. Employees to whom such disclosure is to be made must be identified to the other party by name, title and job classification prior to disclosure. Information designated as PROPRIETARY shall be served on the attorney(s) for the requesting party. On-premises inspection shall not be required for PROPRIETARY information, except in the case of voluminous documents (see paragraph K). Any employees of the party who wish to review such PROPRIETARY materials shall first read this order and certify in writing that (s)he has reviewed same and consented to its terms. The acknowledgement so executed shall contain the signatory's full name, permanent address, title or position, date signed, and an affirmation that the signer is acting on behalf of his/her employer. Such acknowledgement shall be delivered to counsel for the party furnishing the information or documents before disclosure is made.
- E. Attorneys, in-house experts or outside experts who have been provided access to material or information designated HIGHLY CONFIDENTIAL or

PROPRIETARY shall be subject to the nondisclosure requirements set forth in paragraphs C or D, whichever is applicable, and S.

- F. If material or information to be disclosed in response to a data request contains material or information concerning another party which the other party has indicated is confidential, the furnishing party shall notify the other party of the intent to disclose the information. The other party may then choose to designate the material or information as HIGHLY CONFIDENTIAL or PROPRIETARY under the provisions of this Protective Order.
- G. Any party may use material or information designated as HIGHLY CONFIDENTIAL or PROPRIETARY in prefiled or oral testimony at hearing provided that the same level of confidentiality assigned by the furnishing party is maintained, unless otherwise classified by the Commission. In filing testimony all parties shall designate as HIGHLY CONFIDENTIAL or PROPRIETARY only those portions of their testimony which contain information so designated by the furnishing party. If any party plans to use information and testimony which has been obtained outside this proceeding, it must ascertain from the furnishing party if any of such information is claimed to be HIGHLY CONFIDENTIAL or PROPRIETARY prior to filing.
- H. A party may designate prefiled or live testimony, or portions thereof, submitted in this case as HIGHLY CONFIDENTIAL or PROPRIETARY (hereinafter, "designated testimony"). Prefiled testimony designated as HIGHLY CONFIDENTIAL or PROPRIETARY shall be filed under seal and served upon all attorneys of record. Only those portions of the prefiled testimony designated as HIGHLY CONFIDENTIAL or PROPRIETARY should be filed under seal, and should be marked in a manner which clearly indicates which materials are considered HIGHLY CONFIDENTIAL and which are considered PROPRIETARY.

- I. Within five (5) days of the filing of designated testimony, the party asserting the claim shall file with the Commission the specific ground or grounds for each claim. Such filing shall show the nature of the information sought to be protected and specifically state the alleged harm of disclosure. Such filing shall be filed under seal only if it contains either PROPRIETARY or HIGHLY CONFIDENTIAL information and shall be served upon all attorneys of record.
- J. Attorneys upon whom prefiled testimony designated HIGHLY CONFIDENTIAL or PROPRIETARY has been served shall make such testimony available only to those persons authorized to review such testimony under the restrictions in Paragraphs C or D, whichever is applicable.
- K. If a response to a discovery request requires the duplication of voluminous material or material not easily copied because of its binding or size, the furnishing party may require the voluminous material be reviewed on its own premises. Voluminous material shall mean a single document, book or paper which consists of more than 150 pages.
- L. Attorneys of record in this case shall require that the in-house or outside expert read this Protective Order and certify in a written nondisclosure agreement that the person has reviewed the Protective Order and consented to be bound by its terms. The nondisclosure agreement shall contain the signatory's full name, permanent address, employer and the name of the party with whom the signatory is associated. Such agreement shall be filed with the Commission. Attached hereto as Appendix "A" and incorporated by reference herein is a form for use in complying with the terms of this paragraph.
- M. In the event a witness discloses the contents of designated prefiled testimony in his or her own prefiled testimony, such testimony shall also

be designated in the same manner as the designated prefiled testimony and handled in accordance with this order.

- N. Unless good cause is shown, challenges to the confidential nature of prefiled designated testimony shall be filed with the Commission no later than ten (10) days after the grounds supporting the designations are filed or at the hearing, whichever occurs first. The party making the designation shall have five (5) days to respond to the challenge or may respond at the hearing, whichever occurs first.
- O. The Commission or Regulatory Law Judge may rule on the challenge to the designations prior to the hearing, or at the hearings.
- P. In the event no party challenges prefiled designated testimony, or in the event the Commission or its Regulatory Law Judge rules that testimony was properly designated, then such testimony shall be received into evidence, subject to any other objections being made and ruled upon, and kept under seal.
- Q. In addition, all live testimony, including cross-examination and oral argument which reveals the content of prefiled designated testimony or which is otherwise held to be confidential, including any argument as to whether certain testimony is properly designated, shall be made only after the hearing room is cleared of all persons besides the Commission, its Regulatory Law Judges, court reporters, attorneys of record and witnesses to whom the designated information is available pursuant to the terms of this Protective Order. The transcript of such live testimony or oral argument shall be kept under seal and copies shall only be provided to the Commission, its Regulatory Law Judges, and attorneys of record. Such attorneys shall not disclose the contents of such transcripts to anyone other than those who may have access to the designated information under

the terms of this Protective Order. Persons who have access to the designated information under the terms of this Protective Order shall treat the contents of such transcript as any other designated information under the terms of this Protective Order.

- R. References to designated testimony, whether prefiled or live and transcribed, in any pleadings before the Commission, shall be by citation only and not by quotation. Subject to the jurisdiction of any reviewing court, references to designated testimony in pleadings or oral arguments made to such reviewing court shall also be by citation only.
- S. All persons who are afforded access to information under the terms of this Protective Order shall neither use nor disclose such information for purposes of business or competition or any other purpose other than the purpose of preparation for and conduct of this proceeding and then solely as contemplated herein, and shall keep the information secure and in accordance with the purposes and intent of this order.
- T. Subject to the jurisdiction of any reviewing court, designated testimony constituting part of the record before the Commission shall be delivered to any reviewing court under seal upon service of the appropriate writ of review.
- U. The Commission may modify this order on motion of a party or on its own motion upon reasonable notice to the parties and opportunity for hearing.
- V. Within ninety (90) days after the completion of this proceeding, including judicial review thereof, all designated information, testimony, exhibits, transcripts or briefs in the possession of any party other than Staff or the Public Counsel shall be returned to the party claiming a confidential interest in such information and any notes pertaining to such information shall be destroyed.

- W. The provisions of paragraph C, D, J and L of this Protective Order do not apply to Staff or Public Counsel. Staff and Public Counsel are subject to the nondisclosure provisions of Section 386.480, R.S.Mo. 1986. Staff and Public Counsel shall provide a list of the names of their employees who will have access to the designated information.
- X. Outside experts of Staff or Public Counsel who have been contracted to be witnesses in this proceeding shall have access to designated information and testimony on the same basis as Staff and Public Counsel except the outside expert shall read this order and sign the nondisclosure agreement attached as Appendix "A" hereto.
- Y. Outside experts of Staff and Public Counsel who have not been contracted to be witnesses in this proceeding are subject to the provisions of this Protective Order.
- Z. Prefiled testimony and exhibits, whether filed or offered at the hearing, shall be prepared in the manner described in Appendix "B".

STATE OF MISSOURI
PUBLIC SERVICE COMMISSION

NONDISCLOSURE AGREEMENT

I, _____, have
been presented a copy of this Protective Order issued in Case No. _____ on the
_____ day of _____, 19____.

I have requested review of the confidential information produced in Case
No. _____ on behalf of _____
_____.

I hereby certify that I have read the above-mentioned Protective Order and
agree to abide by its terms and conditions.

Dated this _____ day of _____, 19____.

Signature and Title

Employer

Party

Address

Telephone

1. If prefiled testimony contains parts which are classified as Proprietary or Highly Confidential, it shall be filed with the Commission's Executive Secretary's Office as follows:
 - A. An original plus eight (8) copies of prefiled testimony with the Proprietary or Highly Confidential portions obliterated or removed shall be filed.
 - B. One (1) copy of those pages which contain information which has been designated as Proprietary, with any Highly Confidential portions obliterated or removed, shall be filed in a separate envelope. The portions which are Proprietary shall be indicated as described in D, below.
 - C. One (1) copy of those pages which have been designated as Highly Confidential shall be filed in a separate envelope. The portions which are Highly Confidential shall be indicated as described in D, below.
 - D. Six (6) copies of the complete prefiled testimony to be filed under seal for the Regulatory Law Judge and Commissioners. The Proprietary pages shall be stamped "P" and the Proprietary information indicated by two asterisks before and after the information, ****Proprietary****. The Highly Confidential pages shall be stamped "HC" with the Highly Confidential information indicated by two asterisks and underlining before and after the Highly Confidential information, ****Highly Confidential****.

Any deviations from this format must be approved by the Regulatory Law Judge.

2. Three (3) copies of exhibits, whether testimony or other, shall be filed at the hearing with the information separated as described in 1.A, 1.B and 1.C above with each copy of the Proprietary and Highly Confidential portions placed into separate envelopes to be marked as Exhibit __, Exhibit __P and Exhibit __HC.

RECEIVED
OCT 16 1998
COMMISSION COUNSEL
PUBLIC SERVICE COMMISSION