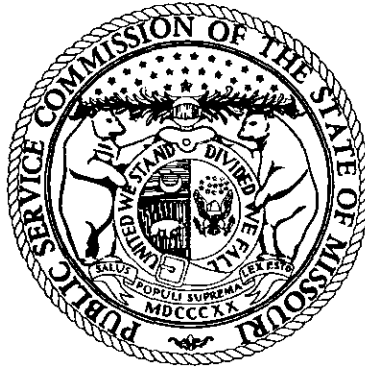


**BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI**



In the Matter of the Application of Comm South)
Companies, Inc. (formerly known as Onyx)
Distributing Company, Inc.) d/b/a Missouri Comm)
South, Inc., for a Certificate of Authority to)
Resell Basic Exchange and Local Exchange Intra-)
state Telecommunications Services Within the)
State of Missouri.)
)

Case No. TA-97-203

REPORT AND ORDER

Issue Date: October 8, 1997

Effective Date: October 21, 1997

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

In the Matter of the Application of Comm South)
Companies, Inc. (formerly known as Onyx)
Distributing Company, Inc.) d/b/a Missouri Comm)
South, Inc., for a Certificate of Authority to)
Resell Basic Exchange and Local Exchange Intra-)
state Telecommunications Services Within the)
State of Missouri.)

Case No. TA-97-203

APPEARANCES

Mark W. Comley, Newman, Comley & Ruth, P.C., 205 East Capitol Avenue, Post Office Box 537, Jefferson City, Missouri 65102, for Comm South Companies, Inc., formerly known as Onyx Distributing Company, Inc., d/b/a Missouri Comm South, Inc.

Sondra B. Morgan, Brydon, Swearngen & England, P.C., 312 East Capitol Avenue, Post Office Box 456, Jefferson City, Missouri 65102, for: BPS Telephone Company, Cass County Telephone Company, Citizens Telephone Company of Higginsville, Missouri, Inc., Craw-Kan Telephone Cooperative, Inc., Ellington Telephone Company, Farber Telephone Company, Goodman Telephone Company, Inc., Granby Telephone Company, Grand River Mutual Telephone Corporation, Green Hills Telephone Corporation, Holway Telephone Company, KLM Telephone Company, Kingdom Telephone Company, Lathrop Telephone Company, Le-Ru Telephone Company, Mark Twain Rural Telephone Company, McDonald County Telephone Company, Miller Telephone Company, New Florence Telephone Company, New London Telephone Company, Orchard Farm Telephone Company, Oregon Farmers Mutual Telephone Company, Ozark Telephone Company, Rock Port Telephone Company, Seneca Telephone Company, Steelville Telephone Exchange, Inc., and Stoutland Telephone Company (the "Small Telephone Company Group"); and Bourbeuse Telephone Company and Fidelity Telephone Company.

Elaine M. Walsh, Curtis, Oetting, Heinz, Garrett & Soule, P.C., 130 South Bemiston, Suite 200, St. Louis, Missouri 63105, for MCI Telecommunications Corporation.

Michael F. Dandino, Senior Public Counsel, Office of the Public Counsel, Post Office Box 7800, Jefferson City, Missouri 65102, for the Office of the Public Counsel and the public.

Colleen M. Dale, Deputy General Counsel, and **Carol M. Keith**, Assistant General Counsel, Missouri Public Service Commission, Post Office Box 360, Jefferson City, Missouri 65102, for the staff of the Missouri Public Service Commission.

REGULATORY LAW JUDGE: L. Anne Wickliffe, Deputy Chief.

REPORT AND ORDER

Procedural History

Comm South Companies, Inc. (formerly known as Onyx Distributing Company, Inc.), d/b/a Missouri Comm South, Inc. (MCS) applied to the Commission on November 20, 1996, for a certificate of service authority to provide resold basic local telecommunications service and local exchange telecommunications services in Missouri under Sections 392.420 - .440, RSMo 1994¹, and Sections 392.410, .450, and .455, RSMo Supp. 1996. MCS asked the Commission to classify it as a competitive company and waive certain statutes and rules as authorized by Sections 392.361 and 392.420, RSMo Supp. 1996. MCS is a Texas corporation authorized to do business in Missouri with offices at 101 East Randol Mill, Suite 108, Arlington, Texas 76011.

The Commission issued an Order and Notice directing parties wishing to intervene in the case to do so by December 27. The Commission granted permission to intervene to the following entities on January 8:

**The Small Telephone Company Group²
Fidelity Telephone Company and
Bourbeuse Telephone Company**

¹ All statutory references are to Revised Statutes of Missouri 1994 unless otherwise indicated.

² BPS Telephone Company, Cass County Telephone Company, Citizens Telephone Company of Higginsville, Missouri, Inc., Craw-Kan Telephone Cooperative, Inc., Ellington Telephone Company, Farber Telephone Company, Goodman Telephone Company, Inc., Granby Telephone Company, Grand River Mutual Telephone Corporation, Green Hills Telephone Corporation, Holway Telephone Company, KLM Telephone Company, Kingdom Telephone Company, Lathrop Telephone Company, Le-Ru Telephone Company, Mark Twain Rural Telephone Company, McDonald County Telephone Company, Miller Telephone Company, New Florence Telephone Company, New London Telephone Company, Orchard Farm Telephone Company, Oregon Farmers Mutual Telephone Company, Ozark Telephone Company, Rock Port Telephone Company, Seneca Telephone Company, Steelville Telephone Exchange, Inc., and Stoutland Telephone Company.

**MCI Telecommunications Corporation (MCI)
Southwestern Bell Telephone Company**

The parties met in a prehearing conference on February 13, 1997, and MCI withdrew its application to intervene on March 13. MCS filed a First Amended Application by interlineation to reflect the change of corporate name from "Onyx Distributing Company, Inc." to "Comm South Companies, Inc." on March 31.

The parties filed a Stipulation and Agreement (SA), included as Attachment I to this order, on June 16, and the Commission Staff (Staff) filed Suggestions in Support of the Stipulation and Agreement on June 25. The Commission issued an Order Directing Supplemental Notice and Setting Hearing on Stipulation because the parties had agreed to the waiver of Commission rules other than those requested in MCS's application. The Commission's order, issued on June 24, permitted an additional intervention period and scheduled a stipulation hearing for the parties to respond to Commission questions. There were no applications to intervene during the supplemental notice period.

The Commission conducted a stipulation hearing on July 25 where the parties made presentations in favor of the stipulation and responded to questions from the bench. SWBT and MCI were excused from appearing at the stipulation hearing. MCS and Commission Staff each offered a witness who responded to Commission questions.

Background

MCS is a Texas corporation which is authorized to do business in Missouri. The company wishes certification to provide resold basic local telecommunications services in the state of Missouri on a prepaid basis, and local exchange telecommunications services. Local exchange services

are considered competitive services and are subject to different rules and statutory requirements than are basic local services. Therefore, they will be considered separately in the discussion below.

MCS wants to provide basic local telecommunications services in portions of Missouri currently served by SWBT. MCS is not asking for certification in any area that is served by a small incumbent local exchange provider (ILEC). The specific exchanges in which MCS proposes to operate are described in Exhibit 3 to the application. MCS is requesting that its basic local exchange services be classified as competitive and that the application of certain statutes and regulatory rules be waived.

In addition to the waivers that have been granted in previous basic local certification cases MCS has requested additional waivers which will be discussed below. MCS requests these waivers to facilitate its targeting of a specific market, i.e., low and moderate income residential customers with unestablished credit or no credit.

Discussion

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 service it intends to provide, a description of the exchanges where it will offer service, and a proposed tariff with a 45-day effective date. MCS 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) because, when it filed its application, MCS had not reached

price agreements and executed an interconnection agreement with SWBT. The company agreed that, once it was possible to do so, it would submit to the Commission for approval a proposed tariff with a minimum 30-day effective date. MCS and SWBT entered into a Resale Agreement that was approved by Commission order on June 10, in Case No. TO-97-447. The final agreement was filed on June 20. There no longer remains an obstacle to MCS's filing of a tariff setting out the terms and conditions under which it will offer its basic local telecommunications services.

MCS agreed, in the SA, to file its tariff under Case No. TA-97-203 and give notice of the tariff filing to all the parties and participants. Along with that filing MCS has agreed to provide a written disclosure of all interconnection agreements it has entered into which affect its Missouri service areas.

B. Local Exchange Certification

The Commission finds that MCS's entry into competition in the local exchange telecommunications market is in the public interest and the company should be granted a certificate of service authority. The Commission finds that the local exchange services MCS proposes to offer are competitive and the company should be classified as a competitive company. The Commission is of the opinion that waiving the statutes and Commission rules set out in the ordered paragraph below is reasonable and not detrimental to the public interest.

The Commission determines, by authority of Section 392.470, that MCS should comply with the following regulatory requirements as reasonable and necessary conditions of certification:

- (1) MCS must comply with reasonable requests by Staff for financial and operating data to allow Staff to monitor the intraLATA toll market. § 386.320.3, RSMo Supp. 1996.

- (2) MCS must file tariffs containing rules and regulations applicable to customers, a description of the services provided, and a list of rates associated with those services in accordance with 4 CSR 240-30.010 and § 392.220, RSMo Supp. 1996.
- (3) MCS may not unjustly discriminate between its customers. §§ 392.200, RSMo Supp. 1996, and 392.400.
- (4) MCS must comply with all applicable rules of the Commission except those specifically waived by this order. §§ 386.570, 392.360.
- (5) MCS must file a Missouri-specific annual report. §§ 392.210, 392.390.1.
- (6) MCS must comply with jurisdictional reporting requirements as set out in each local exchange company's access services tariffs. § 392.390.3.
- (7) MCS must submit to the Staff, on a confidential basis, a copy of the jurisdictional report it submits to local exchange companies. The report must be submitted within ten days of the date on which it is submitted to the local exchange company.

C. Basic Local Service Certification

Section 392.455, RSMo Supp. 1996, sets out the requirements for granting certificates to provide basic local telecommunications service. 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.

1. Technical, financial and managerial resources and abilities.

MCS described the qualifications of its management team in Exhibit 4 to its application. The team members have experience in marketing, customer service, law, and finance. MCS is currently operating in Texas and Georgia, with more than 13,000 customers. MCS pointed out that, because it will be operating as a reseller only, the technical resources necessary to provide service will be supplied by SWBT, the underlying carrier. MCS submitted as Schedule A to its application a Statement of Assets, Liabilities and Equity-Income Tax Basis dated September 30, 1996; and a Statement of Revenues and Expenses-Income Tax Basis For the Six Months Ended June 30, 1996. The parties agreed that MCS possesses sufficient technical, financial, and managerial resources and abilities to provide basic local telecommunications service.

2. The entrant's proposed services satisfy the minimum standards established by the Commission. As a reseller, MCS will be able to meet the Commission's minimum basic local service standards, including quality of service and billing standards since it will be relying on the services of the underlying ILEC. The parties agreed that MCS proposes to offer basic local services that satisfy the minimum standards established by the Commission.

3. The geographic area in which the company proposes to offer service. MCS set out in Exhibit 3 to its application all the exchanges in which it proposes to offer services. MCS has defined its service area by means of the tariffed exchange areas of SWBT. The company has agreed that its service area must follow ILEC exchange boundaries and be no smaller than an exchange. The parties agreed that MCS has sufficiently identified the geographic area in which it proposes to offer basic local service and

that the area follows ILEC exchange boundaries and is no smaller than an exchange.

4. **The offering of basic local telecommunications service as a separate and distinct service.** MCS has agreed to offer basic local telecommunications service as a separate and distinct service.

5. **Equitable access for all Missourians to affordable telecommunications services.** MCS has agreed 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. 1996.

D. 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. § 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). In addition, all the services a competitive company provides must be classified as competitive. § 392.361.3. 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. *Id.* at 487.

The parties have agreed that MCS should be classified as a competitive telecommunications company. The parties have also agreed that MCS's switched exchange access services may be classified as a competitive service, conditioned upon certain limitations on MCS's ability to charge for its access services. MCS 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 at the date of certification for the large incumbent LECs within those service areas in which MCS seeks to operate. The parties have agreed that the grant of service authority and competitive classification to MCS should be expressly conditioned on the continued applicability of Section 392.200, RSMo Supp. 1996, and on the requirement that any increases in switched access services rates above the maximum switched access service rates set forth in the agreement must be cost-justified pursuant to Sections 392.220, RSMo Supp. 1996, and 392.230, rather than Sections 392.500 and 392.510.

E. Waiver of Statutes and Rules

1. **Standard basic local exchange provider waivers.** The parties agreed that waiver of the following statutes is appropriate: Sections 392.210.2, 392.270, 392.280, 392.290.1, 392.300.2, 392.310, 392.320, 392.330, RSMo Supp. 1996, and 392.340. The parties also agreed that application of these Commission rules could be waived: 4 CSR 240-10.020, 4 CSR 240-30.040, and 4 CSR 240-35.

2. **Additional waivers.** In addition to the waivers that have been granted in previous basic local certification cases, MCS has requested additional waivers and the parties have agreed to them. See SA, pages 6-10. The company requests these waivers to facilitate its targeting

of a specific market, i.e., low and moderate income residential customers with unestablished credit or no credit.

a. 4 CSR 240-33.040(3) Billing. This Commission rule requires that a customer have at least 21 days from rendition of the bill to pay the charges if the company does not have a preferred payment date plan. "Preferred payment date plan means a plan in which the delinquency date for the charges stated on a bill shall occur on the same day during each billing period as selected by the customer." 4 CSR 240-33.020(Q). "Rendition of a bill means the date a bill is mailed to a customer." 4 CSR 240-33.020(S). Since MCS does not have a preferred payment plan, this rule would apply to its services.

MCS argues that this waiver should be granted because the customer is paying for a specified and limited service in advance and therefore knows what the charge will be. The amount of the bill will not change from month to month because toll and long distance calling will be blocked.

According to testimony elicited at the stipulation hearing, MCS bills all its customers on the 20th of each month. Payment is due on the first day of the following month, and the customer is deemed delinquent if payment has not been received by the 6th. In a 30-day month this amounts to 16 days for the customer to pay after rendition of the bill. The company's witness stated that, in many cases the time period before disconnection would be even longer. However, the witness also testified that, under the terms of their customer service agreement, an end user who failed to pay a bill when due could be disconnected as early as the 7th day of the month. See Transcript (Tr.) pages 34-39.

Although the Commission believes this company is attempting to deal with its customers in an equitable fashion, once waiver of this

provision is granted there is no way to guarantee that the company will continue the liberal practices described on the record. The end user would be subject to the provisions of the customer service agreement without the additional protection of this Commission rule. Given the importance to end users of maintaining access to basic local service, the Commission finds that waiving the application of 4 CSR 240-33.040(3) to this company would not be in the public interest.

b. **4 CSR 240-33.040(4) Billing.** This rule requires the customer to have at least 10 days from rendition of the bill to pay the charges. The rule applies to companies that have a preferred payment date plan. MCS has no such plan; the testimony was that all customers are billed on the 20th of the month and all payments are due on the first of the month (Tr. 37). Therefore, the Commission is convinced that this rule does not apply to MCS.

c. **4 CSR 240-33.040(6)(F) Itemization of amount due for taxes and franchise fees; requiring as well an exception to Case No. TO-90-174.** This Commission rule and the Commission's order in TO-90-174³ require the surcharge for Relay Missouri to be identified on every bill. MCS stated on the record that it is no longer requesting waiver of this Commission rule. (Tr. 39.)

d. **4 CSR 240-33.070(4) Notice of discontinuance of service.** This Commission rule requires that a separate notice of possible discontinuance be sent to a customer facing loss of service, apart from the

³ In the Matter of the Development of a Rule to Implement Enhanced Telephone Service for the Deaf and Hearing Impaired, 30 Mo. P.S.C. (N.S.) 481 (1991), Order Approving Identification of Surcharge and Content of Billing Insert, issued February 22, 1991.

billing statement. Specifically, the rule requires five days written notice of discontinuance of service, sent by first-class mail.

MCS is willing to give notice, and will comply with the Commission's rules regarding content of the notice. (Tr. 78.) But the company wants to give the notice in the same writing as the bill for services. The company's argument is that the postage and administrative costs of processing a separate notice would put upward pressure on the rates for services. In addition, MCS is required to pay SWBT for each day that the delinquent customer is receiving dial tone service. An additional notice would result in a delay that would be costly to the company. (Tr. 39-40.) However, the company witness also testified that MCS's standard operating procedure is currently to send a written past due notice in other states where they provide prepaid services. (Tr. 73.) The monthly rate this company charges for prepaid services in Texas is \$41.00. Counsel for the Office of the Public Counsel (OPC) stated that this price would reflect a premium of more than 100% over the typical monthly charge for basic local services to a SWBT customer in Missouri. (Tr. 82-83.)

The Commission is not persuaded that MCS's billing notice constitutes adequate warning to customers that service will be disconnected on a date certain if the bill is not paid. The Commission notes that a company offering prepaid service has lowered its risk of nonpayment by requiring payment in advance. In addition, MCS apparently charges a substantial premium over an ILEC's basic local rates. The Commission finds that it is not unreasonable to expect MCS to comply with the rule requiring a separate, written notice of disconnection, and that waiver of that requirement would not be in the public interest.

e. 4 CSR 240-33.070(6) 24-hour notice of intent to **discontinue service.** This Commission rule requires a company that is discontinuing service because of nonpayment to make a reasonable effort to contact the customer within the 24 hours preceding discontinuance. MCS stated on the record that it is no longer requesting waiver of this Commission rule. (Tr. 41.)

f. 4 CSR 240-33.070(9) **Payment by personal check for restoration of service.** This rule requires the company to accept payment by personal check for restoration of service.

The company argues that application of this rule should be waived because a person who has been disconnected and seeks restoration of service may have paid for service at some point with a check that was dishonored. The company's position is that it should not be forced to take another personal check from a customer where there is a high risk that the check will not be paid. (Tr. 45-48.) The text of the rule reads:

(9) Payment may be made by the customer for restoration of service in any reasonable manner, including personal check. Payment by personal check may be refused if the customer, within the last twelve (12) months, has tendered payment in this manner and the check has been dishonored, excepting bank error. [Emphasis added.]

The Commission is convinced that the exception for customers who have paid with a dishonored check during the previous year provides the company with adequate protection and no waiver is needed.

g. 4 CSR 240-33.090 **Settlement agreements.** This rule entitles a customer to enter into a settlement agreement with the company for an unpaid balance. The company requested waiver of the application of this section but presented no record evidence to support the request. Accordingly, the Commission finds that there is insufficient evidence to support the request for waiver.

h. 4 CSR 240-33.070(5)(E) Contents of a notice of discontinuance. This portion of the rule regarding the content of discontinuance notices requires the notice to include the information that the customer has a right to enter into a settlement agreement for an unpaid balance, if the claim is for a charge not in dispute and the customer is unable to pay the charge in full. The company requested waiver of the application of this section but presented no record evidence to support the request. Accordingly, the Commission finds that there is insufficient evidence to support the request for waiver.

3. Discussion of Commission Concerns

The Commission has grave concerns about the proliferation of applicants proposing to provide prepaid services in Missouri and requesting waiver of the application of Commission rules designed to protect the end user. The Commission is concerned that these companies are targeting a class of end users that is more easily exploited than the average consumer. Furthermore, it is premature, in these early stages of basic local service competition, for the Commission to grant extraordinary waivers of consumer protection rules when there is no history that would allow prediction of how prepaid service providers will operate in relation to their customers. There is a concern that these special waivers could result in a class of providers with privileges not available to other LECs. Such a result would not be consistent with the creation of a level playing field for competition as required by the Telecommunications Act of 1996 and Section 392.455, RSMo Supp. 1996.

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:

1. The Commission finds that competition in the local exchange and basic local exchange telecommunications markets is in the public interest.
2. The Commission finds that MCS 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.
3. The Commission finds that MCS demonstrated good cause to support a temporary waiver of the tariff filing requirement at the time of the filing of its application, and the waiver shall be granted. However, MCS is now party to an approved Resale Agreement (See Case No. TO-97-447) and shall be required to file tariff sheets within 30 days of the effective date of this order.
4. The Commission finds that the local exchange services market is competitive and that granting MCS a certificate of service authority to provide local exchange telecommunications services is in the public interest. MCS's certificate should become effective when its tariff becomes effective.
5. The Commission finds that MCS meets the statutory requirements for provision of basic local telecommunications services and has agreed to abide by those requirements in the future. The

Commission determines that granting MCS a certificate of service authority to provide basic local exchange telecommunications services is in the public interest. MCS's certificate should become effective when its tariff becomes effective.

6. The Commission finds that MCS is a competitive company and should be granted waiver of the statutes and rules set out in Ordered Paragraph 5.

7. The Commission finds that there is not sufficient evidence to support granting waiver of the application of:

- 4 CSR 240-33.040(3) Billing (no preferred payment date plan)
- 4 CSR 240-33.040(4) Billing
- 4 CSR 240-33.070(4) Notice of discontinuance of service
- 4 CSR 240-33.070(5)(E) Contents of a notice of discontinuance
- 4 CSR 240-33.070(9) Payment by personal check for restoration of service
- 4 CSR 240-33.090 Settlement agreements

8. The Commission finds that MCS has waived its requests that the Commission waive the application of:

- 4 CSR 240-33.040(6)(F) Itemization of amount due for taxes and franchise fees
- 4 CSR 240-33.070(6) 24-hour notice of intent to discontinue service

9. The Commission finds that MCS's certification and competitive status are expressly conditioned upon the continued applicability of Section 392.200, RSMo Supp. 1996, and on the requirement that any increases in switched access services rates above the maximum switched access service rates set forth in the agreement must be cost-justified pursuant to

Sections 392.220, RSMo Supp. 1996, and 392.230, rather than Sections 392.500 and 392.510.

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. MCS has requested certification under Sections 392.420 - .440, and Sections 392.410 and .450, RSMo Supp. 1996. Those statutes permit the Commission to grant a certificate of service authority where the grant of authority is in the public interest.

The Commission has the authority to suspend or modify the application of its rules and of certain statutory provisions as to any competitive telecommunications company. § 392.361.5. The Commission may suspend different requirements for different telecommunications companies where it is reasonable and not detrimental to the public interest. *Id.*

The Federal Telecommunications Act of 1996 and Section 392.455, RSMo Supp. 1996, were designed to institute competition in the basic local exchange telecommunications market in order to benefit all telecommunications consumers. Section 392.185, RSMo Supp. 1996, states that "the provisions of this chapter shall be construed to: (1) Promote universally available and widely affordable telecommunications services; . . . (3) Promote diversity in the supply of telecommunications services and products throughout the state of Missouri; . . . (6) 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. . . ."

The Commission has the legal authority to accept a Stipulation and Agreement as offered by the parties as a resolution of the issues raised in this case, pursuant to Section 536.060, RSMo Supp. 1996. Based upon the information contained within the Stipulation and Agreement of the parties, the supporting information offered at the hearing on July 16, 1997, and on its findings of fact, the Commission concludes that the Stipulation and Agreement should be approved with the exception that the Commission does not approve all of the stipulations regarding waivers of Commission rules.

IT IS THEREFORE ORDERED:

1. That the caption of this case is amended to read: "In the Matter of the Application of Comm South Companies, Inc., f/k/a Onyx Distributing Company, Inc., d/b/a Missouri Comm South, Inc. for a Certificate of Authority to Resell Basic Local Exchange and Local Exchange Intrastate Telecommunications Services Within the State of Missouri."

2. That the stipulation of the parties, filed on June 16, 1997, is approved, with the exception that the Commission does not approve all of the stipulations regarding waivers of Commission rules.

3. That Comm South Companies, Inc., d/b/a Missouri Comm South, Inc. 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, to become effective when the company's tariff becomes effective.

4. That Comm South Companies, Inc., d/b/a Missouri Comm South, Inc. is granted a certificate of service authority to provide basic local telecommunications services in the state of Missouri, subject to the conditions of certification set out above, to become effective when the company's tariff becomes effective.

5. That Comm South Companies, Inc., d/b/a Missouri Comm South, Inc. is classified as a competitive telecommunications company. The following statutes and regulatory rules shall be waived:

Statutes

- 392.210.2 - uniform system of accounts
- 392.270 - valuation of property (ratemaking)
- 392.280 - depreciation accounts
- 392.290.1 - issuance of securities
- 392.300.2 - acquisition of stock
- 392.310 - stock and debt issuance
- 392.320 - stock dividend payment
- 392.340 - reorganization(s)
- 392.330, RSMo Supp. 1996 - issuance of securities, debts and notes

Commission Rules

- 4 CSR 240-10.020 - depreciation fund income
- 4 CSR 240-30.040 - uniform system of accounts
- 4 CSR 240-35 - reporting of bypass and customer-specific arrangements

6. That Comm South Companies, Inc. d/b/a Missouri Comm South, Inc.'s requests for waiver of the application of the following Commission rules are denied:

- 4 CSR 240-33.040(3) - billing (no preferred payment date plan)
- 4 CSR 240-33.040(4) - billing
- 4 CSR 240-33.070(4) - notice of discontinuance of service
- 4 CSR 240-33.070(5)(E) - content of notice of discontinuance
- 4 CSR 240-33.070(9) - payment by personal check for restoration of service
- 4 CSR 240-33.090 - settlement agreements

7. That Comm South Companies, Inc. d/b/a Missouri Comm South, Inc. has waived its requests for waiver of the application of:

- 4 CSR 240-33.040(6)(F) - itemization of amount due for taxes and franchise fees
- 4 CSR 240-33.070(6) - 24-hour notice of intent to discontinue service

8. That the filing of a 45-day tariff as required by 4 CSR 240-2.060(4)(H) is waived until 30 days after the effective date of this order.

9. That Comm South Companies, Inc., d/b/a Missouri Comm South, Inc. shall file tariff sheets for approval reflecting the rates, rules, regulations and the services it will offer within 30 days after the effective date of this order. The tariff shall be filed in Case No. TO-97-203 and shall include a listing of the statutes and Commission rules waived under Ordered Paragraph 5.

10. That Comm South Companies, Inc. d/b/a Missouri Comm South, Inc.'s certification and competitive status are expressly conditioned upon the continued applicability of Section 392.200, RSMo Supp. 1996, and on the requirement that any increases in switched access services rates above the maximum switched access service rates set forth in the agreement must be cost-justified pursuant to Sections 392.220, RSMo Supp. 1996, and 392.230, rather than Sections 392.500 and 392.510.

11. That this Report and Order shall become effective on October 21, 1997.

BY THE COMMISSION



**Cecil I. Wright
Executive Secretary**

(S E A L)

Lumpe, Ch., Crumpton, Drainer
and Murray, CC., concur.

Dated at Jefferson City, Missouri,
on this 8th day of October, 1997.

BEFORE THE PUBLIC SERVICE COMMISSION
STATE OF MISSOURI

FILED

JUN 16 1997

MISSOURI
PUBLIC SERVICE COMMISSION

In the Matter of the Application of)
Comm South Companies, Inc., f/k/a)
Onyx Distributing Company, Inc.,)
d/b/a Missouri Comm South, Inc.)
for a Certificate of Authority to Resell)
Basic Exchange and Local Exchange)
Intrastate Telecommunications Services within)
the State of Missouri.)

Case No. TA-97-203

STIPULATION AND AGREEMENT

1. Comm South Companies, Inc. (under its former name, Onyx Distributing Company, Inc., d/b/a Missouri Comm South, Inc.) (hereinafter "Missouri Comm South" or "Applicant") initiated this proceeding on November 20, 1996 by filing an Application requesting certificate of service authority to provide resold basic local telecommunications services in those portions of Missouri that are currently served by Southwestern Bell Telephone Company (SWBT).

2. Missouri Comm South proposes to provide resold basic local telecommunications service, including local calling ("dialtone"), on a prepaid basis only. Prepaid services are services for which a company does not perform consumer credit checking or application screening and which are paid for prior to service being rendered. Prepaid services are structured to attract customers in households that do not currently have telephone service; therefore, approval of this application will provide an opportunity to improve penetration rates in Missouri and enhance the possibility of universal service in the state. Prepaid service providers, like Missouri Comm South will block all direct-dial long distance calls, collect calls, operator assisted calls and third number-billed calls so that the service is a known, limited cost to the customer each month. All Missouri Comm South customers will be required to sign a Customer

Service Agreement (see attached) and pay a service initiation charge and the first full month's service charge prior to receiving service.

3. The Commission has granted the timely applications to intervene of Southwestern Bell Telephone Company, MCI Telecommunications Corporation, the Small Telephone Company Group,¹ Bourbeuse Telephone Company, and Fidelity Telephone Company. MCI withdrew as a party on or about March 12, 1997.

4. Pursuant to the Commission's notice of January 28, 1997, representatives of the Office of Public Counsel and all of the aforementioned parties participated in a prehearing conference on February 13, 1997.

5. For purposes of this Stipulation and Agreement, the parties agree that applications for local exchange and basic local exchange service authority in exchanges served by "large" local exchange companies (LECs)² should be processed in a manner similar to that in which applications for interexchange authority are currently handled.

¹The Small Telephone Company Group is comprised of BPS Telephone Company, Cass County Telephone Company, Citizens Telephone Company of Higginsville, Missouri, Inc., Craw-Kan Telephone Cooperative, Inc., Ellington Telephone Company, Farber Telephone Company, Goodman Telephone Company, Inc., Granby Telephone Company, Grand River Mutual Telephone Corporation, Green Hills Telephone Corporation, Holway Telephone Company, KLM Telephone Company, Kingdom Telephone Company, Lathrop Telephone Company, Le-Ru Telephone Company, Mark Twain Rural Telephone Company, McDonald County Telephone Company, Miller Telephone Company, New Florence Telephone Company, New London Telephone Company, Orchard Farm Telephone Company, Oregon Farmers Mutual Telephone Company, Ozark Telephone Company, Rock Port Telephone Company, Seneca Telephone Company, Steelville Telephone Exchange, Inc. and Stoutland Telephone Company.

²Large LECs are defined as LECs who serve 100,000 or more access lines. Section 386.020 RSMo. Supp. 1996. In Missouri, the current LECs are SWBT, GTE and United.

6. In determining whether Missouri Comm South's application for certificate of service authority should be granted, the Commission should consider its technical, financial and managerial resources and abilities to provide basic local telecommunications service. Missouri Comm South must demonstrate that the basic local services it proposes to offer satisfy the minimum standards established by the Commission, including but not limited to Missouri Comm South agreeing to file and maintain basic local service tariff(s) with the Commission in the same manner and form as the Commission requires of incumbent local exchange telecommunications companies with which applicant seeks to compete. Further, with the exceptions noted below, Missouri Comm South agrees to meet the minimum basic local service standards, including quality of service and billing standards, as the Commission requires of the incumbent local exchange telecommunications companies with which Missouri Comm South seeks to compete. Notwithstanding the provisions of Section 392.500, RSMo 1996, as a condition of certification and competitive classification, Missouri Comm South agrees 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 at the date of certification for the large incumbent LEC(s) within those service area(s) Missouri Comm South seeks authority to provide service. Further, Missouri Comm South agrees to offer basic local telecommunications service as a separate and distinct service and must sufficiently identify the geographic service area in which it proposes to offer basic local service.³ Such area must follow exchange

³The identification of specific geographic areas within which Missouri Comm South proposes to offer services as referred to in this paragraph shall not be construed to foreclose Missouri Comm South from petitioning the Commission pursuant to Section 392.200.2 and .8, RSMo 1996.

boundaries of the incumbent local exchange telecommunications companies in the same area and must be no smaller than an exchange. Finally, Missouri Comm South agrees to provide equitable access as determined by the Commission for all Missourians within the geographic area in which it proposes to offer basic local service, regardless of where they live or their income, to affordable telecommunications services. See Section 392.455 RSMo, Supp. 1996.

7. Missouri Comm South has submitted its application without tariffs and seeks a temporary waiver of 4 CSR 240-2.060(4)(H).⁴ Missouri Comm South agrees to file its initial tariff(s) in the certification docket and serve all parties thereto with written notice at the time the initial tariff(s) are submitted to afford them an opportunity to participate in the tariff approval process. Copies of the tariff(s) will be provided by Missouri Comm South to such parties immediately upon request. Any service authority shall be regarded as conditional and shall not be exercised until such time as tariff(s) for services have become effective. When filing its initial basic local tariff, Missouri Comm South shall also file and serve a written disclosure of all interconnection agreements which affect its Missouri service areas, all portions of its Missouri service areas for which it does not have an interconnection agreement with the incumbent local exchange carrier; and its explanation of why such an interconnection agreement is unnecessary for such areas.

8. Pursuant to §392.420, RSMo, Missouri Comm South requests that the Commission waive the application of any or all of the following statutory provisions and rules to basic local telecommunications services, and the parties agree that the Commission should

⁴Good cause for failure to file proposed tariffs with the Application must be shown. The lack of an approved interconnection agreement (47 USC 252) constitutes good cause.

grant such request provided that Section 392.200, RSMo, should continue to apply to all of Missouri Comm South's services:

STATUTORY PROVISIONS

- §392.210.2 - Uniform System of Accounts
- §392.270 - Valuation of Property (Ratemaking)
- §392.280 - Depreciation Accounts
- §392.290.1 - 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 240-30.040 - Uniform System of Accounts
- 4 CSR 240-35 - Reporting of Bypass and Customer-Specific Arrangements

9. In addition to the "standard" waivers listed in paragraph 8 above, which the Commission has granted to numerous basic local exchange telecommunications applicants in recent months, Missouri Comm South requests the Commission waive application of additional rules due to the unique structure of the service that Missouri Comm South will be offering. Pursuant to Sections 392.361 and 392.420, RSMo Supp. 1996, and for the reasons stated below, Missouri Comm South requests, and all parties agree to the request, that the Commission waive the following additional rules as they relate to regulation of resold basic local telecommunications services to be provided by Missouri Comm South so long as the waivers are conditional on Missouri Comm South's resale of basic local service remaining structured as described in Paragraph 2 above. In light of the fact that households not currently receiving telephone service will be connected to the telecommunications network to obtain basic local

telecommunications service if Missouri Comm South is authorized to provide service as requested, the parties agree that the public interest would be served by the grant of these additional waivers.

Commission Rules

- | | | |
|-----------------------------|---|---|
| 4 CSR 240-33.040(3) and (4) | - | Billing and Preferred Payment Plans |
| 4 CSR 240-33.040(6)(F) | - | Itemization of the amount due for taxes and franchise fees |
| 4 CSR 240-33.070(4) | - | Notice of proposed discontinuance of service by first class mail. |
| 4 CSR 240-33.070(5)(E) | - | Customer's right to enter settlement agreements |
| 4 CSR 240-33.070(6) | - | 24-hour notice of intent to discontinue service |
| 4 CSR 240-33.070(9) | - | Payment by check permitted for restoration of service. |
| 4 CSR 240-33.090 | - | Settlement Agreements |

A. Waiver of Rule 4 CSR 240-33.040(3)(4) - Billing and Preferred Payment Plans

As a matter of course, customers subscribing to Missouri Comm South for telephone service will be required to complete and sign a Customer Service Agreement ("Agreement") provided by Missouri Comm South. The Agreement essentially informs customers of Missouri Comm South's product offerings and payment terms. More importantly, the Agreement establishes a delinquency date for the charges stated therein, which does not change from month to month, and expressly provides for future delinquencies to occur on the same day during each billing period.

Missouri Comm South requests that the Commission waive 4 CSR 240-33.040(3)(4) to the extent that the rules would require Missouri Comm South to provide customers with a billing

statement at least twenty-one (21) or ten (10) days respectively before payment is due. It is also requested that the rule be waived to the extent that Missouri Comm South would be required to give its customers twenty one days or ten days respectively to pay their bills for service. Missouri Comm South will be sending billing statements to its customers, but requests waiver to permit Missouri Comm South to send a statement no more than ten (10) days prior to the due date. As mentioned above, Missouri Comm South will be servicing mostly high-risk customers—i.e., customers who are unable to obtain telephone service elsewhere because of credit problems or delinquent payment histories. Moreover, because of the unique nature of the service structure being provided, Missouri Comm South's customers will not need the same amount of time that other telephone customers need to review their billing statements. Missouri Comm South's customers will be charged a set price for service and will not have access to toll calling. The amount of their bill, therefore, will not change from month to month unless the customer requests the addition or deletion of optional services, at which time Missouri Comm South will have the customer sign a new Agreement. In short, the billing statement is merely a reminder to the customer to pay the bill on the date established in their Agreement. All parties agree that ten days is a reasonable and adequate amount of notice to be provided to customers of Missouri Comm South's basic local service as described in Paragraph 2 above.

B. Waiver of Rule 4 CSR 240-33.040(6)(F) - Itemization of the amount due for taxes and franchise fees

Missouri Comm South requests that the Commission waive this provision requiring Missouri Comm South to provide an itemized statement of the amount due for taxes and franchise fees that are passed on to the customers. This request will not in any way affect

Missouri Comm South's obligation and intention to pay all such taxes and franchise fees due, but merely the reporting of this information on a separate line item on the customer's bill. The waiver of this rule notwithstanding, Missouri Comm South stipulates and agrees that on its bill for service it will have an entry for the charge for service and a separate entry which sets out in the aggregate the total of taxes, franchise fees and surcharges.⁵ In view of Missouri Comm South's agreement on the form of its bill, all parties agree to waiver of this rule, so long as the waiver is restricted to the service structure described in Paragraph 2 above.

C. Waiver of Rule 4 CSR 240-33.070(4) - Notice of proposed discontinuance of service

Missouri Comm South is requesting waiver of this provision to the extent that it requires Missouri Comm South to send the notice of discontinuance separately from the billing statement, or to send the notice by first class mail. Missouri Comm South is willing to provide customers with a notice of discontinuance, --one that will be in a form substantially as that described in 4 CSR 240-33.070(5) -- but prefers to do so when it either sends the customers their billing statement, or when it hand delivers the billing statement to the customer at any Missouri Comm South office. This is another reason why Missouri Comm South is requesting that it be allowed to provide a billing statement to its customers within no more than ten days of the due date. In doing so, Missouri Comm South will be able to avoid some of the risks and costs associated with

⁵Included in this waiver request is a request for an exception to the Commission's determination in Case No. TO-90-174 that the surcharge authorized by §209.253 RSMo. appear on the bill of each Missouri local exchange subscriber and be identified as the Relay Missouri Surcharge. This additional exception is requested for the same reasons stated for waiver of 4 CSR 240-33.040(6)(F).

providing service to its customers. All parties agree to waiver of this rule, so long as the waiver is restricted to the service structure described in Paragraph 2 above.

D. Waiver of Rule 4 CSR 240-33.070(5)(E) - Customer's right to enter settlement agreements; 4 CSR 240-33.090 - Settlement Agreements

Missouri Comm South requests waiver of these rules to the extent they may require Missouri Comm South to allow payments over time for service rendered to customers. Under Missouri Comm South's plan of service, there will never be a dispute about the amount of the cost of service. The customer will be expected to pay in advance for the cost of service, and there will never be a dispute about that price. The way in which service is offered is "payment in advance." If the customer cannot pay the price of service in advance, the customer is ineligible for service. To the extent these rules would permit a customer to pay in installments less than the price of service, they should be waived.

E. Waiver of Rule 4 CSR 240-33.070(6) - 24-hour notice of intent to discontinue service

Missouri Comm South is requesting waiver of this provision requiring Missouri Comm South to make reasonable efforts to contact a customer within at least twenty-four (24) hours preceding the proposed discontinuance of their service. Upon entering a Customer Service Agreement with Missouri Comm South, it will be clear that the customer is buying units of service with set termination dates which are clearly indicated in the CSA. Like a prepaid calling card, if another unit of service is not pre-purchased by the customer, it is not available for use. When the unit of prepaid local service expires, it does not automatically renew. If the prepayment is not made prior to the due date, no service is available. Because of the risks

associated with providing this service, Missouri Comm South needs to be able to strictly enforce payment deadlines without incurring additional unnecessary costs or delays. It would be both costly and extremely burdensome for Missouri Comm South to attempt to contact every customer within 24 hours of disconnection. Due to the nature of the service, the customer is advised that prepayment is a condition of service and that the unit of service expires without further notice when a new unit is not purchased. Additionally, it would be in the best interest of the public if this requirement were waived for Missouri Comm South as the customers are the ones who will bear the costs of implementing this requirement; essentially, they will have to pay more to obtain telephone service. All parties agree to waiver of this rule, so long as the waiver is restricted to the service structure described in Paragraph 2 above.

F. Waiver of 4 CSR 240-33.070(9) Payment by check permitted for restoration of service.

Missouri Comm. South expects to demand cash or money order or some other guaranteed form of payment for services. There may be occasions when Missouri Comm South will accept a personal check from a customer, but Missouri Comm South prefers that the customer not be given the unrestricted right at any point of delivery or restoration of service to pay by personal check. Again, the customer is likely to be a high risk customer whose history of writing negotiable instruments could be questionable. To avoid the expense of investigating each and every person who would offer payment in the form of personal check, Missouri Comm South requests waiver of the rule, with the understanding that Missouri Comm South will not rule out completely the acceptance of personal checks under certain conditions.

10. The parties have employed the foregoing standards and criteria, which are intended to meet the requirements of existing law and Sections 392.450 and 392.455, RSMo 1996, regarding applications for certificates of local exchange service authority to provide or resell basic local telecommunications service, in negotiating the remaining provisions of this Stipulation and Agreement.

11. Missouri Comm South submitted a list of exchanges on March 20, 1997, in which Missouri Comm South identified by name the exchanges in which it seeks authority to provide service. Further, Missouri Comm South hereby agrees that its Application should be deemed amended to include by reference the terms and provisions described in paragraphs 6-9 hereinabove. Missouri Comm South also seeks waiver of certain statutory provisions and Commission rules as to its new services as enumerated herein. This list of waivers should be deemed substituted for the list of statutory provisions and Commission rules enumerated in Missouri Comm South's Application.

12. Because the waivers agreed to by the parties in this Stipulation and Agreement differ substantively from those sought in the Application, the parties recommend that the Commission provide additional notice to the same entities to whom initial notice of the application was provided, stating that a Stipulation and Agreement has been filed with the Commission, and listing waivers which have been agreed to by the parties.

13. Based upon its verified Application, Missouri Comm South asserts, and no party makes a contrary assertion, that there is sufficient evidence from which the Commission can find and conclude that Missouri Comm South:

- 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 to offer basic local service and such area follows exchange boundaries of the incumbent local exchange telecommunications companies 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 for all Missourians as determined by the Commission for all Missourians within the geographic area in which it proposes to offer basic local service, regardless of where they live or their income, to affordable telecommunications services;⁶
- F. has sought authority which will serve the public interest.

14. Missouri Comm South asserts, and no party opposes, that Missouri Comm South's Application and request for authority to provide basic local telecommunications services and

⁶The agreement in Paragraph 6 of this Stipulation and Agreement is without prejudice to Missouri Comm South's right to appear, after proper application and in accord with Commission rules and regulations, in any rulemaking proceeding or other proceeding regarding the Commission's considerations of equitable access under Section 392.455.(5), RSMo. Furthermore, such agreement should not be construed as an admission or conclusion of Missouri Comm South that Section 392.455.(5), RSMo. creates new or specific duties or obligations on telecommunications companies to provide equitable access.

local exchange telecommunications services (including exchange access service) should be granted. All services⁷ authorized herein should be classified as competitive telecommunications services provided that the requirements of Section 392.200 continue to apply, and Missouri Comm South shall be classified as a competitive telecommunications company. Missouri Comm South asserts, and no party opposes, that such services will be subject to sufficient competition by the services of the incumbent LECs to justify a lesser degree of regulation of Missouri Comm South's services consistent with the protection of ratepayers and the promotion of the public interest. Such classification should become effective upon the tariffs for 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 Section 392.200 and are conditional and shall not be exercised until such time as tariffs for services have become effective.

The parties agree that Missouri Comm South's switched exchange access services may be classified as competitive services. The parties further agree that Missouri Comm South's switched exchange access services, if any, are subject to Section 392.200. Any increases in switched access service rates above the maximum switched access service rates as set forth in paragraph 5 herein shall be cost-justified and be made pursuant to Sections 392.220 and 392.230 and not 392.500 and 392.510. The Commission's Order should state the foregoing conditions substantially as follows:

⁷Switched exchange service is further addressed in Paragraph 14 below.

The service authority and service classification for switched exchange access granted herein is expressly conditioned on the continued applicability of Section 392.200 and the requirement that any increases in switched access service rates above the maximum switched access service rates set forth herein shall be cost-justified and pursuant to Sections 392.220 and 392.230 and not Sections 392.500 and 392.510.

15. Missouri Comm South's request for a waiver of 4 CSR 240-2.060(4)(H), 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 Missouri Comm South does not yet have an approved interconnection agreement with Southwestern Bell Telephone Company, but an application for approval of that agreement is pending before the Commission in Case No. TO-97-447. Missouri Comm South agrees that at such time as all facts necessary for the development of tariffs become known, it will submit tariffs in this docket, with a minimum 30-day proposed effective date, to the Commission for its approval, together with the written disclosure as stipulated above. Missouri Comm South shall serve notice to all parties and participants in this docket of the filing of its tariffs at the time they are filed with the Commission and serve them with the aforesaid written disclosure and shall upon request immediately provide any party with a copy of those tariffs. The Commission's Order should state these obligations as conditions to the waiver of 4 CSR 240-2.060(4)(H), substantially as follows:

Applicant's request for temporary waiver of 4 CSR 240-2.060(4)(H) is hereby granted for good cause in that applicant does not yet have an approved interconnection agreement with the incumbent local exchange carrier within whose service areas it seeks authority to provide service; provided, when applicant submits its tariffs in this docket to the Commission such tariffs shall have a minimum of a 30-day effective date and the applicant shall serve written notice upon the parties hereto of such submittal, and shall provide copies of such tariffs to such parties immediately upon request. When filing its initial basic local tariff in this docket, the applicant shall also file and serve upon the parties hereto a written disclosure of: all interconnection agreements which affect its Missouri service areas; all portions of its Missouri service areas for which it does not have

an interconnection agreement with the incumbent local exchange carrier; and its explanation of why such an interconnection agreement is unnecessary for any such areas.

16. Missouri Comm South's request for waiver of the application of the following rules and statutory provisions as they relate to the regulation of Missouri Comm South's services should be granted:

STATUTORY PROVISIONS

§392.210.2	-	Uniform System of Accounts
§392.270	-	Valuation of Property (Ratemaking)
§392.280	-	Depreciation Accounts
§392.290.1	-	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

CSR 240-10.020	-	Depreciation Fund Income
4 CSR 240-30.040	-	Uniform System of Accounts
4 CSR 240-35	-	Reporting of Bypass and Customer-Specific Arrangements

And also,

COMMISSION RULES

4 CSR 240-33.040(3) and (4)	-	Billing and Preferred Payment Plans
4 CSR 240-33.040(6)(F)	-	Itemization of the amount due for taxes and franchise fees
4 CSR 240-33.070(4)	-	Notice of proposed discontinuance of service by first class mail.
4 CSR 240-33.070(5)(E)	-	Customer's right to enter settlement agreements
4 CSR 240-33.070(6)	-	24-hour notice of intent to discontinue service

- 4 CSR 240-33.070(9) - Payment by check permitted for restoration of service.
- 4 CSR 240-33.090 - Settlement Agreements

17. This Stipulation and Agreement has resulted from extensive negotiations among the signatories and the terms hereof are interdependent. In the event the Commission does not adopt this Stipulation in total, then 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.

18. In the event the Commission accepts the specific terms of this Stipulation and Agreement, the parties and participants waive, with respect to the issues resolved herein: their respective rights pursuant to §536.080.1, RSMo 1996, to present testimony, to cross examine witnesses, and to present oral argument or written briefs; their respective rights to the reading of the transcript by the Commission pursuant to §536.080.2, RSMo 1996; and their respective rights to seek rehearing pursuant to §386.500, RSMo 1996, and to seek judicial review pursuant to §386.510, RSMo 1996. The parties agree to cooperate with the Applicant and with each other in presenting this 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 Missouri Comm South application made herein.

19. The Staff may submit a Staff Recommendation concerning matters not addressed in this Stipulation. In addition, if requested by the Commission, the Staff shall have the right to submit to the Commission a memorandum explaining its rationale for entering into this Stipulation and Agreement. Each party of record and participant herein shall be served with a

copy of any memorandum and shall be entitled to submit to the Commission, within five (5) days of receipt of Staff's memorandum, a responsive memorandum which shall also be served on all parties and participants. All memoranda submitted by the parties shall be considered privileged in the same manner as settlement discussions under the Commission's rules, shall be maintained on a confidential basis by all parties and participants, and shall not become a part of the record of this proceeding or bind or prejudice the party submitting such memorandum in any future proceeding or in this proceeding whether or not the Commission approves this Stipulation and Agreement. The contents of any memorandum provided by any party are its own and are not acquiesced in or otherwise adopted by the other signatories to the Stipulation and Agreement, whether or not the Commission approves and adopts this Stipulation and Agreement.

The Staff shall also have the right to provide, at any agenda meeting at which this 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 the Staff shall respond to the Commission's request for such explanation once such explanation is requested from Staff. Staff's oral explanation shall be subject to public disclosure.

WHEREFORE, the signatories respectfully request the Commission to issue its Order approving the terms of this Stipulation and Agreement and issue its Order granting authority and classification as requested by Missouri Comm South, subject to the conditions described above, at its earliest convenience.

Respectfully submitted,



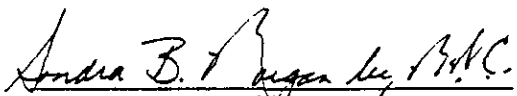
Mark W. Comley
Newman, Comley & Ruth P.C.
205 East Capitol Avenue
P.O. Box 537
Jefferson City, MO 65102-0537

FOR: Missouri Comm South



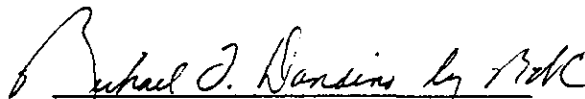
Paul G. Lane
Leo J. Bub
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Southwestern Bell Telephone
100 N. Tucker, Blvd., Rm. 630
St. Louis, MO 63101-1976

FOR: Southwestern Bell Telephone
Company



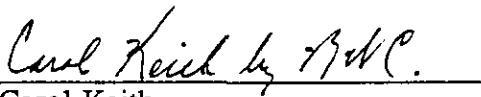
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FOR: The Small Telephone Group,
Fidelity Telephone Company and
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FOR: Office of Public Counsel and The
Public



Carol Keith
Deputy General Counsel
Missouri Public Service Commission
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FOR: Staff of the Missouri Public Service
Commission

APPLICATION FOR SERVICE

NAME MIDDLE LAST

ADDRESS APARTMENT NUMBER

CITY STATE ZIP CODE

YOUR PHONE BILLS WILL BE SENT TO THE ADDRESS LISTED ABOVE UNLESS YOU INFORM US IN WRITING.
PLEASE CONNECT MY TELEPHONE SERVICE AT THE ADDRESS ABOVE BUT SEND MY TELEPHONE BILL TO THE ADDRESS BELOW:

ADDRESS APARTMENT NUMBER

CITY STATE ZIP CODE

PHONE NUMBER WHERE YOU MAY BE REACHED.
 "YOU MAY CALL US IF YOU DO NOT HAVE A NUMBER".

PLEASE PROVIDE PREVIOUS PHONE NUMBER AND
 NAME OF THE PHONE COMPANY AT THE ADDRESS WHERE
 SERVICE IS TO BE INSTALLED.

PROVIDE ANY SPECIAL INSTRUCTIONS OR DIRECTIONS IN
 THE SPACE BELOW FOR REACHING THE ADDRESS WHERE
 SERVICE IS TO BE INSTALLED.

AGENT STAMP HERE

CALCULATE YOUR FIRST MONTH'S PAYMENT		
FIRST MONTH'S STANDARD SERVICE FEE	\$ 49.00	
PROCESSING / APPLICATION FEE	\$ 40.00	
SUBTOTAL	\$ 89.00	
SERVICES LISTED BELOW ARE OPTIONAL — \$5.00 EACH OR \$20.00 FOR ALL SIX — DOES NOT INCLUDE CALLER ID. PLACE A CHECK MARK (✓) IN THE BOX TO THE LEFT IF YOU WANT THE OPTION. ADD THE COST IN THE SPACE TO THE RIGHT:		
1. CALL WAITING	\$ 5.00	\$
2. CALL FORWARDING	\$ 5.00	\$
3. "3-WAY" CALLING	\$ 5.00	\$
4. UNPUBLISHED NUMBER	\$ 5.00	\$
5. SPEED DIAL	\$ 5.00	\$
6. CALL RETURN	\$ 5.00	\$
7. ALL OPTIONS ABOVE	\$ 20.00	\$
8. OTHER OPTIONS	\$	\$
THE CALLER ID OPTION REQUIRES A \$10.00 SETUP FEE - CALLER ID BOX IS NOT PROVIDED BY COMM SOUTH COMPANIES		
9. CALLER ID (\$10.00) + CALLER ID SETUP FEE (\$10.00) = \$ 20.00		\$
TOTAL:		\$

Comm South Companies (CSC) will be responsible for providing telephone service to your dwelling or business. CSC will NOT be responsible for the internal wiring, jacks, individual telephone connections or any other parts, telecommunications devices or data connections. CSC will provide repair services at a nominal cost or provide a list of independent telephone repair companies. You may also choose any individual or company of your choice to provide these services at your own expense and risk. Telephone equipment of any type is not provided as part of this agreement. All telephone equipment or the purchase and maintenance of that equipment is the responsibility of the customer. As a customer you are NOT required to purchase any equipment from CSC or any authorized agent of CSC. By signing below, I stipulate that I understand the statements and agree to abide by the conditions outlined on both sides of this form:

APPLICANT'S SIGNATURE DATE

Call 1-800-988-9955 to get your new phone number!
 Please allow 3 to 5 days before calling for your new number.

YOUR ACTIVATION NUMBER IS: **206000**

This form outlines the conditions upon which we will provide service and the conditions which we will disconnect service. It also briefly explains certain company policies such as late charges and refunds.

1. I request that Comm South Companies, Inc. ("CSC") establish telephone service in my residence at the address stated on my Application for Service. I understand that if I have any questions or problems (including repair) regarding my telephone service I am to contact the CSC office directly. Any work performed on my line which is not approved by CSC will be done at my own risk and expense.
2. I agree that my monthly rate after the first month is \$44.50 including the \$3.50 FCC approved customer line charge (excluding optional services, state and federal taxes) and is subject to change without formal notice. I understand that there is a Termination Fee of \$30.00 when my account is terminated, regardless of reason, but that this Termination Fee will be waived if my CSC account is paid in full within 7 days of disconnection, or if I have been a customer for more than three (3) consecutive months.
3. I understand that my telephone service could be disconnected for:
 1. Not paying my monthly bill on time or in full.
 2. Any long distance (including Calling Card) charges being billed to my telephone number (any such charges incur an additional penalty of \$5.00 per telephone company billing).
 3. Making unauthorized changes in my telephone service.
4. I understand that if my phone service terminates due to CSC's fault, CSC will refund a pro rata amount of my monthly service payment for the period of time in which service was not received as such time period is reflected in the telephone company's records. I agree, however, that no additional claim may be made against CSC for any damages resulting from terminated service, even if I am likely to rely on phone service for emergency call to 911 and the like. If my phone service terminates for reason beyond CSC's control, such as storms, strikes, broken wires, etc., I am not entitled to any refund except as may be required by applicable law or regulation.
5. I agree to indemnify and hold CSC and any of its representatives harmless and free of any legal action for any claims other than for negligence of CSC that may occur as a result of assisting me with my telephone service. If CSC must resort to legal action to collect on my account, I will be responsible for all legal fees and court costs. Any disputes or controversies arising out of the subject matter of this Agreement, where the injured party or parties claim damages individually or in the aggregate in excess of \$3,000, shall be decided by arbitration. The parties will select a mutually agreeable arbitrator or, if one cannot be agreed upon, then the party with the claim may request the district court in the county in which the claimant resides to appoint an arbitrator in accordance with Texas law. The decision of the arbitrator will be final.
6. I understand that CSC places long distance restrictions on all customer telephone services. These restrictions will block any or all of the following types of calls: direct-dial long distance calls; collect calls; operated assisted calls; third number-billed calls. I understand that such blocks are not 100% effective. I am aware that if any long distance or toll (including 800, 900, or 976) charges are billed to my telephone number, I will be responsible to pay all such charges plus the aforementioned penalty charge.
7. REFUNDS OF THE PROCESSING/APPLICATION PAYMENT ARE NOT GIVEN if the application for service is approved based on false information provided to CSC, or the applicant fails to accept the terms hereof, or his former telephone company accepts the applicant back on service as a result of CSC's involvement. I agree to subscribe to service through CSC for a minimum of three months and to pay any remainder of this three month minimum subscription plus any unpaid installation charges if I decide to cancel my service after the telephone company has issued a telephone number.
8. Return this completed application along with your Initial Payment to any authorized agent of CSC (money order only, please). Under normal circumstances, your telephone service will be connected in 7 to 14 business days from the time that we receive the above material.
9. I understand I am entering into a contractual agreement with CSC to act as our communications representative for all negotiations with the applicable primary local exchange provider of telecommunications services. Under the terms of this agreement I do hereby authorize CSC to handle all negotiations for service requests, and the issuance of orders on our telephone service at the address I have provided on this agreement and on the phone number issued me by CSC until further notice. This authorization does not preclude our ability to act in our own behalf to change service providers.
10. I understand I will be billed ten days prior to my due date and will be billed on the same day each month for the following month's service.
11. If payment is not received by CSC by my due date, my account will be considered delinquent and my service will be terminated.
12. Accounts delinquent for six days will be disconnected on the next business day. A \$30.00 termination penalty will then be due unless service has been in place for three (3) months prior to delinquency.
13. There is a \$40.00 processing/application fee due in addition to the first month's standard line fee of \$49.00.

Your second month's service will be prorated based on the number of days your service was connected the first month. This amount will be reflected on the first statement which will be mailed to you. Example: If your service is connected on January 15, and your billing cycle is due on the first, your next next payment is due February 1.

Comm South Companies

P.O. Box 740068

Dallas, Texas 75374-0068

ENTER AMOUNT OF YOUR PAYMENT \$

Page 1

PERSONAL CHECKS NOT ACCEPTED. MONEY ORDERS ONLY PLEASE



Primary Agent: 3074-FL



ACCOUNT NUMBER	AMOUNT DUE
00183749.000	54.06
STATEMENT NO.	BILLING DATE
0000291648	06/23/97
DUE DATE	AFTER DUE DATE PAY
07/01/97	54.06



Billing Telephone: 904-575-2627 Carrier: SPRINT

TO ASSURE PROPER CREDIT - DETACH AND RETURN THE TOP PORTION OF THIS STATEMENT WITH YOUR PAYMENT

SERVICE ADDRESS



Your current bill is due on the first day of the month and there is one week grace period. Your account is past due on the 8th of the month and your service is subject to termination. If you have an existing unpaid balance, that amount is past due and your account is subject to termination at this time. Please call and speak to the billing department if you have any questions concerning this statement: 1-800-936-5223

Billing Telephone: 904-575-2627
 Primary Agent: 3074-FL
 Carrier: SPRINT

DESCRIPTION	BILLING PERIOD	TAX APPLIED	AMOUNT
Basic Telephone Service	7/1/1997 to 7/31/1997	FED, S-FL, S323040012	40.50
Unpublished Telephone Number	7/1/1997 to 7/31/1997	FED, S-FL, S323040012	5.00
911 Service Fee	7/1/1997 to 7/31/1997	NT-FL	0.50
FCC Approved Line Fee	7/1/1997 to 7/31/1997	NT-FL	3.50
Federal Exise Tax		Total Tax: Federal Exise Tax	1.37
FL		Total Tax: FL	2.73
LEON		Total Tax: LEON	0.46

Exhibit No. 1
 Date 7/25/97 Case No. JA-97-203
 Reporter KRM

Billing Period: July 1, 1997 to July 31, 1997

CURRENT CHARGES 54.06

STATEMENT NO.	PREVIOUS BALANCE	ACCOUNT NUMBER	BILLING DATE	AFTER DUE DATE PAY THIS AMOUNT	DUE DATE	AMOUNT NOW DUE
0000291648	0.00	00183749.000	06/23/97	54.06	07/01/97	54.06

THANK YOU! WE APPRECIATE YOUR BUSINESS.

IMPORTANT INFORMATION

NEW HOURS

Effective Monday, March 17, 1997, Comm South Companies expanded operating hours. Our new customer service hours are 8 AM until 10 PM CST, Monday through Friday, and Saturday from 9 AM until 4 PM CST. All incoming customer calls are serviced in the order that they are received. If you hang up and call back you lose your place in that call group. You may choose to hang up and call back during less busy hours. Our operators can tell you how long the longest current wait is at the time you call. You may also communicate with us via mail or fax. We have a toll free fax number: 800-324-5223. You may fax us anytime 24 hours a day.

We will be closed Friday, July 4, 1997.

BILLING

Your current monthly bill is due on the first day of the month and there is a one week grace period. Your account is past due on the 8th of the month and your service is subject to termination. If you have an existing unpaid balance, that amount is past due and your account is subject to termination at this time. Accounts terminated for non-payment are subject to a \$20.00 reconnection fee if reconnected within seven business days. Accounts reconnected after seven business days are subject to a \$40.00 reinstall fee. Reconnection can only be performed on weekdays and normally takes two days to complete. If you feel that your statement is incorrect, you may pay your current monthly charges and ask that your account be audited. You may do this by mail. Simply pay your current monthly charges and include a note that your outstanding balance is incorrect. Our billing department will audit your account and contact you by phone or mail.

PAYMENT LOCATIONS

Payments may be made at ACE Check Cashing Stores, *North Texas area only*. Payments made at ACE must be made in cash. In most cities the Comm South sign-up station is also a payment location. Call the store where you signed up and ask if they accept payments. These locations have no information concerning your account, so please bring your payment stub with you. Payments in the form of money orders may be mailed to Comm South at the address on the bottom of this statement or in the pre-addressed return envelope provided.

ACCOUNT CHANGES

Whether you are moving or adding a new feature to your account, any changes to your account are performed by our Service Department. Adding a new feature to your telephone service is simple. Fill out a short add-option form, return it and in a few days the feature will become active. If you are planning on moving your service to a new location, please allow 7 to 14 business days for your service to be relocated. Telephone companies consider this a new installation even though you already have a number.

LONG DISTANCE SERVICE

Comm South provides local telephone service access only. You can make long distance calls on your phone by purchasing pre-paid long distance cards. These cards are available at most retail stores. You may purchase any brand you wish. You can make collect calls from your phone, but not receive them. Toll services such as 900, 976 and 809 calls which cost up to \$25.00 per minute are not available from your phone.

WE'RE GROWING AGAIN

Comm South services over 4,000 customer calls a day and we are working diligently to reduce your on-hold times. Comm South will move into a new communications center soon and our capacity will be increased by 400 percent at that time. Your business is important to us and we appreciate your patience while we experience these growing pains.

Comm South Companies now has locations in Arkansas, Florida, Georgia and Texas

Comm South Companies • P.O. Box 740068 • Dallas, TX 75374-0068 • 800-936-5223