

B

**STATE OF MISSOURI
PUBLIC SERVICE COMMISSION**

At a session of the Public Service Commission held at its office in Jefferson City on the 13th day of January, 1998.

In the Matter of the Application of GTE)
Communications Corporation for a Certificate of)
Service Authority to Provide Basic Local Tele-) Case No. TA-98-152
communications Service in Portions of the State)
of Missouri and to Classify Said Services and)
and the Company as Competitive.)
)

**ORDER GRANTING MOTION TO EXTEND FILING DATE OF PROCEDURAL
SCHEDULE AND DENYING MOTION TO CONSOLIDATE**

GTE Communications Corporation (GTECC) filed an application on October 9, 1997, for a certificate of service authority to provide basic local telecommunications service in the State of Missouri under 4 CSR 240-2.060(4). Specifically, GTECC wishes to provide resold services in all the exchanges currently served by Southwestern Bell Telephone Company (SWBT), GTE Midwest Incorporated (GTE), and Sprint Missouri, Inc. (Sprint).¹ The Commission issued an Order and Notice on October 14, directing interested parties to file applications to intervene no later than November 10. SWBT and MCI Telecommunications Corporation (MCI) filed timely applications to intervene, and the Commission granted intervention to both SWBT and MCI on December 9. The parties were directed to file a procedural schedule no later than December 19. On December 19, GTECC filed a motion to extend the filing deadline for a procedural schedule to January 16, 1998, indicating it would either file a Stipulation and

¹ Formerly United Telephone Company of Missouri d/b/a Sprint.

Agreement, or in lieu thereof a proposed procedural schedule, on or before January 16.

Also on December 19, 1997, MCI filed a motion to consolidate this case with Case No. TA-97-269. Case No. TA-97-269 involves an application by Sprint Communications Company, L.P. (Sprint CC), to provide basic local telecommunications in exchanges currently served by Sprint. Both the instant application by GTECC and the application filed by Sprint CC involve a request by an incumbent local exchange company affiliate for authority to provide basic local exchange and exchange access telecommunications services in the same service area as the incumbent. MCI argues that allowing the affiliates of incumbent local exchange companies (ILECs) to compete in the territory of the ILECs will allow the ILECs to circumvent the provisions of the Telecommunications Act of 1996 (the Act) and the obligations it imposes on ILECs, since incumbent network facilities could be transferred to the affiliates in order to avoid providing them new entrants. Second, the affiliates could keep competitors out of the resale market by selling at a price that merely covers their costs. Third, ILECs will have no incentive to lower prices, since those customers likely to seek a competing carrier could be targeted by the affiliates while the rates for remaining customers could stay the same or increase. Fourth, the affiliates will use the ILECs name and logo without paying for the right to do so, causing customer confusion and creating a competitive advantage for the affiliates. Finally, MCI asserts the safeguards contained in the Stipulation and Agreement filed in Case No. TA-97-269 are not adequate to guard against the shifting of new services and opportunities to the affiliates. The restrictions are limited to situations in which the ILECs supply the facilities and do not consider that the ILECs would build new

facilities and offer new services in the absence of the affiliates. Since both this case and Case No. TA-97-269 involve similar issues concerning transactions between affiliated corporations, MCI moves the Commission to consolidate these cases.

On December 29, GTECC filed its Response to MCI's Motion to Consolidate. GTECC opposes the consolidation of this case with the Sprint CC basic local certificate case. GTECC notes that MCI did not participate in the Sprint CC case², and states that neither Sprint CC nor GTECC sought intervention in, or are parties to, each other's certificate case. Further, GTECC states that the Sprint CC case is much further along procedurally than the instant case and consolidation will result in procedural problems and unnecessary delays. GTECC notes that a unanimous Stipulation and Agreement has been filed in Case No. TA-97-269. As no such stipulation has been filed in this case, GTECC states it is in a fundamentally different procedural and evidentiary posture than Sprint CC and requests the Commission deny MCI's Motion to Consolidate.

Staff late-filed its response on December 30. Staff opined that there is no benefit to consolidating these two cases. Staff states that all of the parties to Case No. TA-97-269 have reached an agreement on August 1 that is currently pending before the Commission and granting consolidation would only create undue delay. Staff states the parties to the Sprint CC case addressed MCI's concerns by placing conditions in the Stipulation and Agreement, and argues that the parties in the instant case

² N.B. MCI did file an application to intervene in Case No. TA-97-269 on February 6, but withdrew the application prior to the intervention deadline of April 9. Subsequently, MCI filed another application to intervene in that case on November 13. The November 13 intervention request is still pending before the Commission.

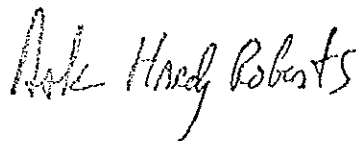
are free to do the same. Staff requests that the Commission deny MCI's Motion to Consolidate.

The Commission has considered MCI's Motion to Consolidate, GTECC's Response, and Staff's Response and finds that consolidating this case with Case No. TA-97-269 would result in significant procedural problems and unnecessary delay. Therefore, the Commission will deny MCI's Motion to Consolidate. Further, the Commission finds GTECC's motion to extend the filing deadline for a procedural schedule to January 16, 1998, is reasonable and will grant the extension to allow GTECC to file either a Stipulation and Agreement or a procedural schedule no later than January 16.

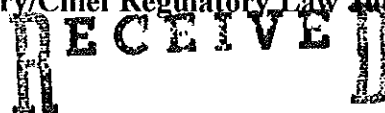
IT IS THEREFORE ORDERED:

1. That the Motion to Consolidate filed by MCI Telecommunications Corporation on December 19, 1997, is denied.
2. That the Motion to File Stipulation and Agreement on or before January 16, 1998, filed by GTE Communications Corporation on December 19, 1997, is granted.
3. That the parties are directed to file either a Stipulation and Agreement or a proposed procedural schedule no later than January 16, 1998.
4. That this order shall be effective on January 13, 1998.

BY THE COMMISSION



Dale Hardy Roberts
Secretary/Chief Regulatory Law Judge



JAN 14 1998

COMMISSION COUNSEL
PUBLIC SERVICE COMMISSION

(S E A L)

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

Hennessey, Regulatory Law Judge