

B✓
OK
Bo
Tw

**STATE OF MISSOURI
PUBLIC SERVICE COMMISSION**

At a session of the Public Service
Commission held at its office
in Jefferson City on the 31st
day of March, 1998.

The Staff of the Missouri Public)	
Service Commission,)	
)	
Complainant,)	
)	
v.)	<u>Case No. TC-98-141</u>
)	
University Place Apartments,)	
)	
Respondent.)	
)	

ORDER APPROVING STIPULATION AND AGREEMENT

The Staff of the Commission (Staff) filed a complaint against University Place Apartments (University Place) on October 3, 1997, stating that University Place was providing shared tenant and interexchange services under the name "Up-Link" without certificates of service authority from the Commission. Staff also alleged that University Place's management disconnected a tenant's GTE telephone service without the tenant's permission. Staff asked the Commission to find that University Place was in violation of Sections 392.410.1 and .2, RSMo Supp. 1997, and to authorize penalties. Staff also requested the Commission to require University Place to obtain a shared tenant services certificate and to reconnect any tenant to GTE on request.

University Place filed an answer on November 3 admitting that it was providing telecommunications services to tenants. University Place argued that it is exempt from Commission regulation by virtue of

Sections 386.020(53)(d) and (e), RSMo Supp. 1997, and that the Commission lacks jurisdiction over the subject matter of the complaint.

The Commission set the case for a prehearing conference and established a deadline for the filing of a procedural schedule. The parties met in a prehearing conference and filed a motion on December 29 asking the Commission to set a deadline for the filing of a Stipulation and Agreement in lieu of a procedural schedule. The Commission granted that motion and directed the parties to file their Stipulation and Agreement no later than January 30, 1998. The parties requested and received an extension of time and filed a Stipulation and Agreement on February 11. Staff submitted Suggestions in Support on February 24 and appeared at the Commission's regular Agenda meeting on February 26 to provide an oral explanation of the Stipulation. Both the Suggestions in Support and Agenda appearance are specifically permitted by the Stipulation of the parties; University Place was given prior notice of the Agenda appearance.

The Stipulation and Agreement (Attachment A to this Order) provides that University Place will apply for certificates of service authority to provide shared tenant services and interexchange services. University Place agrees to provide notice to its tenants of the terms of the agreement. University Place will permit current and future tenants to receive their telecommunications service from GTE if they prefer and will take no retaliatory action against any tenant who chooses to do so. University Place agrees to credit the final phone bill of any tenant choosing to take service from GTE in an amount not to exceed \$20.60 (GTE's activation fee). Once University Place has completed the actions specified by the Stipulation, Staff will dismiss its complaint.

The Commission has considered the Stipulation and Agreement of the parties, the Suggestions in Support, and the information elicited at the Agenda meeting, and finds that the Stipulation should be approved. Once University Place has requested and received the certificates of service authority required by the Stipulation, its provision of shared tenant services will have been legitimized. The Commission is satisfied that tenants who wish to receive service from GTE will be treated appropriately and that the Notice (Attachment B to this Order) agreed upon by the parties is sufficient. The Commission will adopt the Stipulation and Agreement in resolution of the issues. In order to assure that the terms of the stipulation are carried out in such a fashion that interested parties can track the necessary documentation, the Commission will establish two new cases for receipt of University Place's certificate applications and consolidate them with this complaint case.

IT IS THEREFORE ORDERED:

1. That the Stipulation and Agreement of the parties filed on February 11, 1998 is approved.
2. That University Place Apartments shall comply with each and every provision of the Stipulation and Agreement approved in Ordered Paragraph 1.
3. That the Commission establishes Case No. TA-98-407 and Case No. TA-98-408 for receipt of University Place's certificate applications. These two cases will be consolidated with lead case TC-98-141. Copies of this Order shall be filed in all three official case files.
4. That no later than 15 days after the date on which this Order is issued, University Place Apartments shall apply for a certificate of

service authority to provide shared tenant services under Case No. TA-98-407.

5. That no later than 30 days after the date on which this Order is issued, University Place Apartments shall apply for a certificate of service authority to provide interexchange services under Case No. TA-98-408.

6. That no later than April 10, 1998, University Place Apartments shall provide the occupant of each of its apartments with the notice attached to this Order as Attachment B and file a pleading advising the Commission that notice has been given.

7. That this order shall become effective on April 10, 1998.

BY THE COMMISSION



Dale Hardy Roberts
Secretary/Chief Regulatory Law Judge

(S E A L)

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

Wickliffe, Deputy Chief Regulatory Law Judge

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

FILED

FEB 11 1998

**MISSOURI
PUBLIC SERVICE COMMISSION**

The Staff of the Missouri Public Service)
Commission,)
)
Complainant,)
)
vs.)
)
University Place Apartments,)
)
Respondent.)

Case No. TC-98-141

STIPULATION AND AGREEMENT

The Staff of the Missouri Public Service Commission ("Staff"), the Office of the Public Counsel and University Place Apartments, Inc. ("UPA" or "University Place") have reached the following Stipulation and Agreement to resolve the issues in this case:

1. No later than 15 days after the issuance of a Commission Order approving this Stipulation and Agreement, University Place agrees to apply for a Certificate of Service Authority to provide private Shared Tenant Services. No later than 30 days after the issuance of a Commission Order approving this Stipulation and Agreement, University Place agrees to apply for a Certificate of Service Authority to Provide Interexchange Services;
2. University Place will provide the occupant of each apartment with the notice attached as Exhibit A, and incorporated herein by reference, within one week after this stipulation is approved.
3. University Place will permit the current and future tenants of any apartment who choose to receive service from GTE, and not Up-Link, to have their apartment provided with telecommunications services by GTE.

4. University Place will not take any retaliatory action against the tenant of any apartment who requests service from GTE or makes a complaint to the Missouri Public Service Commission.

5. Until the earlier of the date of the Commission's Order approving University Place's Application for a Certificate of Service Authority to provide Shared Tenant Services or thirty (30) days from the date of the filing of said Application, University Place will credit the final phone bill of any tenant choosing to take service from GTE, in an amount not to exceed \$20.60 (which is GTE's activation fee). University Place will credit this amount against the next month's rent of any tenant if the tenant never received service from Up-Link, was disconnected from GTE and now seeks reconnection to GTE.

6. Within fifteen (15) days after the occurrence of both of the events specified in paragraphs 1 and 2, the Staff will file a notice with the Commission dismissing its Complaint in accordance with Commission Rule 4 CSR 240-2.116.

This Stipulation and Agreement has resulted from extensive negotiations among the signatory parties 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 any other proceeding on any matter.


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 Section 536.080.1, RSMo (1994), to present testimony, cross-examine witnesses, and present oral argument or written briefs; their respective rights to the reading of the transcript by the

Commission pursuant to Section 536.080.2, RSMo (1994); and their respective rights to seek rehearing pursuant to Section 386.500, RSMo (1994); and to seek judicial review pursuant to Section 386.510, RSMo (1994). 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 Applicant's application made herein.

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 such 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 the Staff. The Staff's oral explanation shall be subject to public disclosure, except to the extent it refers to matters that are privileged or protected from disclosure pursuant to any Protective Order issued in this case.

WHEREFORE, the undersigned parties respectfully request that the Commission issue its Order approving all of the specific terms and conditions of this Stipulation and Agreement.



Carol Keith
Assistant General Counsel
Missouri Bar No. 45065

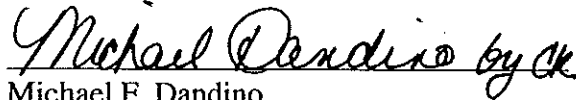
Attorney for the Staff of the Missouri
Public Service Commission
P. O. Box 360
Jefferson City, MO 65102
(573) 751-8706
(573) 751-9285 (Fax)

Respectfully Submitted,



Paul Boudreau
Brydon & Swearengen, PC
Missouri Bar No. 33155

Attorney for University Place Apartments
P.O. Box 456
Jefferson City, MO 65102
(573) 635-7166
(573) 635-0427 (Fax)



Michael F. Dandino
Senior Public Counsel
Missouri Bar No. 24590

Attorney for the Office of the Public Counsel
P.O. Box 7800
Jefferson City, MO 65102
(573) 751-5559
(573) 751-5562 (Fax)

NOTICE

Tenants of University Place Apartment can choose whether Up-Link or GTE provides their telephone service. Pursuant to an Agreement with the Missouri Public Service Commission and the Office of the Public Counsel, University Place Apartments must continue allowing GTE to provide basic local and long-distance service to residents of University Place Apartments and customers who took service from Up-Link can return to GTE at no cost.

Tenants who were advised to contact GTE to have their telephone service terminated will be allowed to reconnect to GTE. In such instances, University Place has agreed to pay the GTE reconnection charge of \$20.60. For customers electing to reconnect to GTE, the \$20.60 will be credited to their final bill from Up-Link. Customers who had their service disconnected from GTE but who did not elect to receive service from Up-Link will be allowed a \$20.60 credit on their next month's rent.

The telephone number for contacting GTE to reconnect service is 1-800-483-4400. While GTE cannot assure that your old telephone number is still available, customers so desiring should state their old telephone number to the GTE service representative, request reassignment of the old number and explain that under GTE's Missouri Public Service Commission tariff, no additional charges should be applied for requesting the previously assigned number. Remember, in no way does this require a tenant to return to GTE. Tenants can choose Up-Link or GTE for their phone service.

Exhibit A

RECEIVED

MAR 31 1998

COMMISSION COUNSEL
PUBLIC SERVICE COMMISSION