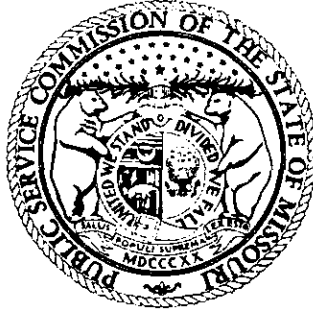


**BEFORE THE PUBLIC SERVICE COMMISSION  
OF THE STATE OF MISSOURI**



In the Matter of the Application of the City of )  
Springfield, Missouri, through the Board of )  
Public Utilities for a Certificate of Service )  
Authority to Provide Nonswitched Local Exchange )  
and Intrastate Interexchange Telecommunications )  
Services to the Public Within the State of )  
Missouri and for Competitive Classification. )  
)

**Case No. TA-97-313**

---

---

**REPORT AND ORDER**

---

---

**Issue Date:** July 11, 1997

**Effective Date:** July 26, 1997

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

In the Matter of the Application of the City of )  
Springfield, Missouri, through the Board of )  
Public Utilities for a Certificate of Service )  
Authority to Provide Nonswitched Local Exchange ) Case No. TA-97-313  
and Intrastate Interexchange Telecommunications )  
Services to the Public Within the State of )  
Missouri and for Competitive Classification. )  
)

**APPEARANCES**

Charles Brent Stewart, French & Stewart Law Offices, 1001 Cherry Street, Suite 302, Columbia, Missouri 65201, for the City of Springfield, Missouri, through the Board of Public Utilities.

Leo J. Bub, Attorney, Southwestern Bell Telephone Company, 100 North Tucker Boulevard, Room 630, St. Louis, Missouri 63101-1976, for Southwestern Bell Telephone Company.

W.R. England, III and Sondra B. Morgan, Brydon, Swearingen & 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 Corp., 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.

Craig S. Johnson, Andereck, Evans, Milne, Peace & Baumhoer, 305 East McCarty Street, Post Office Box 1438, Jefferson City, Missouri 65102, for: Alma Telephone Company, Chariton Valley Telephone Corporation, Choctaw Telephone Company, Mid-Missouri Telephone Company, Modern Telecommunications Company, MoKan Dial, Inc., Northeast Missouri Rural Telephone Company, and Peace Valley Telephone Company (the "Mid-Missouri Group").

James C. Stroo, Associate General Counsel, GTE Telephone Operations, 1000 GTE Drive, Post Office Box 307, Wentzville, Missouri 63385, for GTE Midwest Incorporated.

Paul S. DeFord, Lathrop & Gage, L.C., 2345 Grand Boulevard, Kansas City, Missouri 64108-2684, for AT&T Communications of the Southwest, Inc.

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.

Cherlyn D. McGowan, Assistant General Counsel, Missouri Public Service Commission, Post Office Box 360, Jefferson City, Missouri 65102, for the Staff of the Missouri Public Service Commission.

**ADMINISTRATIVE**

**LAW JUDGE:** Gregory T. George.

**REPORT AND ORDER**

**Procedural History**

The City of Springfield, Missouri, through its Board of Public Utilities (Applicant or City Utilities), applied to the Public Service Commission on February 11, 1997, for a certificate of service authority to provide intrastate interexchange and local exchange telecommunications services in Missouri under Sections 392.410 - .450.<sup>1</sup> City Utilities 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. City Utilities filed a proposed tariff in conjunction with its application with an effective date of March 28.

The Commission issued a Notice of Applications and Opportunity to Intervene on February 20, directing parties wishing to intervene in the case to file their requests by March 7. The following parties filed timely

---

<sup>1</sup>All statutory references are to the Revised Statutes of Missouri 1994 or the 1996 Supplement.

requests for intervention: Southwestern Bell Telephone Company (SWBT), GTE Midwest Incorporated (GTE), AT&T Communications of the Southwest, Inc. (AT&T), the Small Telephone Company Group,<sup>2</sup> Bourbeuse Telephone Company, Fidelity Telephone Company, and the Mid Missouri Group.<sup>3</sup> City Utilities filed objections to the applications to intervene on March 10 and March 17. The Staff of the Commission (Staff) filed a Memorandum on March 17 recommending approval of the City Utilities' application and tariffs.

On March 21 the Commission issued its Order Granting Interventions, Suspending Tariff and Setting Prehearing Conference. The Commission suspended Applicant's tariffs for a period of one hundred twenty days to July 26 and granted all applications to intervene. After a prehearing conference held on April 8, the parties submitted a proposed procedural schedule which was adopted by the Commission. Applicant filed its direct testimony on April 18, and SWBT and Staff filed rebuttal testimony on May 15. Applicant filed surrebuttal testimony on May 23.

Staff filed a Motion to Suspend Procedural Schedule Pending Filing of Stipulation and Agreement on May 29. The Commission issued its Order Suspending Procedural Schedule on June 6. The parties filed their Joint Stipulation and Agreement on June 19. The Joint Stipulation and Agreement is attached to this order as Attachment C. Applicant also filed an Amended Application and an illustrative Original Tariff Sheet No. 9 as attachments to the Stipulation and Agreement. Applicant filed a Motion for Expedited Consideration on June 19. Staff filed its Suggestions in Support of the Stipulation and Agreement on July 8.

---

The members of the Small Telephone Company Group are set out in Attachment A to this order.

The members of the Mid Missouri Group are set out in Attachment B to this order.

## **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.

Based on the verified application, Applicant's principal office is located at 301 East Central, P.O. Box 551, Springfield, Missouri 65801-0551. Applicant is a constitutional charter city existing and operating pursuant to Article VI, Sections 19 and 19(a) of the Constitution of the State of Missouri. Pursuant to Article XVI of the City Charter, Applicant provides utility services to the public through its Board of Public Utilities.

The verified application of City Utilities provides that City Utilities seeks a certificate of service authority to provide nonswitched local exchange and intrastate interexchange telecommunications services including private line services. City Utilities also seeks an order granting competitive status and waiver of certain Commission rules and statutory provisions. Applicant intends to utilize its own state-of-the-art fiber optic facilities, or to purchase for resale the services or facilities of other carriers. City Utilities states that it has the financial capability to provide services, as shown in its 1996 Annual Report attached to the application. Applicant also asserts it has the necessary technical and managerial expertise from operating its own electric, gas, water, and transportation utility services for the public along with owning and operating its own private telecommunications network.

City Utilities filed a proposed tariff in conjunction with its application with an effective date of March 28 which was suspended until July 26. City Utilities' tariff describes the rates, rules, and

regulations it intends to use, identifies City Utilities as a competitive company, and lists the waivers requested.

Based on the verified amended application attached to the Stipulation and Agreement, City Utilities' request for service authority is limited at this time to services and facilities only as provided under House Bill (HB) 620 which was enacted by the 89th General Assembly and subject to the conditions set out in the Joint Stipulation and Agreement.

The parties' Joint Stipulation and Agreement provides that Applicant's certificate of service authority will be conditioned upon Applicant providing telecommunications services and facilities only as provided under HB 620 which was enacted by the 89th General Assembly during the pendency of this proceeding and which the Governor signed on July 7, 1997. This law will become effective August 28, 1997. HB 620 was enacted to amend Section 392.410 and provides as follows:

No political subdivision of this state shall provide or offer for sale, either to the public or to a telecommunications provider, a telecommunications service or telecommunications facility used to provide a telecommunications service for which a certificate of service authority is required pursuant to this section. Nothing in this subsection shall be construed to restrict a political subdivision from allowing the nondiscriminatory use of its rights-of-way including its poles, conduits, ducts and similar support structures by telecommunications providers or from providing telecommunications services or facilities:

- (1) For its own use;
- (2) For 911, E-911 or other emergency services;
- (3) For medical or educational purposes;
- (4) To students by an educational institution; or
- (5) Internet type services.

The provisions of this subsection shall expire on August 28, 2002.

According to the Stipulation and Agreement, Applicant will comply with Section 253(c) of the Federal Telecommunications Act of 1996,

47 U.S.C. Section 251, *et seq.*, and HB 620 regarding public rights-of-way. Applicant has also agreed in the Stipulation to comply with the following requirements: "(1) City Utilities' Telecommunications Network will operate as a stand-alone entity maintaining separate financial records; (2) financing options will be utilized to assure the capital investments and operations of the telecommunications network are funded from resources directly related to telecommunications and not from other utility or City operations; (3) City Utilities' Telecommunications Network will be subject to the applicable rules, regulations and laws; (4) the manner of operation will assure lawful execution of City Utilities' network services and utilization of its facilities so as not to incur subsidization of its telecommunications operations by its electric, gas, water or transit utilities; (5) City Utilities will not use telecommunications services or facilities procured by the City of Springfield from other telecommunications carriers in connection with the use of the public rights-of-way for the provision of its telecommunications services; and (6) City Utilities will limit its provision of telecommunications services to within the corporate limits of the City of Springfield and within the area outside of such corporate limits where City Utilities is authorized to provide electric service in those counties in which the City is located (but City Utilities will be permitted to extend its services into a surrounding two-mile area in order to serve a satellite location of a customer who is primarily located within said electric service area)."

In the Stipulation and Agreement, the parties agree that Applicant and its services should be classified as competitive. The parties further agree that City Utilities' Amended Application and tariff, with the substitution of revised Original Sheet No. 9, are in the public interest.

Applicant agrees to substitute the revised Original Tariff Sheet No. 9 if the Commission approves the Stipulation and Agreement. Applicant states it has a customer requesting service as soon as possible, and requests expedited consideration of this case so that it may file revised tariffs to become effective prior to July 26. The Stipulation and Agreement provides that Applicant does not waive its right to seek additional authority from the Commission in a future proceeding. No other party waives its right to oppose such additional authority.

The Commission finds that competition in the intrastate interexchange and local exchange telecommunications markets is in the public interest. The Commission finds that granting Applicant a certificate of service authority to provide nonswitched local exchange and intrastate interexchange telecommunications services is in the public interest and that the terms and conditions of the Stipulation and Agreement are reasonable. The Commission finds that the Stipulation and Agreement will promote telecommunications services for emergency, educational and medical services while adequately protecting the use of public rights-of-way on a nondiscriminatory and competitively neutral basis. The Commission finds that pursuant to the Stipulation and Agreement, Applicant's telecommunications services and facilities are limited to the following purposes: "(1) for its own use; (2) for 911, E911 or other emergency services; (3) for medical or educational purposes; (4) to students by an educational institution; or (5) Internet-type services." See HB 620. The Commission finds that the services Applicant proposes to offer are competitive and Applicant should be classified as a competitive company. The Commission further finds that waiving the statutes and



Commission rules set out in Ordered Paragraph 4 is reasonable and not detrimental to the public interest.

The Commission determines, by authority of Section 392.470, that in addition to the requirements set out in the Stipulation and Agreement, Applicant should comply with the following regulatory requirements as reasonable and necessary conditions of certification:

- (1) Applicant must comply with reasonable requests by Staff for financial and operating data to allow Staff to monitor the intraLATA toll market. § 386.320.3.
- (2) Applicant 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 Section 392.220.
- (3) Applicant may not unjustly discriminate between its customers. §§ 392.200, 392.400.
- (4) Applicant must comply with all applicable rules of the Commission except those specifically waived by this order. §§ 386.570, 392.360.
- (5) Applicant must file a Missouri-specific annual report. §§ 392.210, 392.390.1.
- (6) Applicant must comply with jurisdictional reporting requirements as set out in each local exchange company's access services tariffs. § 392.390.3.
- (7) Applicant 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 (10) days of the date on which it is submitted to the local exchange company.

The Commission will order Applicant to file in this case a substitute tariff sheet consistent with the Stipulation and Agreement (and the illustrative tariff sheet contained therein) on or before July 16 with an effective date of July 26.

### **Conclusions of Law**

The Missouri Public Service Commission has arrived at 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. Applicant has requested certification under Section 392.410 - .450. Those statutes permit the Commission to grant a certificate of service authority where the grant of authority is in the public interest. Section 392.185 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 requirement for a hearing is met when the opportunity for hearing has been provided and no proper party has requested the opportunity to present evidence. State ex rel. Rex Deffenderfer Enterprises, Inc. v. Public Service Commission, 776 S.W.2d 494, 496 (Mo. App. 1989). Since no one has requested a hearing in this case, the Commission may grant the relief requested based on the verified application.

Section 253(c) of the Federal Telecommunications Act of 1996 provides: "Nothing in this section affects the authority of a State or local government to manage the public rights-of-way or to require fair and reasonable compensation from telecommunications providers, on a competitively neutral and nondiscriminatory basis, for use of rights-of-way on a nondiscriminatory basis, if the compensation required is publicly disclosed by such government."

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. Based upon the information contained within the Stipulation and Agreement of the parties, the Suggestions in Support of the Stipulation and Agreement, and the verified Application and Amended Application of City Utilities, the Commission finds that the Stipulation and Agreement is a reasonable resolution of the issues and should be approved.

**IT IS THEREFORE ORDERED:**

1. That the Stipulation and Agreement filed by the parties on June 19, 1997, attached to this order as Attachment C, is hereby approved.

2. That the City of Springfield, Missouri, through its Board of Public Utilities, is granted a certificate of service authority to provide intrastate interexchange telecommunications services in the State of Missouri, subject to the conditions of certification set out above, to become effective when the tariff becomes effective.

3. That the City of Springfield, Missouri, through its Board of Public Utilities, is granted a certificate of service authority to provide local exchange telecommunications services in the State of Missouri limited to providing dedicated, nonswitched local exchange private line services,

subject to the conditions of certification set out above, to become effective when the tariff becomes effective.

4. That the City of Springfield, Missouri, through its Board of Public Utilities, is classified as a competitive telecommunications company. The following statutes and regulatory rules shall be waived:

**Statutes**

- 392.240(1) - ratemaking
- 392.270 - valuation of property (ratemaking)
- 392.280 - depreciation accounts
- 392.290 - issuance of securities
- 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 240-30.010(2)(C) - rate schedules
- 4 CSR 240-30.040 - Uniform System of Accounts
- 4 CSR 240-32.030(1)(B) - exchange boundary maps
- 4 CSR 240-32.030(1)(C) - record-keeping
- 4 CSR 240-32.030(2) - in-state record-keeping
- 4 CSR 240-32.050(3) - local office record keeping
- 4 CSR 240-32.050(4) - telephone directories
- 4 CSR 240-32.050(5) - call intercept
- 4 CSR 240-32.050(6) - telephone number changes
- 4 CSR 240-32.070(4) - public coin telephone
- 4 CSR 240-33.030 - minimum charges rule
- 4 CSR 240-33.040(5) - financing fees

5. That the City of Springfield, Missouri, through its Board of Public Utilities, shall file tariff sheets for approval reflecting the rates, rules, regulations and services it will offer no later than July 16, 1997, to become effective on July 26, 1997. The tariff sheets shall be filed in Case No. TA-97-313.

6. That this Report And Order shall become effective on July 26,  
1997.

**BY THE COMMISSION**



**Cecil I. Wright  
Executive Secretary**

( S E A L )

Zobrist, Chm., Crumpton,  
Drainer, Murray and Lumpe,  
CC., concur.

Dated at Jefferson City, Missouri,  
on this 11th day of July, 1997.

**SMALL TELEPHONE COMPANY GROUP**

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  
Granby Telephone Company  
Grand River Mutual Telephone Corporation  
Green Hills Telephone Corp.  
Holway Telephone Company  
Kingdom Telephone Company  
KLM Telephone Company  
Lathrop Telephone Company  
Le-Ru Telephone Company  
Mark Twain Rural Telephone Company  
McDonald County Telephone Company  
Miller Telephone Company  
New London Telephone Company  
New Florence 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.  
Stoutland Telephone Company

**ATTACHMENT A**

**MID-MISSOURI GROUP**

Alma Telephone Company  
Chariton Valley Telephone Corporation  
Choctaw Telephone Company  
Mid-Missouri Telephone Company  
Modern Telecommunications Company  
MoKan Dial Inc.  
Northeast Missouri Rural Telephone Company  
Peace Valley Telephone Company

**ATTACHMENT B**

BEFORE THE PUBLIC SERVICE COMMISSION  
OF THE STATE OF MISSOURI

FILED

JUN 19 1997

MISSOURI  
PUBLIC SERVICE COMMISSION

In the Matter of the Application of the )  
City of Springfield, Missouri, through the )  
Board of Public Utilities for a Certificate )  
of Service Authority to Provide Non- )  
Switched Local Exchange and Intrastate )  
Interexchange Telecommunications )  
Services within the State of Missouri )  
and for Competitive Classification. )

Case No. TA-97-313

**JOINT STIPULATION AND AGREEMENT**

**A. PROCEDURAL HISTORY**

1. On February 11, 1997 Applicant City of Springfield, through its Board of Public Utilities ("City Utilities") filed its Application for authority to provide non-switched local exchange and intrastate interexchange telecommunications services along with tariffs bearing a forty-five day effective date of March 28, 1997. On February 20, 1997, the Commission issued its standard Notice of Applications and Opportunity to Intervene setting an intervention deadline of March 7, 1997. Subsequently, the following parties sought intervention: The Mid Missouri Group<sup>1</sup>, Southwestern Bell Telephone Company ("SWB"), AT&T Communications of the Southwest, Inc. ("AT&T"), GTE Midwest Incorporated ("GTE"), and the Small Telephone Company Group<sup>2</sup>. Applicant filed its Response and Objections to

---

<sup>1</sup> The Mid-Missouri Group is comprised of Alma Telephone Company, Chariton Valley Telephone Corporation, Choctaw Telephone Company, Mid-Missouri Telephone Company, Modern Telecommunications Company, MoKan Dial Inc., Northeast Missouri Rural Telephone Company, and Peace Valley Telephone Company.

<sup>2</sup> For purposes of this proceeding, the "Small Telephone Company Group" consists of BPS Telephone Company, Bourbeuse Telephone Company, Cass County Telephone Company, Citizens Telephone Company of Higginsville, Missouri, Inc., Craw-Kan Telephone Cooperative, Inc., Ellington Telephone Company, Farber Telephone Company, Fidelity Telephone Company, Goodman Telephone Company, Inc., Granby Telephone



Applications to Intervene in two separate pleadings filed on March 10, 1997 and March 17, 1997. On March 12, 1997, the Commission Staff filed its Memorandum wherein it recommended approval of Applicant's Application and tariffs and indicating that Staff opposed suspension of Applicant's tariffs. On March 19, 1997, SWB filed its Reply to Applicant's Objections to Intervention.

2. On March 21, 1997 the Commission issued its Order Granting Interventions, Suspending Tariff and Setting Prehearing Conference wherein Applicant's tariffs were suspended for a period of one hundred twenty days to July 26, 1997 and the Commission granted all applications to intervene. Without objection, the prehearing conference originally scheduled for April 11, 1997 was rescheduled to April 8, 1997 at Applicant's request and the prehearing conference was held at that time with all parties participating.

As a result of the April 8, 1997 prehearing conference, the Staff filed a proposed procedural schedule which was agreed to by all the parties. On April 15, 1997 the Commission issued its Order Adopting Procedural Schedule as follows:

Applicant files Direct Testimony	April 18, 1997
Intervenors, Staff and Public Counsel file rebuttal testimony	May 15, 1997
All parties file surrebuttal/ cross-surrebuttal	May 23, 1997

---

Company, Grand River Mutual Telephone Corporation, Green Hills Telephone Corporation, Holway Telephone Company, Iamo 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, Seneca Telephone Company, Steelville Telephone Exchange, Inc., and Stoutland Telephone Company.

Hearing Memorandum

May 30, 1997

Hearing

June 9-10.

3. Applicant filed its Direct Testimony on April 18, 1997. Only SWB and Staff filed rebuttal testimony on May 15, 1997. Only Applicant filed surrebuttal testimony on May 23, 1997.

4. On May 29, 1997 the Staff filed its Motion To Suspend Procedural Schedule Pending Filing of Stipulation and Agreement wherein the Staff informed the Commission that the parties were currently involved in settlement discussions to resolve all issues in this case and requested that the Commission suspend the procedural schedule pending the filing of either a Stipulation and Agreement or a hearing memorandum on or before June 11, 1997. On June 6, 1997 the Commission issued its Order Suspending Procedural Schedule and directed the Staff to file either a joint Stipulation and Agreement or a hearing memorandum by June 11, 1997. On June 11, 1997, Applicant filed its Notice of Intent to File Stipulation and Agreement wherein it notified the Commission that Applicant intended to file a joint Stipulation and Agreement on or before June 20, 1997.

#### **B. APPLICANT'S CERTIFICATION**

5. For purposes of this Stipulation and Agreement, Applicant has agreed to and filed in this docket a verified Amended Application. Applicant also has submitted herewith, but has not formally filed, a revised, illustrative Original Tariff Sheet No. 9. Copies of each are attached hereto and incorporated herein by reference.

6. For purposes of this Stipulation and Agreement, the parties agree and no party opposes that Applicant's verified Amended Application and its filed tariffs (with the

substitution of revised Original tariff sheet No. 9) are consistent with the provisions of HB 620, which was enacted by the 89th General Assembly during the pendency of this proceeding and has been submitted to the Governor for signature. The parties agree and no party opposes that Applicant's certificate of service authority sought herein be conditioned on its provision of telecommunications services and facilities only as provided under HB 620. By agreeing to this stipulation, Applicant is not waiving its right to seek additional authority from the Commission in a future proceeding, nor is any other party waiving its right to oppose such additional authority.

7. For purposes of this Stipulation and Agreement, Applicant agrees that its certification shall be conditioned upon its compliance with Section 253(c) of the Federal Telecommunications Act of 1996 and HB 620 regarding Public Rights-of-Way and City Utilities' compliance with the following: (1) City Utilities Telecommunications Network will operate as a stand-alone entity maintaining separate financial records; (2) financing options will be utilized to assure the capital investments and operations of the telecommunications network are funded from resources directly related to telecommunications and not from other utility or City operations; (3) City Utilities' Telecommunications Network will be subject to the applicable rules, regulations, and laws; (4) the manner of operation will assure lawful execution of City Utilities' network services and utilization of its facilities so as not to incur subsidization of its telecommunications operations by its electric, gas, water or transit utilities; (5) City Utilities will not use telecommunications services or facilities procured by the City of Springfield from other telecommunications carriers in connection with the use of public rights-of-way for the provision of its telecommunications services; and (6) City

Utilities will limit its provision of telecommunications services to within the corporate limits of the City of Springfield and within the area outside of such corporate limits where City Utilities is authorized to provide electric service in those counties in which the City is located (but City Utilities will be permitted to extend its services into a surrounding two mile area in order to serve a satellite location of a customer who is primarily located within said electric service area).

8. For purposes of this Stipulation and Agreement, the parties further agree and no party opposes that Applicant's verified Amended Application and tariffs, with the substitution of revised Original Sheet No. 9, are in the public interest and that Commission should so find and issue an Order approving both Applicant's verified Amended Application and tariffs as being consistent and in compliance with the relevant provisions of 4 CSR 240-2.060(4), Sections 392.430, 392.440 RSMo 1994 and Section 392.410 RSMo Supp. 1996. The parties further agree that in its Order the Commission also should classify Applicant and its requested services as competitive pursuant to Section 392.361 RSMo 1994 and grant Applicant's request for the Commission's standard interexchange/local exchange service waivers pursuant to Section 392.420 RSMo RSMo 1994, consistent with the Commission's past treatment of all other interexchange/local exchange applicants.

9. The Commission has suspended Applicant's filed tariffs until July 26, 1997. For purposes of this Stipulation and Agreement, Applicant agrees to substitute the revised Original Tariff Sheet No. 9, submitted herewith, for purposes of its final tariff filing in this case should the Commission approve this Stipulation and Agreement. This substitute, illustrative tariff sheet bears no stated issue or effective date and has not yet been formally filed.

Applicant currently has a customer, St. John's Health Systems, which has requested and desires to receive service from Applicant as soon as possible. For purposes of this Stipulation and Agreement, Applicant requests and no party opposes that the Commission rule on this Stipulation and Agreement as expeditiously as possible in order that Applicant may file its revised tariffs and begin providing service before July 26, 1997. The parties further agree to cooperate with each other and with the Commission in order to assist in expediting the Commission's consideration of this case and to enable Applicant to file revised tariffs to become effective prior to July 26, 1997.

10. For purposes of this Stipulation and Agreement, all parties agree and no party opposes that Applicant's filing of its verified Amended Application and revised tariffs in this docket requires no additional notice be given as Applicant's verified Amended Application filed with this Stipulation and Agreement seeks less service authority from the Commission than was originally requested by Applicant in its original filing.

11. 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.

12. 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, 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 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 verified Amended Application and revised tariffs made herein.

13. 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 proceedings 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 to the Commission it 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 Applicant's verified Amended Application. Applicant requests, and no party opposes, that the Commission issue its Order as expeditiously as possible, and that in that order the Commission direct Applicant to file its revised tariffs to become effective prior to July 26, 1997.

Respectfully submitted,

Charles Brent Stewart  
Charles Brent Stewart, MoBar 34885  
FRENCH & STEWART  
1001 Cherry Street, Suite 302  
Columbia, Missouri 65201

FOR: Applicant City of Springfield,  
Missouri, through the Board of  
Public Utilities

Cherlyn McGowan By CBS  
Cherlyn McGowan, MoBar 42044  
Assistant General Counsel  
P.O. Box 360  
Jefferson City, Missouri 65102

FOR: The Staff of the Missouri  
Public Service Commission

Leo J. Bub By CBS

Leo J. Bub, MoBar 34326  
Anthony K. Conroy, MoBar 35199  
Diana J. Harter, MoBar 31424  
Paul G. Lane, MoBar 27011  
Southwestern Bell Telephone Company  
100 N. Tucker Blvd., Room 630  
St. Louis, Missouri 63101-1976

FOR: Southwestern Bell Telephone Co.

Craig S. Johnson By CBS

Craig S. Johnson, MoBar 28179  
Andereck, Evans, Milne, Peace &  
Baumhoer  
P.O. Box 1438  
Jefferson City, Missouri 65102-1438

FOR: The Mid-Missouri Group

Michael F. Dandino By CBS

Michael F. Dandino, MoBar 24590  
Office of the Public Counsel  
P.O. Box 7800  
Jefferson City, Missouri

FOR: Office of the Public Counsel  
and the Public

Sondra Morgan By CBS

W.R. England, MoBar 23975  
Sondra Morgan, MoBar 35482  
Brydon, Swearingen & England  
P. O. Box 456  
Jefferson City, Missouri 65102-0456

FOR: The Small Telephone Company  
Group, Bourbeuse and Fidelity Telephone  
Companies

James C. Stroo By CBS

James C. Stroo, MoBar 43349  
Associate General Counsel  
GTE Telephone Operations  
1000 GTE Drive  
P.O. Box 307  
Wentzville, Missouri 63385

FOR: GTE Midwest, Inc.

Paul S. DeFord By CBS

Paul S. DeFord, MoBar 29509  
Lathrop & Gage, L.C.  
2345 Grand Blvd.  
Kansas City, Missouri 64108-2684

FOR: AT&T Communications of the  
Southwest, Inc.

### CERTIFICATE OF SERVICE

The undersigned hereby certifies that a copy of the foregoing Stipulation and Agreement was sent to counsel for all parties of record in Case No. TO-97-313 by depositing same in the United States Mail, first class postage prepaid, or by hand-delivery, this 19th day of June, 1997.

Charles Brent Stewart



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

In the matter of the application of the            )  
City of Springfield, Missouri, through        )  
the Board of Public Utilities, for a            )  
Certificate of Service Authority to provide )  
non-switched local exchange and intrastate )        Case No. TA-97-313  
interexchange telecommunications services )  
to the public within the State of Missouri )  
and for Competitive Classification.         )

**AMENDED APPLICATION**

Comes now the City of Springfield, Missouri, through the Board of Public Utilities (hereinafter "Applicant" or "City Utilities"), pursuant to Article XVI of the City Charter of the City of Springfield, Missouri, Sections 392.361, 392.420, 392.430, 392.440 RSMo 1994, Section 392.410 RSMo Supp. 1996, and 4 CSR 240-2.060(4), and files this verified amended application requesting that the Missouri Public Service Commission (hereinafter "the Commission") issue an order that:

- (a) grants Applicant a certificate of service authority to provide non-switched local exchange and intrastate interexchange telecommunications services, as herein more specifically defined, pursuant to Chapter 392 RSMo;
- (b) grants competitive status to Applicant and Applicant's requested services; and
- (c) waives certain Commission rules and statutory provisions pursuant to Sections 392.420 and 392.361 RSMo 1994, consistent with the Commission's past treatment of other certificated providers of competitive telecommunications services.

In support of its request, Applicant states:

1. Applicant is a constitutional charter city existing and operating pursuant to Article VI, Sections 19 and 19(a) of the Constitution of the State of Missouri. Applicant provides

utility services to the public through its Board of Public Utilities pursuant to Article XVI of the City Charter of the City of Springfield, Missouri. Copies of the relevant provisions of Applicant's City Charter have been previously filed and marked as Appendix A to Applicant's original Application filed on February 11, 1997 and is incorporated herein by reference. Applicant's principal office and place of business is located at 301 East Central, P.O. Box 551, Springfield, Missouri 65801-0551.

2. All communications, notices, orders and decisions respecting this Application and proceeding should be addressed to:

Charles Brent Stewart  
French & Stewart Law Offices  
1001 Cherry Street  
Suite 302  
Columbia, Missouri 65201  
(573) 499-0635

William A. R. Dalton  
General Counsel  
City Utilities of Springfield, Missouri  
P.O. Box 551  
Springfield, Missouri 65802  
(417) 831-8604

3. Applicant proposes to provide to business and commercial customers within the state of Missouri: (a) local exchange telecommunications service, specifically, non-switched, dedicated point-to-point and point-to-multipoint private line telecommunications services, which both originate and terminate within an exchange; and (b) intrastate interexchange telecommunications service. At this time Applicant is requesting, however, that the Commission approve the terms of the Joint Stipulation and Agreement filed herewith and limit its grant of service authority to the provision of telecommunications services and facilities only as provided under HB 620, which was enacted by the 89th General Assembly and which has been submitted to the Governor for signature and subject the grant of service authority to the conditions set out in the Joint Stipulation and Agreement.

Applicant will utilize its own state-of-the art fiber optic facilities, or purchase for

resale, the services or facilities of other carriers in order to provide the services sought to be provided in this Amended Application. Applicant's proposed services herein fall within the category of the types of services which have routinely been authorized by the Commission for numerous other competitive carriers (IXCs) upon verified application without the need for evidentiary hearings (e.g. Fiber Four Corporation, Case No. TA-96-376; Kansas City Fiber Network, L.P., Case No. TA-95-221; Digital Teleport, Inc., Case No. TA-92-145). At this time Applicant is not seeking to offer services which otherwise might be permitted other carriers under an interexchange/non-switched local exchange certificate, or to provide basic local telecommunications service or exchange access service. Applicant reserves the right to seek additional authority to provide other types of telecommunications services in a subsequent proceeding.

4. With the one change noted below, Applicant proposes to charge for its services based upon rates, rules and regulations as proposed in the tariffs first filed on February 11, 1997, which were attached to Applicant's original Application as Appendix B and which are incorporated herein by reference. In accordance with the terms of the joint Stipulation and Agreement filed in this proceeding, Applicant has agreed to file a substitute tariff sheet, Original Sheet No. 9, a copy of which is attached hereto as Appendix B-1, when Applicant makes its final tariff filing in this case.

5. Applicant requests that it and all its proposed services be classified as competitive. Applicant believes that its proposed services will be subject to sufficient competition to justify a lesser degree of regulation; granting this Application will allow greater price and service options for telecommunications customers and will be in the public interest. See, Re. Fiber

Four Corporation, Case No. TA-96-376 (1996); Re Digital Teleport, Inc., 1 Mo. P.S.C. 3d. 303, 307 (1992). Granting Applicant's requested competitive classifications is consistent with past Commission treatment of other competitive carriers and will encourage competition consistent with the public policy of Federal Telecommunications Act of 1996 and Chapter 392 RSMo.

6. Applicant is willing to comply with all applicable Commission regulations.

Applicant requests, pursuant to Section 392.440 RSMo 1994, that the Commission at minimum waive the application of the following rules and statutory provisions as they relate to the regulation of Applicant to the extent that they previously and routinely have been waived for other certificated competitive carriers:

Statutes

392.240(1)--ratemaking  
392.270--valuation of property (ratemaking)  
392.280--depreciation accounts  
392.290--issuance of securities  
392.310--stock & debt issuance  
392.320--stock dividend payment  
392.330--issuance of securities, debts and notes  
392.340--reorganizations

Commission Rules

4 CSR 240-10.020	--depreciation fund income
4 CSR 240-30.010(2)(C)	--rate schedules
4 CSR 240-30.040(1)	--Uniform System of Accounts
4 CSR 240-30.040(2)	--Uniform System of Accounts
4 CSR 240-30.040(3)	--Uniform System of Accounts
4 CSR 240-30.040(5)	--Uniform System of Accounts
4 CSR 240-30.040(6)	--Uniform System of Accounts
4 CSR 240-32.030(1)(B)	--exchange boundary maps
4 CSR 240-32.030(1)(C)	--record keeping
4 CSR 240-32.030(2)	--in-state record keeping
4 CSR 240-32.050(3)	--local office record keeping

4 CSR 240-32.050(4)	--telephone directories
4 CSR 240-32.050(5)	--call intercept
4 CSR 240-32.050(6)	--telephone number changes
4 CSR 240-32.070(4)	--public coin telephone
4 CSR 240-33.030	--minimum charges rule
4 CSR 240-33.040(5)	--financing fees

7. Applicant possesses the technical and managerial expertise and experience necessary to provide the services it proposes to offer at standards that will meet or exceed all service standards established by the Commission. For many years Applicant has operated, and currently operates, a municipally-owned utility providing electric, gas, water, and transportation services to the public. As part of City Utilities' and the City of Springfield's own internal operations, Applicant also has for several years owned and operated its own state-of-the-art private telecommunications system and network. This network consists of multiple SONET rings, FOCUS system and dark fiber applications. The SONET network consists of two 51 Mbps (OC-1) rings, three 155 Mbps (OC-3) rings, two 600 Mbps (OC-12) rings and 6 Mbps extensions. The FOCUS system is represented by seven rings operating at an optical rate of 1.5 Mbps (DS1). This technology serves the City's internal electric substation communication needs (SCADA, pilot wire relaying and voice). Thirteen (13) City Utilities buildings, eight (8) City buildings, three (3) water pipeline sites and thirty-seven (37) substations serve as access points onto the City's network. The City's existing system also provides court video arrangements; City computerized traffic control services; water treatment control processor links; electric transmission and distribution SCADA and relaying communications; water distribution SCADA communications; gas purchase SCADA communications; mainframe remote controller communications; radio dispatch control communications; and other private telecommunications and local area network connections.

8. Applicant is financially capable of providing the services proposed. The combined financial statements of City Utilities of Springfield were audited by Coopers & Lybrand, independent auditors, as of September 30, 1996 and an unqualified opinion on those statements was issued. A copy of Applicant's 1996 Annual Report has been previously filed with Applicant's original Application on February 11, 1997 as Appendix C and is incorporated herein by reference.

9. Prompt approval of this Application will promote and be in the public interest. It also will increase competition and customer options in the provision of the type of telecommunications services proposed and will be consistent with the policies established by the federal Telecommunications Act of 1996 and Chapter 392 RSMo Supp. 1996.

WHEREFORE, Applicant respectfully requests that the Commission: 1) expeditiously grant it a certificate of service authority to provide non-switched local exchange and intrastate interexchange telecommunications services within the State of Missouri as herein more specifically described; 2) grant Applicant and its proposed services competitive status; and 3) waive the application of the above-referenced statutes and Commission rules; all consistent with past Commission practice and the Commission's treatment of other certificated providers of non-switched local exchange and intrastate interexchange telecommunications services.

Respectfully submitted,

Charles Brent Stewart

Charles Brent Stewart MoBar.#34885  
FRENCH & STEWART LAW OFFICES  
1001 Cherry Street, Suite 302  
Columbia, Missouri 65201  
(573) 499-0635

ATTORNEY FOR APPLICANT  
CITY OF SPRINGFIELD, MISSOURI  
THROUGH ITS BOARD OF PUBLIC  
UTILITIES

CERTIFICATE OF SERVICE


I hereby certify that a copy of the foregoing Amended Application and Verification thereof have been sent this date to counsel for all parties of record in Case No. TA-97-313 by placing same in the United States Mail, first class postage prepaid, or by hand-delivery, this 19th day of June, 1997.

Charles Brent Stewart


VERIFICATION

STATE OF MISSOURI     )  
                                  )  
COUNTY OF GREENE    )     ss.

Janice Stockham, having been duly sworn upon her oath, states that she is the Acting General Manager of City Utilities of Springfield, Missouri, and as such, is duly authorized by the City of Springfield, Missouri acting through its Board of Public Utilities, Applicant herein, to execute said Application and to make this Affidavit on its behalf; that the matters and things stated in the foregoing Amended Application and Appendices thereto are true and correct to the best of her information, knowledge, and belief.

  
Janice Stockham  
Acting General Manager

Subscribed and sworn to before me, a notary public, on this 17<sup>th</sup> day of June, 1997.

  
\_\_\_\_\_  
Notary Public

My Commission Expires:

\_\_\_\_\_

**LISA TANNER**  
Notary Public - Notary Seal  
STATE OF MISSOURI  
Greene County  
My Commission Expires: July 11, 1999



## CITY UTILITIES OF SPRINGFIELD, MISSOURI

P.S.C.Mo. No.1  
Original Sheet No. 9

---

**2. APPLICATION OF TARIFF**

The service rates and regulations set forth in this Tariff are generally applicable to the provision of intrastate private line point-to-point and point-to-multipoint telecommunications services by City Utilities of Springfield, Missouri (the "Utility"). The Utility's provision of telecommunications services and facilities shall be limited to only those services and facilities provided for under the provisions of HB 620, which was enacted by the 89th General Assembly to amend Section 392.410 R.S.Mo. Supp. 1996. The Utility may from time to time and in particular circumstances provide discounts or promotional offerings or otherwise waive or modify these general rates and regulations for potential customers, in conformance with this Tariff and the rules, regulations, and orders of the Commission.

---

 Issued: \_\_\_\_\_

Effective: \_\_\_\_\_

Robert E. Roundtree  
 General Manager  
 City Utilities of Springfield, Missouri  
 301 East Central, P.O. Box 551  
 Springfield, Missouri 65801