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April 28, 2000

**FILED<sup>2</sup>**

APR 28 2000

Missouri Public  
Service Commission

Mr. Dale Hardy Roberts  
Secretary/Chief Regulatory Law Judge  
Missouri Public Service Commission  
P. O. Box 360  
Jefferson City, Missouri 65102

Re: Case No. TA-2000-23 et al.

Dear Mr. Roberts:

Enclosed for filing on behalf of Fiber Four Corporation in the above-referenced matter, please find an original and fourteen (14) copies of a Stipulation and Agreement.

Please see that this filing is brought to the attention of the appropriate Commission personnel. A copy of the enclosed document is being provided to counsel of record. I thank you in advance for your cooperation in this matter.

Sincerely,



Sondra B. Morgan

SBM/da  
Enclosure  
cc: Parties of Record

BEFORE THE PUBLIC SERVICE COMMISSION  
STATE OF MISSOURI

FILED<sup>2</sup>

APR 28 2000

Missouri Public  
Service Commission

In the Matter of the Application of )  
Fiber Four Corporation, d/b/a KLM Long )  
Distance for a Certificate of Service ) Case No. TA-2000-23  
Authority to Provide Interexchange and ) (Tariff No. 200000049)  
Local Exchange Telecommunications Services )  
in Missouri. )

In the Matter of the Revised Tariff Filing )  
of Fiber Four Corporation d/b/a Holway ) Case No. TA-2000-24  
Long Distance. ) (Tariff No. 200000048)

In the Matter of the Revised Tariff Filing )  
of Fiber Four Corporation d/b/a Iamo ) Case No. TA-2000-25  
Long Distance. ) (Tariff No. 200000047)

In the Matter of the Application of )  
Fiber Four Corporation, d/b/a Rock Port Long )  
Distance for a Certificate of Service ) Case No. TA-2000-27  
Authority to Provide Interexchange and ) (Tariff No. 200000046)  
Local Exchange Telecommunications Services )  
in Missouri. )

STIPULATION AND AGREEMENT

Come now Fiber Four Corporation ("Fiber Four"), the Staff of the Missouri Public Service Commission ("Staff"), the Office of Public Counsel ("Public Counsel"), and AT&T Communications of the Southwest, Inc. ("AT&T") (collectively the "Signatory Parties") and enter into this Stipulation and Agreement in order to fully resolve the issues in the above-captioned consolidated case.

Procedural Background

On July 15, 1999, Fiber Four filed four separate applications for certificates of service authority to provide interexchange and local exchange telecommunications services pursuant to Chapter 392 of the Revised Statutes of Missouri. These applications were filed by Fiber Four

Corporation d/b/a KLM Long Distance (docketed as Case No. TA-2000-23); Fiber Four Corporation d/b/a Holway Long Distance (docketed as Case No. TA-2000-24); Fiber Four Corporation d/b/a Iamo Long Distance (docketed as Case No. TA-2000-25); and Fiber Four Corporation d/b/a Rock Port Long Distance (docketed as Case No. TA-2000-27). The applications stated that interexchange service under the different trade names would be provided in the exchanges served by the corresponding local exchange carrier, i.e. KLM Long Distance would provide service in the exchanges served by KLM Telephone Company. These cases were consolidated by Order of the Missouri Public Service Commission ("Commission") on August 3, 1999. Fiber Four stated that these applications that they were being filed so that the four local exchange companies would be able to institute intraLATA dialing parity in their exchanges according to those companies' previously approved intraLATA dialing parity plans.

On July 29, 1999, the Commission issued its Order in Case No. TA-2000-24 granting Fiber Four Corporation d/b/a Holway Long Distance ("Holway") a temporary certificate of service authority to provide intrastate interexchange and local exchange telecommunications services pending determination of its application filed July 15, 1999, and approving its proposed tariff for service to be rendered on or after August 1, 1999.

Also on July 29, 1999, the Commission issued its Order in Case No. TA-2000-27 granting Fiber Four Corporation d/b/a Rock Port Long Distance ("RPLD") a temporary certificate of service authority to provide intrastate interexchange and local exchange telecommunications services pending determination of its application filed July 15, 1999, and approving its proposed tariff for service to be rendered on or after July 30, 1999.

On July 30, 1999, AT&T filed its Application to Intervene and Motion to Consolidate in all four cases. AT&T stated that it did not oppose approval of the applications or accompanying tariffs, but asked that the consolidated cases be consolidated with its proposed tariff overlay plan in Case No. TT-2000-22 in order that all cases be treated and processed in the same manner.

On August 26, 1999, the Commission issued its Order Regarding Temporary Authority Pursuant to Section 392.410.6, RSMo 1998, Order Granting Intervention, and Order Denying Consolidation. In this Order, the Commission granted a temporary certificate of service authority to provide intrastate interexchange and local exchange telecommunications services pending determination of its application filed July 15, 1999, and approving its proposed tariff for service to be rendered on or after August 1, 1999, to Fiber Four Corporation d/b/a KLM Long Distance ("KLM"). The Commission also granted a temporary certificate of service authority to provide intrastate interexchange and local exchange telecommunications services pending determination of its application filed July 15, 1999, and approving its proposed tariff for service to be rendered on or after July 30, 1999, to Fiber Four Corporation d/b/a Iamo Long Distance ("Iamo"). In this same Order, the Commission granted intervention to AT&T, but denied its Motion to Consolidate with Case No. TT-2000-22.

On September 29, 1999, AT&T filed its Motion to Establish Procedural Schedule, and on October 15, 1999, the Commission issued its Order Granting Motion to Establish Procedural Schedule and Set Prehearing. A prehearing was held on October 29, 1999, and the parties filed a proposed procedural schedule on November 12, 1999. On November 18, 1999, the Commission issued its Order Adopting Procedural Schedule. Pursuant to the procedural schedule, Fiber Four

filed Direct Testimony on January 20, 2000, and the other parties to the case filed Rebuttal Testimony on February 17, 2000.

On March 7, 2000, Fiber Four filed a Motion for Suspension of Procedural Schedule in which it stated that the parties had had discussions which they believed might lead to the filing of a Stipulation and Agreement in the case which would resolve all issues. On March 14, 2000, the Commission issued its Order Establishing Amended Procedural Schedule in which it established new dates for surrebuttal and cross-rebuttal testimony and set the evidentiary hearing for May 23, 2000. On March 21, 2000, the Commission issued an Order Changing Hearing Date setting the hearing for May 31, 2000. On April 6, 2000, the Commission issued a Notice of Operation of Law Dates which clarified the dates by which the applications and tariffs would have to be approved.

#### Stipulation and Agreement

As a result of meetings and discussions between the parties ("Parties") concerning this proceeding, the Parties hereby stipulate and agree to the following:

1. Before the expiration of the temporary certificates of service authority granted to the individual long distance providers in these consolidated cases, Fiber Four will file with the Commission Joint Applications seeking to transfer the assets of Fiber Four used in the provision of service to each of the individual long distance providers to a different entity, seeking certificates of service authority to provide intrastate interexchange telecommunications service for the new entities, and seeking to cancel the certificates currently held and the tariffs previously approved under the four trade names of Fiber Four: Fiber Four Corporation d/b/a KLM Long Distance, Fiber Four Corporation d/b/a Holway Long Distance, Fiber Four Corporation d/b/a

Iamo Long Distance, and Fiber Four Corporation d/b/a Rock Port Long Distance. For example, Fiber Four and Rock Port Telephone Company filed a Joint Application on April 18, 2000, requesting that the assets used in the provision of long distance service to the customers in the Rock Port Telephone exchanges be transferred to Rock Port Telephone and that new certificates be issued for Rock Port Telephone Company d/b/a Rock Port Long Distance.

2. Once the Commission has granted these new Joint Applications authorizing the relief requested, Fiber Four will withdraw its applications which comprise this consolidated case.

3. The Parties stipulate and agree that once Fiber Four transfers the assets and withdraws the applications as set out above, there is no need for a hearing or further proceedings in this consolidated case.

4. 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.

5. In the event that 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.

6. 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.

WHEREFORE, the signatories respectfully request the Commission to issue its Order approving the terms of this Stipulation and Agreement and issue its Order dismissing the applications, canceling the temporary certificates of service authority and canceling the tariffs previously approved for Fiber Four Corporation d/b/a KLM Long Distance (Case No. TA-2000-23); Fiber Four Corporation d/b/a Holway Long Distance (Case No. TA-2000-24); Fiber Four Corporation d/b/a Iamo Long Distance (Case No. TA-2000-25); and Fiber Four Corporation d/b/a Rock Port Long Distance (Case No. TA-2000-27) subject to the conditions described above.

Respectfully submitted,

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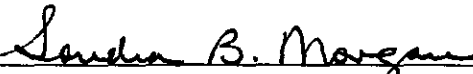
Certificate of Mailing

The undersigned hereby certifies that a true and correct copy of the foregoing was served upon parties of record this 28<sup>th</sup> day of April, 2000 by U.S. mail, postage prepaid, or hand-delivery to:

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