

**NEWMAN, COMLEY & RUTH**

PROFESSIONAL CORPORATION

ATTORNEYS AND COUNSELORS AT LAW

MONROE BLUFF EXECUTIVE CENTER

601 MONROE STREET, SUITE 301

P. O. BOX 537

JEFFERSON CITY, MISSOURI 65102-0537

TELEPHONE: (573) 634-2266

FACSIMILE: (573) 636-3306

ROBERT K. ANGSTEAD  
ROBERT J. BRUNDAGE  
MARK W. COMLEY  
CATHLEEN A. MARTIN  
STEPHEN G. NEWMAN  
JOHN A. RUTH

January 7, 2000

**FILED**

JAN 7 2000

Missouri Public  
Service Commission

The Honorable Dale Hardy Roberts  
Secretary/Chief Regulatory Law Judge  
Missouri Public Service Commission  
P.O. Box 360  
Jefferson City, MO 65102-0360

Re: Qwest Communications Corporation  
Case No. TA-2000-309

Dear Judge Roberts:

Please find enclosed for filing the original and fourteen copies of a Stipulation and Agreement.

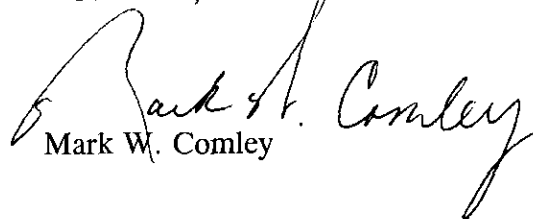
Please bring this filing to the attention of the appropriate Commission personnel.

Thank you.

Very truly yours,

NEWMAN, COMLEY & RUTH P.C.

By:

  
Mark W. Comley

MWC:ab  
Enclosure

cc: Leo J. Bub  
William K. Haas

BEFORE THE PUBLIC SERVICE COMMISSION  
STATE OF MISSOURI

FILED

JAN 7 2000

Missouri Public  
Service Commission

In the matter of the Application of )  
QWEST COMMUNICATIONS CORPORATION )  
for a Certificate of Authority )  
to Provide Basic Exchange and Local Exchange ) Case No. TA-2000-309  
Intrastate Telecommunications Services within )  
the State of Missouri. )

**STIPULATION AND AGREEMENT**

QWEST COMMUNICATIONS CORPORATION (hereinafter "QWEST,") initiated this proceeding on October 29, 1999 by filing an Application requesting certificate of service authority to provide basic local exchange and local exchange services in exchanges currently served by Southwestern Bell Telephone Company, GTE of the Midwest, Inc. (GTE) and Sprint Missouri (Sprint).

Southwestern Bell Telephone Company (SWB) applied to intervene in this matter and its application was granted.

**A. STANDARDS AND CRITERIA**

1. The parties employed the following standards and criteria, which are intended to meet the requirements of existing law, particularly Sections 392.450 and 392.455, RSMo. Cum Supp. 1998 regarding applications for certificates of local exchange service authority to provide or resell basic local telecommunications service, in negotiating the provisions of this Stipulation and Agreement.

2. 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)<sup>1</sup> should be processed in a manner similar to that in which applications

---

<sup>1</sup>Large LECs are defined as LECs who serve 100,000 or more access lines. Section 386.020 RSMo. Supp. 1998. In Missouri, the current large LECs are SWBT, GTE and Sprint.

for interexchange authority are currently handled.

3. In determining whether QWEST's application for certificate of service authority should be granted, the Commission should consider QWEST's technical, financial and managerial resources and abilities to provide basic local telecommunications service. QWEST must demonstrate that the basic local services it proposes to offer satisfy the minimum standards established by the Commission, including but not limited to the applicant 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, QWEST must agree 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 the applicant seeks to compete. Notwithstanding the provisions of Section 392.500 RSMo (1994), as a condition of certification and competitive classification, QWEST 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 for the large incumbent LEC(s) within those service area(s) applicant seeks authority to provide service. Further, QWEST 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. Such area must follow exchange boundaries of the incumbent local exchange telecommunications companies in the same area and must be no smaller than an exchange. Finally, QWEST 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 Cum. Supp. 1998.

4. QWEST submitted its application without tariffs and seeks a temporary waiver of 4 CSR 240-2.060(4)(H).<sup>2</sup> QWEST has agreed 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 QWEST 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, QWEST 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.

5. QWEST has, pursuant to §392.420 RSMo. requested 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 grant such request provided that Section 392.200 RSMo should continue to apply to all of QWEST's services:

STATUTORY PROVISIONS

- §392.210.2
- §392.270
- §392.280
- §392.290.1
- §392.300.2
- §392.310
- §392.320
- §392.330
- §392.340

---

<sup>2</sup>Good 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.

COMMISSION RULES

4 CSR 240-10.020  
4 CSR 240-30.040  
4 CSR 240-35

B. QWEST CERTIFICATION

6. QWEST hereby agrees that its application should be deemed amended to include by reference the terms and provisions described in paragraphs 3-4 hereinabove.

7. Based upon its verified application, as amended, QWEST asserts, and no party makes a contrary assertion, that there is sufficient evidence from which the Commission can find and conclude that QWEST:

- 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;<sup>3</sup>
- 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;<sup>4</sup>

---

<sup>3</sup> The identification of specific geographic areas within which QWEST proposes to offer service as referred to in this paragraph shall not be construed to foreclose QWEST from petitioning the Commission pursuant to Section 392.200.4 and .8, RSMo.

<sup>4</sup>The agreement in Paragraph 7. e. of this Stipulation and Agreement is without prejudice to QWEST'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),

f. has sought authority which will serve the public interest.

8. QWEST asserts, and no party opposes, that QWEST's application and request for authority to provide basic local telecommunications services and local exchange telecommunications services (including exchange access service) should be granted. All services authorized herein should be classified as competitive telecommunications services provided that the requirements of Section 392.200 continue to apply, and QWEST shall remain classified as a competitive telecommunications company. QWEST asserts, and no party opposes, such services will be subject to sufficient competition by the services of the incumbent LECs to justify a lesser degree of regulation of QWEST's services consistent with the protection of ratepayers and the promotion of the public interest. Such classification should become effective upon the tariffs for the 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 the applicant's switched exchange access services may be classified as competitive services. The parties further agree that the applicant's switched exchange access services are subject to Section 392.200. Any increases in switched access service rates above the

---

RSMo. Furthermore, such agreement should not be construed as an admission or conclusion by QWEST that Section 392.455.(5), RSMo, creates new or specific duties or obligations on telecommunications companies to provide equitable access.

maximum switched access service rates as set forth in paragraph 3 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:

"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."

9. QWEST'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 at the time of its application, it did not yet have approved interconnection agreements with any underlying carriers. QWEST agrees that within thirty (30) days of an order approving an interconnection agreement with an underlying carrier, QWEST will submit tariffs in this docket, with a minimum 45-day proposed effective date, to the Commission for its approval, together with the written disclosure as stipulated above. QWEST 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. Within thirty (30) days of the effective date of an order approving its interconnection agreement with and underlying carrier, Applicant shall submit its tariffs for Commission approval. Such tariffs shall have a minimum of a 45-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."

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

STATUTORY PROVISIONS

§392.210.2  
§392.270  
§392.280  
§392.290.1  
§392.300.2  
§392.310  
§392.320  
§392.330  
§392.340

COMMISSION RULES

4 CSR 240-10.020  
4 CSR 240-30.040  
4 CSR 240-35

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 all stipulations 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 §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 §536.080.2, RSMo 1994; and their respective rights to



seek rehearing pursuant to §386.500 RSMo 1994 and to seek judicial review pursuant to §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 QWEST application 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 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.

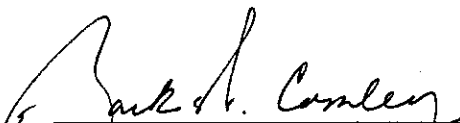
The Staff shall also have the right to provide, at any agenda meeting at which this Stipulation and Agreement is noticed to be considered by the Commission, whatever oral explanation the Commission requests, provided that the Staff shall, to the extent reasonably practicable, provide the other parties 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.

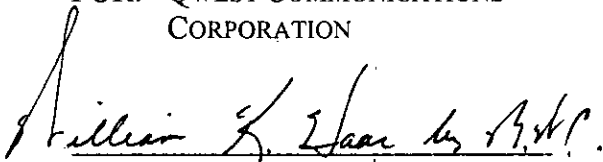
14. Finally, QWEST will comply with all applicable Commission rules and regulations except those which are specifically waived by the Commission.

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 QWEST, subject to the conditions described above.


Respectfully submitted,

  
Mark W. Comley #28847  
Newman, Comley & Ruth P.C.  
601 Monroe Street, Suite 301  
P.O. Box 537  
Jefferson City, MO 65102-0537

FOR: QWEST COMMUNICATIONS  
CORPORATION

  
William K. Haas #28701  
Deputy General Counsel  
Missouri Public Service Commission  
P.O. Box 360  
Jefferson City, MO 65102-0360

FOR: Staff

  
Paul G. Lane #27011  
Leo J. Bub #34326  
Anthony K. Conroy #35199  
Katherine C. Swaller #34271  
One Bell Center, Room 3520  
St. Louis, Missouri 63101

FOR: Southwestern Bell Telephone  
Company