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**STATE OF MISSOURI
PUBLIC SERVICE COMMISSION**

At a session of the Public Service
Commission held at its office
in Jefferson City on the 26th
day of August, 1998.

In the Matter of the Application of BroadSpan)
Communications, Inc. for Certificates of Service)
Authority to Provide Basic Local Telecommunica-)
tions Services, Local Exchange Telecommunications) Case No. TA-98-181
Services, Exchange Access Services, and Inter-)
exchange Telecommunications Services in the State)
of Missouri and for Competitive Classification.)

ORDER SUSPENDING TARIFF

The Commission granted to BroadSpan Communications, Inc. (BroadSpan) certificates of service authority to provide basic local, dedicated/non-switched local exchange (local exchange) and intrastate interexchange (interexchange) telecommunications services in Missouri by order issued on May 20, 1998¹. BroadSpan's conditional basic local certificate covered some of the exchanges served by Southwestern Bell Telephone Company (SWBT), GTE Midwest Incorporated (GTE) and Sprint Missouri, Inc. f/k/a United Telephone Company of Missouri (Sprint)². BroadSpan's conditional local exchange and interexchange certificates permit BroadSpan to offer local exchange and interexchange services throughout the state.

¹This order was inadvertently issued without the attachment that it referenced. On May 22, the Commission issued a notice of correction with the attachment refereced in its May 20 order.

²BroadSpan subsequently filed an application to extend the set of exchanges in which it intends to offer basic local services. That application is pending in Case No. TA-99-22.

The Commission's order waived the filing of a 45-day basic local services tariff as required by 4 CSR 240-2.060(4)(H) until 30 days after BroadSpan has entered into a Commission-approved interconnection agreement that will enable it to provide basic local exchange services. The order also waived the filing of 45-day tariffs for BroadSpan's local exchange and interexchange services until June 19, and directed BroadSpan to file a request for a further waiver if BroadSpan should have cause to do so. BroadSpan's certificates of service authority will become effective upon the effective date(s) of its approved tariffs.

On June 19, BroadSpan filed a Motion for Temporary Waiver of Tariff Filing Requirement, in which it requested permission to delay filing its local exchange and interexchange tariffs until 30 days after obtaining a Commission ruling on its proposed interconnection agreement with SWBT. BroadSpan explained that it does not intend to offer local exchange and interexchange services without first being able to offer basic local service.

The Commission approved an interconnection agreement between BroadSpan and SWBT on August 12. Pursuant to the terms of the approved agreement, approved in Case No. TO-98-518, the agreement will become effective when the parties have executed the agreement and the Commission has approved it. In Case No. TO-98-518, BroadSpan and SWBT were ordered to file a fully executed copy, with pages numbered seriatim in the lower right hand corner, with the Commission's Staff no later than August 27. Therefore, the agreement will take effect no later than August 27. BroadSpan has not yet filed interconnection agreements with GTE and Sprint for Commission approval.

BroadSpan filed tariff sheets on July 20, with an effective date of August 19, reflecting the rates, rules, and regulations it will use and the services it will offer. The effective date was extended to September 1. BroadSpan filed substitute sheets on August 5, 14 and 20 in order to make clarifications, correct typographical errors and bring its tariff into compliance with Commission rules and regulations.

The Commission's Staff reviewed the tariff sheets and filed a memorandum on August 21 recommending that the Commission approve them as amended by the substitute sheets. Staff stated that BroadSpan's tariff covers only resold services in some of the exchanges served by SWBT, even though BroadSpan's agreement with SWBT provides for both facilities-based and resold services. Staff did not describe the set of services to be offered by BroadSpan under the proposed tariff, and did not explain whether the tariff covers basic local, local exchange, interexchange or a combination of such services. Rather, Staff merely stated that BroadSpan's tariff concurs in the tariffed services, but not the rates, offered by SWBT, and that the proposed tariff is similar to other competitive local exchange carrier tariffs previously approved by the Commission. Staff recommended that the tariff be approved as amended to become effective on September 1.

The Commission finds that BroadSpan's request for a waiver of the tariff filing requirement should be granted with respect to interexchange services. BroadSpan requested permission to file its proposed local exchange and interexchange tariffs as late as 30 days following Commission approval of its interconnection agreement with SWBT. The proposed 30 day period will terminate on September 11, because the agreement was approved on August 12. With the filing of its tariff on

July 20, BroadSpan's request was mooted with respect to its proposed local exchange offerings. However, the Commission finds BroadSpan's request reasonable with respect to its interexchange services and will grant BroadSpan's request.

The Commission has reviewed the tariff sheets and Staff's recommendation and determined that BroadSpan's proposed tariff covers only resold services in the specific SWBT exchanges for which a basic local certificate of service authority has already been granted. While the sheet describing BroadSpan's concurrences (Preface - Original Page 3) suggests that the tariff might cover service in GTE and Sprint exchanges, as well as SWBT exchanges, the exchange listing section makes clear that service will only be available in the SWBT exchanges for which a certificate has been granted (Section 4 - Original Page 1 through Original Page 3). The tariff appears to cover basic local and local exchange services in those exchanges, but not interexchange services, because it only lists rates for certain basic local and local exchange services. However, the tariff is confusing, because BroadSpan has not separated the rates for local exchange service rates from basic local rates into distinct sections or described the scope of the tariff in its sheet describing its undertakings (Section 2 - Original Page 1).

The Commission further finds that BroadSpan has failed to specify rates for BroadSpan's proposed interLATA switched access rates. The tariff concurs in SWBT's switched access rates (Section 7 - Original Page 1). However, SWBT is not permitted to offer interLATA interexchange service at this time. SWBT's tariff only contains rates for intraLATA interexchange switched access. Switched access is a mandatory basic local exchange service. See § 386.020(4)(g), RSMo Supp. 1997.

The Commission finds that BroadSpan will not be able to offer basic local telecommunications services until it has Commission approved rates in effect for both intraLATA and interLATA switched access. Based upon its review, the Commission finds that the public interest will be served if BroadSpan's proposed tariff is suspended for a sufficient period of time to permit BroadSpan to amend its tariff to clarify the nature and territorial scope of the services to be offered and to add rates for interLATA switched access. The Commission will suspend BroadSpan's tariff for 30 days following September 11 so that that the effective date of the pending tariff will coincide with the effective date of the interexchange tariff to be filed by BroadSpan.

THEREFORE, IT IS ORDERED:

1. That the effective date of the following tariff sheets, submitted by BroadSpan Communications, Inc. on July 20, 1998, and amended on August 5, 14 and 20, is suspended to October 13, 1998, or until otherwise ordered by this Commission:

MO. P.S.C. No. 1

Original Title Page

Preface - Original Page No. 1 through Original Page No. 8

Section 1 - Original Title Page through Original Page No. 6

Section 2 - Original Title Page through Original Page No. 54

Section 3 - Original Title Page through Original Page No. 3

Section 4 - Original Title Page through Original Page No. 3

Section 5 - Original Title Page through Original Page No. 105

Section 6 - Original Title Page through Original Page No. 4

Section 7 - Original Title Page through Original Page No. 1

2. That the request of BroadSpan Communications, Inc. for a waiver of the tariff filing requirement for its dedicated, non-switched local exchange telecommunications services is denied as moot.

3. That the request of BroadSpan Communications, Inc. for a waiver of the tariff filing requirement for its interexchange telecommunications services is granted.

4. That BroadSpan Communications, Inc. shall file tariffs for approval reflecting the rates, rules and regulations and the services it will offer for interexchange telecommunications service no later than September 11, 1998.

5. That this order shall become effective on September 1, 1998.

BY THE COMMISSION



Dale Hardy Roberts
Secretary/Chief Regulatory Law Judge

(S E A L)

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

Randles, Regulatory Law Judge

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AUG 26 1998
COMMISSION COUNSEL
PUBLIC SERVICE COMMISSION