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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 9th day of December, 1997.

In the Matter of the Local Exchange Telecommunications Companies' Modernization Plans Pursuant to 4 CSR 240-32.100.	)))	**CASE NO. TO-93-309**
In the Matter of KLM Telephone Company's Modernization Plans Pursuant to 4 CSR 240-32.100	)))	**CASE NO. TO-97-555**

ORDER APPROVING NETWORK MODERNIZATION PLAN

On May 14, 1993, the Missouri Public Service Commission (Commission) opened a docket, Case No. TO-93-309, for the purpose of receiving the three-, five-, and seven-year modernization plans required to be filed by local exchange companies (LECs) pursuant to 4 CSR 240-32.100. Each LEC had submitted a filing to that docket by June 18, 1993. The Staff of the Commission filed a memorandum concerning the modernization filings on August 24, 1993, and attached a list of LECs with which it had not reached agreement on a modernization plan. Staff recommended that hearings be scheduled with the LECs on the list, and that the hearings be separate rather than concurrent, so that earlier hearings could clarify some issues for later hearings.

On June 27, 1997, the Commission issued its Order Establishing Docket and Setting Prehearing Conference. Because Case No. TO-93-309 was established only to receive the various modernization plans, the Commission determined that separate dockets should be established for the proceedings concerning unresolved modernization plans, and that hearings should be scheduled for the LECs on Staff's list by alphabetical order. Thus, the Commission determined that a hearing should be scheduled in Case No. TO-97-

555 for KLM Telephone Company (KLM), as it is the next LEC on Staff's list.

The Commission's order scheduled a prehearing conference for July 22, and directed the parties to file a proposed procedural schedule by July 29. On July 28, Staff filed a motion to establish August 29 as the deadline for the filing of a stipulation, and on September 2, Staff requested that the stipulation deadline be rescheduled to September 26. The parties subsequently filed a unanimous Stipulation and Agreement (Stipulation) on September 26, and Staff filed Suggestions in Support of the Stipulation and Agreement on November 3. The Stipulation is attached hereto and incorporated herein by reference as Attachment 1.

The Stipulation may be summarized as follows: the parties agree that KLM provides the minimum necessary elements for basic local and interexchange telecommunications service as prescribed in 4 CSR 240-32.100, with the exception of individual line service and interLATA equal access (equal access). The parties agree that KLM will provide individual line service to all its customers by December 31, 1998. Further, the company will provide such individual line service without increasing the number of analog carrier units now in service in any of its exchanges. The parties also agree that KLM will provide equal access by July 1, 1999, or earlier if practicable considering the business conditions in the Company's service area, and the Company's capital constraints. KLM shall mail a letter to all interexchange carriers in the state informing them of the date it intends to provide equal access, no later than January 1, 1999. In implementing equal access, KLM shall comply with the requirements of the Federal Communications Commission's Report and Order released on March 19, 1986, in CC Docket No. 78-72, Phase III.

In its Suggestions in Support of the Stipulation and Agreement, Staff notes that KLM must upgrade 65 multi-party customers to single-party service, and will need to replace all four of its central office switches before it is able to offer interLATA equal access. Staff explains that there are several reasons why KLM will need until the end of 1998 to complete its conversion from multi-party to single-party service. KLM will be required to convert some very long loops. For example, some of the multi-party customer loops are eleven miles long, and outside the city of Rich Hill there is a customer density of approximately one-half customer per square mile. KLM also intends to use its own personnel to perform this conversion, but it is a small company with a limited number of employees.

Staff also indicates that KLM has been converting a large number of its four-party customers to single-party service during the past several years. However, some of these customers have refused to pay for single-party service because they are located several miles outside the base rate area, and the mileage charges for single-party service make it too expensive. KLM currently has approximately 96 customers paying the multi-party tariff rate although they are receiving single-party service. KLM has been converting these customers to single-party service in order to comply with the Commission's rules. Those customers currently receiving single-party service at the multi-party rate will be reclassified when KLM is able to offer single-party service to all its customers, and has eliminated the four-party tariff rates and mileage charges for single-party service. In addition, Staff also indicates that KLM will make some of the conversions using analog carrier, which is a less expensive way to convert to single-party service than using digital carrier or building new cable. However, the company has agreed to make these conversions without purchasing any additional analog carrier equipment, but will instead relocate currently owned equipment. The company will eventually replace these existing analog units with digital carrier systems.

Further, Staff explains that KLM currently has Alcatel digital central office switches. Alcatel is no longer providing complete switch support in the United States, thus KLM's switches can no longer be upgraded to meet modern requirements such as the ability to handle four-digit Carrier Identification Codes (CICs) and intraLATA presubscription. KLM plans to replace its Alcatel switches with a Mitel digital switch host/remote arrangement during the first quarter of 1999, when outside cable plant upgrades are completed. The host switch will be installed at Rich Hill, with remotes at Metz, Richards, and Deerfield. In addition, KLM will need to borrow approximately $650,000 to replace the Alcatel switches.

In conclusion, Staff states that it believes that KLM's modernization plan is reasonable. Staff notes that customer density and distance make the upgrades from multi-party to single-party service very difficult, expensive, and time-consuming. Additionally, in order to implement equal access, KLM will need to replace its existing central office switches with new Mitel digital switches, which is a very capital-intensive project. Staff notes that KLM plans to use its present employees for both the implementation of individual line service and equal access. Staff believes this is the most economical choice. Staff further notes that KLM does not intend to request an increase in either local or access rates if such an increase is not required to complete modernization before mid-1999.

No party to this proceeding has requested a hearing. Pursuant to <u>State ex rel. Rex Deffenderfer Enterprises, Inc. v. Public Service Commission,</u> 776 S.W.2d 494, 496 (Mo. App. 1989), the Commission determines that no hearing is necessary in this case. The Commission will base its decision on the Stipulation and Agreement and the Suggestions in Support of the Stipulation and Agreement.

KLM Telephone Company is a telecommunications company and public utility as defined in Section 386.020(42) and (51), RSMo Supp. 1996, and is subject to the jurisdiction of the Commission pursuant to Chapters 386 and 392 of the Missouri Revised Statutes. Pursuant to Section 536.060, RSMo Supp. 1996, the Commission may approve a stipulation concluded among the parties as to any issues in a contested case. The standard for Commission approval of a stipulation is whether it is reasonable. The Commission, after reviewing the record, determines that the Stipulation presented in this case is reasonable in all its provisions.

The Commission adopts the Stipulation in full as resolving all issues which it addresses. The Commission is satisfied that the negotiated settlement represents a reasonable and fair resolution of the issues in this case, and that it would be in the best interest of all parties for the Commission to adopt this Stipulation.

The Commission's rule on the provision of basic local and interexchange telecommunications service by LECs directs that the following technologies and service features shall constitute the minimum necessary elements for basic local and interexchange telecommunications service:

(A) Individual line service;
(B) Availability of dual tone multi-frequency signaling;
(C) Electronic switching with Enhanced 911 (E-911) access capability or an enhanced version of it;
(D) Digital interoffice transmission between central office buildings, excluding analog private line service;
(E) Penetration of the International Telephone and Telegraph Consultative Committee's Signaling System No. Seven (CCITT SS7), or an enhanced version of it, down to the tandem level of the switching hierarchy;
(F) Availability of custom calling features including, but not limited to, call waiting, call forwarding, three (3)-way calling and speed dialing; and

(G) Equal access in the sense of dialing parity and presubscription among interexchange telecommunications companies for calling between Local Access and Transport Areas (interLATA presubscription).

4 CSR 240-32.100(2). The rule also required LECs to submit to the Commission's Telecommunications Department by June 1, 1993, three plans for satisfying the minimum necessary elements of basic local and interexchange telecommunications service. 4 CSR 240-32.100(3). The three plans were to establish targets to satisfy the rule within either a three-, five-, or seven-year period of time. Id. In addition, the rule also allowed LECs to file an additional plan which the company considered optimal in light of its individual business circumstances. Id. The plans were to include information relating to the expenses of the modernization program and a list of annual targets for the completion of the various components of the minimum necessary elements. Id.

The Stipulation contains a network modernization plan, which is intended to replace the plan filed by the company in 1993 in compliance with 4 CSR 240-32.100. The Commission finds that after the complete implementation of the Stipulation, KLM will be in compliance with 4 CSR 240-32.100(2). The Commission further finds that under the Stipulation, the remaining 65 multi-party customers will be converted to single-party service by December 31, 1998. Some of those conversions will be implemented through the relocation of analog carrier equipment. The Commission is aware of the low customer density and long loops in KLM's territory. The Commission finds that relocation of existing analog equipment is a cost-effective method of obtaining single-party service. However, the analog units should eventually be replaced with digital units. In addition, upon completion of the conversion, KLM should forthwith make revisions to its tariff to eliminate rates for multi-party service and mileage charges for single-party service.

Further, the Commission finds that use of KLM's present employees to complete the implementation of individual line service and equal access represents an economical approach to the process of modernization. KLM has no present intent to request an increase in either its local or access rates, although it intends to borrow $650,000 to replace the Alcatel switches. Upon locating a source for the anticipated $650,000 loan, KLM should forthwith file an application for approval of financing with the Commission, to minimize the delay in obtaining the financing required to complete the modernization plan. The Commission also encourages KLM to consider, to the extent it has not already done so, whether it can reasonably expect long-term switch support for the new Mitel digital switches.

The Commission also notes that under the network modernization plan contained in the Stipulation, KLM will satisfy the requirements of 4 CSR 240-32.100(2) within seven years of the effective date of the rule, which was December 3, 1992. Based upon all the evidence before the Commission, the Commission finds that it is appropriate to adopt the Stipulation and Agreement.

IT IS THEREFORE ORDERED:

1. That the Missouri Public Service Commission adopts all the provisions of the Stipulation and Agreement between KLM Telephone Company, the Staff of the Missouri Public Service Commission, and the Office of the Public Counsel, filed on September 26, 1997, which is incorporated by reference as Attachment 1.

2. That the network modernization plan for KLM Telephone Company contained in the Stipulation and Agreement is approved.

3. That nothing in this order shall be considered a finding of the Missouri Public Service Commission of the value for ratemaking purposes of the properties herein involved, or as an acquiescence in the value placed upon said properties by KLM Telephone Company. Furthermore, the Commission reserves the right to consider the ratemaking treatment to be afforded in any later proceeding.

4. That KLM Telephone Company is directed to file with the Missouri Public Service Commission an application for approval of its financing plan within ten days of securing the information necessary for the application.

5. That KLM Telephone Company is directed to file tariff revisions with the Missouri Public Service Commission which eliminate rates for multi-party service and for mileage charges for single-party service, within ten days of completing the conversion of all its customers from multi-party to single-party service.

6. That this order shall become effective on December 19, 1997.

BY THE COMMISSION

Dale Hardy Roberts

Dale Hardy Roberts
Secretary/Chief Regulatory Law Judge

(S E A L)

Lumpe, Ch., Crumpton,
Murray, and Drainer,
CC., Concur.

Bensavage, Regulatory Law Judge

BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI

FILED
SEP 26 1997
MISSOURI
PUBLIC SERVICE COMMISSION

In the matter of KLM Telephone	)	
Company's Modernization Plan	)	Case No. TO-97-555
Pursuant to 4 CSR 240-32.100.	)	

STIPULATION AND AGREEMENT

Based on information provided by KLM Telephone Company ("the Company"), the signatories --the Office of the Public Counsel ("OPC"), the Staff of the Missouri Public Service Commission ("the Staff") and the Company -- agree and stipulate as follows:

1. As of the date of the Stipulation and Agreement, the Company provides the minimum necessary elements for basic local and interexchange telecommunications service ("Basic Service") as prescribed in 4 CSR 240-32.100 ("the Modernization Rule") with the exception of individual line service and interLATA equal access (equal access).

2. The Company shall provide individual line service to all its customers by December 31, 1998. The Company will provide individual line service to all its customers without increasing the number of analog carrier units now in service in any of its exchanges.

3. No later than January 1, 1999, the Company shall mail a letter to all of the interexchange carriers in the state informing them of the date that the Company intends to provide equal access to its customers. The Company shall provide equal access by July 1, 1999, or earlier if practicable considering the business conditions in the Company's service area and the Company's capital constraints. In implementing equal access, the Company shall comply with the requirements of the Federal Communications Commission Report and Order released March 19, 1986, in CC Docket No. 78-72, Phase III.

4. OPC and the Staff agree that if the Company abides by the terms of paragraphs 2

by December 31, 1998 and paragraph 3 by July 31, 1999, the Company will be providing all of the minimum necessary elements for Basic Service as set forth in 4 CSR 240-32.100.

5. If the Commission accepts the specific terms of this Stipulation and Agreement, the signatories waive their respective rights:

a. To call, examine or cross-examine witnesses, pursuant to § 536.070(2) RSMo 1994;

b. To present oral argument and written briefs, pursuant to § 536.080.1 RSMo 1994;

c. To have the Commission read any transcript resulting from this proceeding, pursuant to § 536.080.2 RSMo 1994; and

d. To judicial review, pursuant to § 386.510 RSMo 1994.

6. Nothing in this stipulation shall constitute an agreement by the parties as to the reasonableness of the amount or value for ratemaking purposes of any specific planned or completed expenditure made by the Company in providing Basic Service. The Commission may consider, where appropriate, the ratemaking consequences of any such expenditure made or incurred by the Company in providing Basic Service in a subsequent ratemaking proceeding involving the Company.

7. The provisions of this Stipulation and Agreement have resulted from negotiations among the signatories and are interdependent. In the event the Commission does not approve this Stipulation and Agreement in total, it shall be void and no party shall be bound, prejudiced or in any way affected by any of the agreements or provisions hereof.

8. Except as specified herein, the parties to this Stipulation and Agreement shall not be prejudiced, bound by, or in any way affected by the terms of this Stipulation and Agreement

in any future proceeding or in any proceeding currently pending under a separate docket.

9. At the Commission's request, the Staff may give the Commission a written explanation of its rationale for entering into this Stipulation and Agreement, if the Staff also gives a copy of its explanation to each signatory to this Stipulation and Agreement. In that event, each signatory may give the Commission a responsive written explanation within five (5) business days of receipt of the Staff's explanation, if the responding signatory contemporaneously gives a copy of such responsive written explanation to all other signatories. Each signatory agrees to keep the Staff's and other signatories' explanations confidential, and to treat them as privileged to the same extent as settlement negotiations under the Commission's rules. No signatory acquiesces in or adopts the explanations of another signatory. Such explanations shall not become a part of this proceedings' record, nor bind or prejudice any signatory in any proceeding.

10. The Staff may provide whatever oral explanation the Commission requests at any agenda meeting, if the Commission has given notice that it may consider this Stipulation and Agreement at the meeting. The Staff shall inform the other signatories as soon as practicable when the Staff learns that the Commission will request such explanation. The Staff's explanation in agenda shall be subject to public disclosure, except to the extent it pertains to matters protected from disclosure.

WHEREFORE, the signatories respectfully request that the Commission issue an order that approves this Stipulation and Agreement.

Respectfully submitted,

OFFICE OF THE PUBLIC COUNSEL

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CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing have been mailed or hand-delivered to all counsel of record this 26 day of September, 1997.