Missouri Public Service Commission

POST OFFICE BOX 360
JEFFERSON CITY, MISSOURI 65102
573-751-3234
573-751-1847 (Fax Number)
http://www.ecodev.state.mo.us/psc/

November 16, 1999

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Missouri Public
Service Commission

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

RE: Case No. TA-2000-215

Dear Mr. Roberts:

Enclosed for filing in the above-captioned case are an original and fourteen (14) conformed copies of **SUGGESTIONS IN SUPPORT OF THE JOINT STIPULATION AND AGREEMENT.**

This filing has been mailed or hand-delivered this date to all counsel of record.

Thank you for your attention to this matter.

Sincerely yours,

Bruce H. Bates
Assistant General Counsel
(573) 751-7434
(573) 751-9285 (Fax)

BB/df
Enclosure
cc: Counsel of Record

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BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI

In the Matter of the Application of Adelphia Business Solutions Operations, Inc. for a Certificate of Service Authority to Provide Basic Local Telecommunications Services in Portions of the State of Missouri and for Competitive Classification.	))))))	Case No. TA-2000-215

SUGGESTIONS IN SUPPORT OF THE JOINT STIPULATION AND AGREEMENT

Comes now the Staff of the Missouri Public Service Commission ("Staff") and in support of the *Joint Stipulation and Agreement* filed in this matter states as follows:

1. Adelphia Business Solutions Operations, Inc. ("Adelphia" or "Applicant") agreed in the *Joint Stipulation and Agreement*, Paragraph 5, that its *Application for Certificate of Service Authority and for Competitive Classification* ("Application") may be granted on condition that its tariffs become effective. The Applicant also agrees to file a list of its interconnection or resale agreements or explain why the Applicant does not need an interconnection or resale agreement in order to begin business.[1]

2. The application process envisioned in the *Joint Stipulation and Agreement* requires that the Applicant: a) file a complete application, including such undertakings as the Parties have deemed essential; b) enter into an interconnection or resale agreement and file it for approval (except as discussed in Paragraph 1); and c) file tariffs for approval. The Staff believes

[1] The Parties were reluctant to completely rule out the possibility that an applicant could do business in a way that would not require an interconnection agreement, although no one could imagine such a scenario at this time; this provision would afford incumbent LECs the opportunity to challenge the feasibility of an assertion that no interconnection agreements were necessary.

this three-step process provides the necessary protections without unduly burdening or delaying certification.

3. As indicated in Paragraph 10 of the *Joint Stipulation and Agreement*, all parties to this docket agreed that the Applicant should be classified as a competitive telecommunications company, and all of the telecommunications services it offers should be classified as competitive. However, the Staff and other parties expressed concern about classifying exchange access service as competitive. The end user, not the access customer (presently the interexchange carrier [IXC]), determines whose services will be used. Accordingly, an IXC does not have the option to avoid a certain LEC because its access charges are too high; if the IXC's customer is served by that LEC, the IXC will have to buy access from that LEC. To address this concern, the Parties devised an access rate "cap" that places an upper limit on access rates at the lowest level charged by the LECs in whose service territories the Applicant will be initially certificated. This access rate cap is discussed and stipulated to in Paragraph 4. Although access services would technically be classified as competitive, the Applicant may not avail itself of the near automatic rate changes normally afforded to competitive services in Sections 392.500 and .510, RSMo. (1994). Instead, if the Applicant can establish to the Commission's satisfaction that its costs of providing access exceed the capped rate, it could increase its rates through the rate change process set out in Sections 392.220, RSMo. (Cum.Supp. 1998) and 392.230, RSMo. (1994). Such a mechanism is permissible because Sections 392.361.5 and .6, RSMo. (1994) authorize the Commission to impose conditions on competitive classification rate changes that are reasonably necessary to protect the public interest.

4. The *Joint Stipulation and Agreement* provides, in Paragraph 4, that the Applicant will adhere to the same quality of service and billing standards as those to which the incumbent

LECs must adhere. The requested waivers in the *Joint Stipulation and Agreement* are waivers that have previously been granted respectively to competitive local exchange carriers and interexchange carriers.

5. The Applicant agrees, in Paragraph 4 of the *Joint Stipulation and Agreement*, that it will provide equitable access, as determined by the Commission, to all Missourians. The Staff believes that such an affirmative statement is not necessarily required, as the statutory section in question is couched in terms of a Commission finding rather than an affirmative undertaking.[2] However, the Staff can see a potential benefit in such an undertaking, so it does not object to including equitable access as an affirmative statement in the *Joint Stipulation and Agreement*.[3]

6. The *Joint Stipulation and Agreement* was specifically designed to address the five (5) criteria set out in Section 392.455 RSMo (Cum.Supp. 1998), which the Commission must address in the process of certificating new basic local telecommunications service providers.

> The Applicant possesses sufficient technical, financial and managerial resources and abilities to provide basic local telecommunications service. In Appendix C to its Application, Applicant demonstrates its managerial and technical abilities. In Appendix D to its Application, Applicant demonstrates its financial resources and abilities.
>
> The Applicant has demonstrated that the services it proposes to offer satisfy the minimum standards established by the Commission. The Staff has reviewed the Applicant's services and has concluded that the Applicant satisfies the minimum standards established by the Commission.
>
> The Applicant has set forth the geographic area in which it proposes to offer service and has demonstrated that such area follows exchange boundaries of the

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[2] Section 392.455 RSMo (Cum.Supp. 1998).

[3] As equitable access is a concern, the Commission must address in the certification process. The Parties wanted to bring it to the Commission's attention and assert their belief that this application is in no way inconsistent with equitable access.

incumbent local exchange telecommunications company and is no smaller than an exchange. The Staff has concluded that the geographic area in which the Applicant proposes to offer service follows exchange boundaries and is no smaller than an exchange.

The Applicant will offer basic local telecommunications service as a separate and distinct service. The Staff has concluded that the Applicant will offer basic local telecommunications service as a separate and distinct service.

The Applicant has agreed to provide equitable access to affordable telecommunications services for all Missourians, regardless of where they live or their income. The Staff has concluded that the Applicant will provide equitable access to affordable telecommunications services for all Missourians, regardless of where they live or their income.

For all of the foregoing reasons, the Staff believes the *Joint Stipulation and Agreement* has adequately addressed the relevant issues and should be approved by the Commission. Staff thereby prays the Commission approve the *Application* of Adelphia Business Solutions Operations, Inc. to be certificated as a provider of basic local telecommunications services, local exchange telecommunications services, exchange access services and interexchange telecommunications services in those exchanges listed in its application.

Respectfully submitted,

DANA K. JOYCE
General Counsel

Bruce H. Bates
Assistant General Counsel
Missouri Bar No. 35442

Attorneys for the Staff of the
Missouri Public Service Commission
P. O. Box 360
Jefferson City, MO 65102
573-751-7434
573-751-9285 (Fax)

CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing have been mailed or hand-delivered to all counsel of record as shown on the service list below this 16th day of November, 1999.

Office of Public Counsel
P.O. Box 7800
Jefferson City, MO 65102

Charles Brent Stewart
Stewart & Keevil, L.L.C.
1001 Cherry St., Ste. 302
Columbia, MO 65201

Paul G. Lane, Leo J. Bub
Anthony Conroy, Katherine C. Swaller
Southwestern Bell Telephone Company
One Bell Center, Room 3516
St. Louis, MO 63101