

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
MARK W. COMLEY
CATHLEEN A. MARTIN
STEPHEN G. NEWMAN
JOHN A. RUTH
D. GREGORY STONEBARGER

April 7, 2000

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

FILED

APR 7 2000

Missouri Public
Service Commission

Re: Trans National Telecommunications, Inc.
Case No. TQ-2000-359

Dear Judge Roberts:

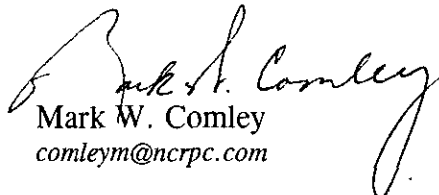
Enclosed for filing in the referenced matter please find the original and fourteen copies of a Stipulation and Agreement, and Motion to Suspend Consideration of Procedural Schedule.

Please contact me if you have any questions. Thank you.

Very truly yours,

NEWMAN, COMLEY & RUTH P.C.

By:


Mark W. Comley
comleym@ncrpc.com

MWC:ab

Enclosure

cc: Office of Public Counsel
Anthony K. Conroy
Office of the General Counsel
Monique Byrnes

FILED

BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI

APR 7 2000

In the Matter of the Application of)
Trans National Telecommunications, Inc.)
for a Certificate of Service Authority to provide)
Resold Basic Local Telecommunications Service)
in portions of the State of Missouri and for)
Competitive Classification.)

Missouri Public
Service Commission

Case No. TA-2000-359

STIPULATION AND AGREEMENT

TRANS NATIONAL TELECOMMUNICATIONS, INC. (hereinafter "TRANS NATIONAL") initiated this proceeding on December 3, 1999 by filing an Application requesting certificate of service authority to provide basic 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)¹ should be processed in a manner similar to that in which applications for interexchange authority are currently handled.

¹Large 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.

14

3. In determining whether TRANS NATIONAL's application for certificate of service authority should be granted, the Commission should consider TRANS NATIONAL's technical, financial and managerial resources and abilities to provide basic local telecommunications service. TRANS NATIONAL 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, TRANS NATIONAL 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, TRANS NATIONAL 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, TRANS NATIONAL 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, TRANS NATIONAL 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. TRANS NATIONAL submitted its application without tariffs and seeks a temporary waiver of 4 CSR 240-2.060(4)(H).² TRANS NATIONAL 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 TRANS NATIONAL 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, TRANS NATIONAL 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. TRANS NATIONAL 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 TRANS NATIONAL'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

²Good 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. TRANS NATIONAL CERTIFICATION

6. TRANS NATIONAL 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, TRANS NATIONAL asserts, and no party makes a contrary assertion, that there is sufficient evidence from which the Commission can find and conclude that TRANS NATIONAL:

- 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;³
- 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;⁴

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

⁴ The agreement in Paragraph 7. e. of this Stipulation and Agreement is without prejudice to TRANS NATIONAL'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), RSMo.

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

8. TRANS NATIONAL asserts, and no party opposes, that TRANS NATIONAL'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 TRANS NATIONAL shall remain classified as a competitive telecommunications company. TRANS NATIONAL 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 TRANS NATIONAL'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 maximum switched access service rates as set forth in paragraph 3 herein shall be cost-justified and

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

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. TRANS NATIONAL'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. Since the filing of the application in this matter however, the Commission approved TRANSNATIONAL's interconnection agreement with SWB in Case No. TO-2000-360. TRANS NATIONAL agrees that within thirty (30) days of an order granting its application as set out in this Stipulation, it 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. TRANS NATIONAL 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 application herein, 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. TRANS NATIONAL's request for waiver of the application of the following rules and statutory provisions as they relate to the regulation of TRANS NATIONAL'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 TRANS NATIONAL 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

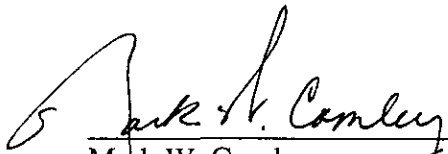
explanation shall be subject to public disclosure.

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


15. The Office of Public Counsel, while not a signatory to this stipulation and agreement, has been contacted regarding this filing and has offered no objection.

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 TRANS NATIONAL, 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: T R A N S N A T I O N A L
TELECOMMUNICATIONS, INC.


Paul G. Lane #27011
Leo J. Bub #34326
Anthony K. Conroy #35199
Mimi B. MacDonald #37606
One Bell Center, Room 3520
St. Louis, Missouri 63101

FOR: Southwestern Bell Telephone
Company


Julie A. Kardis #44450
Assistant General Counsel
Missouri Public Service Commission
P.O. Box 360
Jefferson City, MO 65102-0360

FOR: Staff