



Commissioners

SHEILA LUMPE
Chair

HAROLD CRUMPTON

CONNIE MURRAY

ROBERT G. SCHEMENAUER

M. DIANNE DRAINER
Vice Chair

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/>

January 27, 2000

GORDON L. PERSINGER
Acting Executive Director
Director, Research and Public Affairs

WESS A. HENDERSON
Director, Utility Operations

ROBERT SCHALLENBERG
Director, Utility Services

DONNA M. KOLILIS
Director, Administration

DALE HARDY ROBERTS
Secretary/Chief Regulatory Law Judge

DANA K. JOYCE
General Counsel

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-2000-192

Dear Mr. Roberts:

Enclosed for filing in the above-captioned case are an original and fourteen (14) conformed copies of a **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

FILED³

JAN 27 2000

Missouri Public
Service Commission

FILED³

JAN 27 2000

BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI

Missouri Public
Service Commission

In the Matter of the Application of Fidelity)
Cablevision, 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-2000-192

**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. Fidelity Cablevision, Inc. ("Fidelity" or "Applicant") agreed in the *Joint Stipulation and Agreement*, Paragraph 4, that its *Application for Certificate of Service Authority and for Competitive Classification* ("Application") may be granted on condition that its tariffs become effective. 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 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. Staff believes this

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.

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

3. As indicated in Paragraph 9 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 3. 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. 1999), 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 3, 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. Applicant agrees, in Paragraph 3 of the *Joint Stipulation and Agreement*, that it will provide equitable access, as determined by the Commission, to all Missourians. 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, 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 criteria set out in Section 392.455 RSMo (Cum.Supp. 1999), which the Commission must address in the process of certificating new basic local telecommunications service providers.

Applicant possesses sufficient technical, financial and managerial resources and abilities to provide basic local telecommunications service. In Appendix 3 to its Application, Applicant demonstrates its managerial and technical abilities. In Appendix 4 to its Application, Applicant demonstrates its financial resources and abilities.

Applicant has demonstrated that the services it proposes to offer satisfy the minimum standards established by the Commission. Staff has reviewed the Applicant's services and has concluded that the Applicant satisfies the minimum standards established by the Commission.

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 incumbent local exchange telecommunications company and is no smaller than an exchange. Staff has concluded that the geographic area in which the Applicant

² Section 392.455 RSMo (Cum.Supp. 1999).

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.

proposes to offer service follows exchange boundaries and is no smaller than an exchange.

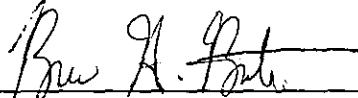
Applicant will offer basic local telecommunications service as a separate and distinct service. Staff has concluded that Applicant will offer basic local telecommunications service as a separate and distinct service.

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

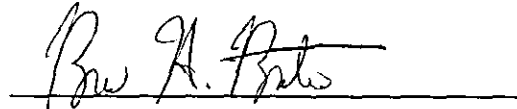


Bruce H. Bates
Assistant General Counsel
Missouri Bar No. 35442

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 27th day of January 2000.



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

Sheldon K. Stock
Greensfelder, Hemker & Gale, P.C.
10 S. Broadway, Ste. 2000
St Louis, MO 63102

Paul G. Lane, Leo J. Bub
Anthony Conroy
Southwestern Bell Telephone Company
One Bell Center, Room 3520
St. Louis, MO 63102

**Service List for
Case No. TA-2000-192
January 27, 2000**

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

Paul Lane/Leo Bub/Anthony Conroy
Southwestern Bell Telephone Company
One Bell Center, Room 3520
St. Louis, MO 63101

Sheldon Stock
Greensfelder, Hemker & Gale, PC
10 South Broadway, Ste. 2000
St. Louis, MO 63102-1774