

BEFORE THE PUBLIC SERVICE COMMISSION
STATE OF MISSOURI

FILED
OCT 23 1997
MISSOURI
PUBLIC SERVICE COMMISSION

in the Matter of the Application of the)
Mid-Missouri Group and the Small)
Telephone Company Group of)
Incumbent Local Exchange Companies)
for Designation as Telecommunications Company)
Carriers Eligible for Federal Universal)
Service Support pursuant to § 254 of the)
1996 Telecommunications Act.)

Case No. TO-98-49

STIPULATION AND AGREEMENT

Introduction

Section 254 of the Telecommunications Act of 1996 ("the Act") enacted policy changes to the federal universal service support system and established a subsequent schedule by which a joint universal service board as well as the Federal Communications Commission ("FCC") would implement rules and regulations embodying the policy changes. On May 7, 1997, in FCC Docket No. 96-45, the FCC issued its Report and Order as well as final rules implementing these changes to the federal universal service support system. 47 CFR 54.201(b) of the FCC's rules authorizes the Missouri Public Service Commission ("Commission"), on its own motion or upon request, to designate a common carrier as an "eligible telecommunications carrier" for a service area designated by the Commission so long as the carrier meets the requirements of rule 47 CFR 54.201(d).

On August 1, 1996, the Mid Missouri Group ("Mid-Mo")¹ and the Small Telephone Company Group ("STCG")² of incumbent local exchange carriers ("ILECs") filed an Application

¹Alma Telephone Company, Chariton Valley Telephone Corporation, Choctaw Telephone Company, Mid-Missouri Telephone Company, Modern Telecommunications Company, MoKan Dial Inc., Northeast Missouri Rural Telephone Company and Peace Valley Telephone Company, Inc.

²ALLTEL Missouri, Inc., Bourbeuse Telephone Company, BPS Telephone Company, Cass County Telephone Company, Citizens Telephone Company of Higginsville, Missouri, Inc.,

for Designation as Eligible Carriers Pursuant to § 254 of the Telecommunications Act of 1996 requesting that the Commission designate, prior to December 31, 1997, each of these carriers as telecommunication carriers eligible under the provisions of 47 CFR 54.201(d) to receive federal universal service support.

In order to be eligible for universal service support after January 1, 1998, a carrier must provide the services that are supported by federal universal support mechanisms as described in 47 CFR § 54.101 using its own facilities at least in part. The carrier must also advertise the availability of those services and the charges for them using media of general distribution. 47 CFR § 54.201(d)(2). Where a telecommunications carrier is otherwise eligible for universal service support it may request additional time to complete the network upgrades necessary to provide single-party service, access to enhanced 911 service, or toll limitation. 47 CFR § 54.101(c).

The services required by 47 CFR 54.101 are:

- (1) Voice grade access to the public switched network;
- (2) Local usage;
- (3) Dual tone multi-frequency signaling or its functional equivalent;
- (4) Single-party service or its functional equivalent;

Craw-Kan Telephone Cooperative, Inc., Ellington Telephone Company, Farber Telephone Company, Fidelity Telephone Company, Goodman Telephone Company, Inc., Granby Telephone Company, Grand River Mutual Telephone Corporation, Green Hills Telephone Corp., Holway Telephone Company, Iamo Telephone Company, Kingdom Telephone Company, KLM Telephone Company, Lathrop Telephone Company, Le-Ru Telephone Company, McDonald County Telephone Company, Mark Twain Rural Telephone Company, Miller Telephone Company, New Florence Telephone Company, New London Telephone Company, Orchard Farm Telephone Company, Oregon Farmers Mutual Telephone Company, Ozark Telephone Company, Rock Port Telephone Company, Seneca Telephone Company, Steelville Telephone Exchange, Inc., and Stoutland Telephone Company.

- (5) Access to emergency services;
- (6) Access to operator services;
- (7) Access to interexchange service;
- (8) Access to directory assistance; and
- (9) Toll limitation for qualifying low-income consumers.

"Toll limitation" is defined by the FCC in 47 CFR 54.400(a)(4) as including both toll blocking and toll control. "Toll control" is defined at 47 CFR 54.400(a)(3) as "a service provided by carriers that allows consumers to specify a certain amount of toll usage that may be incurred on their telecommunications channel per month or per billing cycle."

Each of the ILECs, with the exception of Cass County Telephone Company ("Cass County"), KLM Telephone Company ("KLM") and Ozark Telephone Company ("Ozark"), executed an affidavit averring that the individual company provided eight of the required services.³ All of the ILECs have represented that they are unable to offer all aspects of the ninth service, toll limitation for qualifying low-income consumers as it is defined by the FCC. While the companies are able to provide toll blocking, the ILECs represent that they do not have the technical ability to provide toll control. Accordingly, the companies requested that the Commission grant them additional time to provide toll control for qualifying low-income consumers until such time as industry standards have been developed which will allow them to provide this service.

As the Applicants understand the FCC's definition of toll control, this service would require the following elements:

³A revised affidavit was filed by the companies on September 29, 1997, to include the eighth service which had been inadvertently omitted.

a. The customer would specify a dollar amount of toll usage that would be allowed to be charged to his account each month or billing cycle.

b. At the beginning of each cycle the customer would be allowed to make toll calls to any jurisdiction, using any carrier, until the specified dollar amount was reached.

c. The telephone company would have to monitor and rate all toll calls made by the customer to each jurisdiction and each carrier and keep a running total of the toll calls made.

d. When the customer's dollar limit was reached for that billing period, the telephone company would implement toll blocking in its switch for the remainder of the billing cycle to prevent the customer from making additional toll calls.

The Applicants understand that in order to accomplish this task, each ILEC would have to have systems in place so that at the completion of each toll call either the telephone company would immediately rate the call and keep a "real time" record accumulating the customer's toll calls for the billing period or immediately receive from the carrier who handled the call a record of the call rating so that it could be accumulated in the customer's toll summary record. When that summary amount reached the limit set by the customer, the ILEC's billing system would then have to communicate with the central office switch serving the customer to impose the toll blocking feature in the switch so that further toll calls could not be made. At the beginning of the new cycle, the central office switch would have to be reset to remove the toll blocking feature for the next billing cycle until the limit was again reached.

Applicants represent that they only rate messages periodically during the month, or only at the end of the month, and that their billing systems currently do not normally summarize a customer's toll usage until the end of the month when the bill is prepared. Customers may also receive toll bills

from several different carriers depending on their choices for interLATA presubscription and the extent to which they use the 10XXX or 101XXXX dialing features to reach carriers other than the presubscribed carrier. There are no current provisions for carriers to provide rated messages that the carriers are going to bill back to the ILECs on any basis, let alone on a "real time" basis. Finally, the ILECs represent that there are no systems established for the ILECs billing systems to communicate with the switch to impose toll blocking restrictions on a real time basis.

Additionally, Cass County, KLM and Ozark are currently unable to provide single-party service to all of their customers. All three of these companies requested additional time pursuant to 47 CFR 54.101(c) up to December 31, 1998, to complete the network upgrades needed to provide single-party service.

On August 8, 1997, the Commission issued its Order and Notice setting an intervention deadline. On September 18, 1997, the Commission granted the timely applications to intervene of United Telephone Company of Missouri d/b/a Sprint ("Sprint"), MCI Telecommunications Corporation ("MCI"), MCImetro Access Transmission Services, Inc. ("MCImetro"), and Southwestern Bell Telephone Company ("SWBT") and granted the application to participate without intervention of GTE Midwest Incorporated. At the early preheating held on October 1, 1997, Sprint Communications Company, L.P. was granted intervention.

Stipulation and Agreement

1. The signatory parties stipulate and agree that each of the ILECs comprising the Mid-Mo and STCG, with the exception of Cass County, KLM and Ozark, provide the following services:

- (1) Voice grade access to the public switched network;
- (2) Local usage;

- (3) Dual tone multi-frequency signaling or its functional equivalent;
- (4) Single-party service or its functional equivalent;
- (5) Access to emergency services;
- (6) Access to operator services;
- (7) Access to interexchange service; and
- (8) Access to directory assistance.

Cass County, KLM and Ozark provide all of these services except for single-party service.

2. The ILECs represent, and the other signatory parties do not dispute, that each of the ILECs (the members of the Mid-Mo and STCG) are incapable at the present time of providing the ninth required service, toll limitation for qualifying low-income customers, as that service is defined by the FCC in that none of the ILECs have the technical ability to provide the toll control portion of the FCC's definition of toll limitation. Accordingly, in order for the Applicants to provide toll control if the FCC maintains this requirement, there will have to be extensive revisions to telephone company billing systems and totally new information exchanges established with other carriers to provide the capability required by the FCC. The parties agree that exceptional circumstances prevent the ILECs from providing this service at the present time and that the Commission should grant the companies additional time to provide this service pursuant to 47 CFR 54.101(c). The parties agree that the ILECs will either provide toll control (and thereby fully provide toll limitation) on or before December 31, 1999, or by November 1, 1999, will file with the Commission and serve on the parties hereto another request for additional time accompanied by a report regarding the current status of the technology. In addition, the ILECs will provide a report regarding the current status of the

technology for toll control and a report regarding the progress being made toward its implementation on or before December 31, 1998, to the Commission and the parties to this case.

3. Additionally, the parties agree that exceptional circumstances prevent KLM from providing single-party service to approximately 260 of its customers. KLM and the Commission Staff have agreed on a Modernization Plan whereby KLM and the Commission Staff have agreed that the company will use its own employees to complete the upgrades in order to avoid having to incur an additional financial burden which might increase rates for local service. KLM should be granted additional time up to December 31, 1998, to provide single-party service to all of its customers pursuant to 47 CFR 54.101(c).

4. The parties also agree that exceptional circumstances prevent Ozark from providing single party service to approximately 204 customers. Ozark has been granted an extension of time to complete its Modernization Plan by the Commission up to December 31, 1998, based on its representations to the Commission that it was unable to obtain financing to complete the upgrades. Ozark should be granted additional time up to December 31, 1998, to provide single-party service to all of its customers pursuant to 47 CFR 54.101(c).

5. The parties also agree that exceptional circumstances prevent Cass County from providing single-party service to approximately 747 customers. Cass County has filed a request with the Commission for an extension of time to complete its modernization based on its representation to the Commission that it has not received the universal service funding it was relying on to complete these upgrades. Cass County should be granted additional time up to December 31, 1998, to provide single-party service to all of its customers pursuant to 47 CFR 54.101(c).

6. The parties agree that all of the ILECs qualify for designation as "eligible telecommunications carriers" under the provisions of 47 CFR 54.201(d), in that throughout their respective exchanges or service areas, each of them, with the few exceptions noted above, offer the services to be supported by federal universal service support using their own facilities. In addition, the ILECs advertise the availability of such services using directories, public record tariffs, newsletters and bill stuffers. The ILECs further commit to comply with any additional advertising in media of general distribution that the Commission deems appropriate to meet the requirements of 47 CFR 54.201(d)(2) to the extent the ILECs wish to remain designated an "eligible telecommunications carrier." The parties recommend that the Commission establish a docket in early 1998 to determine if there should be a rulemaking to establish the requirements of 47 CFR 54.201 (d)(2) for telecommunication companies in which all issues involving these requirements may be addressed. In the interim, the parties agree that the ILECs' current advertising is adequate until such time as the issues are explored more fully in the docket to be established in early 1998.

7. Each of the ILECs agrees that if it does not already have a tariff providing Lifeline services as defined in 47 CFR 54.401 and Link Up services to qualifying low-income customers, it will file a tariff with the Commission to be effective before the end of the year so that such service will be available to qualifying low-income consumers by January 1, 1998. The parties recommend that the Commission issue an order specifically addressing these tariff filings by December 31, 1997. The parties also agree that in the order approving the tariff for each of these companies the Commission should address the issue of authorizing a state reduction of \$1.75 in the local rate in accordance with 47 CFR § 54.503(a).

8. The parties stipulate and agree that the Commission should issue its order to be effective prior to December 31, 1997, designating each of the ILECS of the Mid-Mo and STCG as telecommunications carriers eligible under the provisions of 47 CFR 54.201(d) to receive federal universal service support. In addition, the parties agree that the Commission should grant the requests for additional time for the ILECs set out above. The parties further agree that in its order designating the eligible carriers the Commission should designate the service areas of the various companies and state that the service area is equivalent to the company's "study area" unless and until determined otherwise pursuant to 47 CFR 54.207(b).

Conclusion

9. 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 and Agreement in total, then this Stipulation and Agreement shall be void and no signatory shall be bound by any of the agreements or provisions hereof. This Stipulation and Agreement is specific to the resolution of this proceeding and is made without prejudice to the rights of the signatories to take other positions in other proceedings before this Commission, the FCC, and other regulatory agencies.

10. In the event the Commission accepts the specific terms of this Stipulation and Agreement, the signatory 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 signatory parties agree to cooperate 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 this recommended solution. The signatory parties are not waiving their rights to participate in any hearing scheduled in connection with this Stipulation and Agreement.

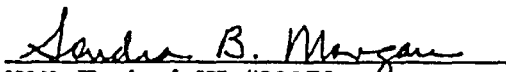
11. If requested by the Commission, the Staff shall have the right to submit to the Commission a memorandum explaining its rationale for entering into this Stipulation and Agreement. Each party of record and participant shall be served with a copy of any memorandum and shall be entitled to submit to the Commission, within five days of the filing of Staff's memorandum a responsive memorandum which shall also be considered privileged in the same manner as settlement discussions under the Commission 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 the Staff. Staff's oral

explanation shall be subject to public disclosure.

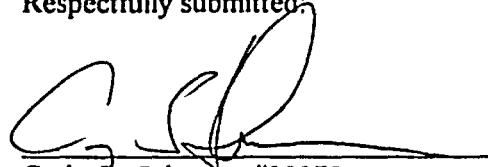
WHEREFORE, the signatories respectfully request the Commission issue its Order effective prior to December 31, 1997, designating each of the ILECs of the Mid-Mo and STCG as telecommunications carriers eligible under the provisions of 47 CFR 54.201(d) to receive federal universal service support; granting the requests for additional time set out above and designating the service areas of the various companies and stating that the service area is equivalent to the company's "study area" unless and until determined otherwise pursuant to 47 CFR 54.207(b).

Respectfully submitted,



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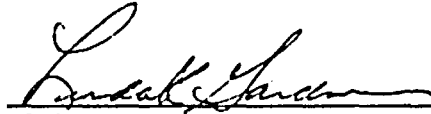


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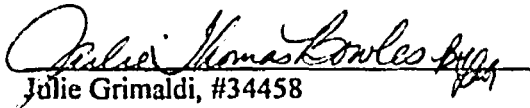
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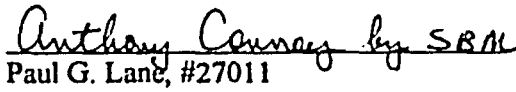
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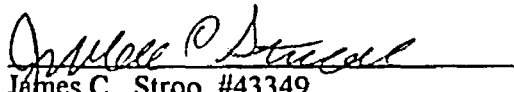
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October 23, 1997

Mr. Cecil Wright
Executive Secretary
Missouri Public Service Commission
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Re: Case No. TO-98-49

Dear Mr. Wright:

Enclosed please find the original plus fourteen (14) copies of Motion for Leave to File Stipulation and Agreement Out-Of-Time, and Stipulation and Agreement for filing in the above referenced matter. Please bring this matter to the attention of the appropriate Commission personnel. A copy of this filing is being sent to all parties of record.

Thank you for your attention to this matter.

Very truly yours,

BRYDON, SWEARENGEN & ENGLAND P.C.

By:

Sandra B. Morgan
Sondra B. Morgan

SBM/k

Enclosures

cc: Office of Public Counsel
Parties of Record