

**BEFORE THE PUBLIC SERVICE COMMISSION  
OF THE STATE OF MISSOURI**

Application of Fidelity Communications Services I	)	
for Approval of a Traffic Termination Agreement	)	Case No. _____
under the Telecommunications Act of 1996	)	

**APPLICATION OF FIDELITY COMMUNICATIONS SERVICES I  
FOR APPROVAL OF A TRAFFIC TERMINATION AGREEMENT  
UNDER THE TELECOMMUNICATIONS ACT OF 1996**

COMES NOW Fidelity Communications Services I ("Company") and hereby files this Application for Approval of a Traffic Termination Agreement between Company and United States Cellular Corporation ("US Cellular") under the Telecommunications Act of 1996 ("the Act"). In support of this Application, Company states to the Missouri Public Service Commission ("Commission") as follows:

**I. AGREEMENT REACHED**

Company is a competitive local exchange carrier operating in Missouri. Company is a Missouri corporation in good standing with the Missouri Secretary of State. In Case No. TC-2002-1077, the Company filed a Certificate of Good Standing from the Missouri Secretary of State which the Company requests be incorporated by reference in this case. The Company is not aware of any pending action or final unsatisfied judgments or decisions against it from any state or federal agency or court which involve customer service or rates. The Company's annual report and assessment fees are not overdue. This information is still current and correct, as evidenced by the notarized affidavit of Mr. Dave Beier (Attachment I).

US Cellular is a commercial mobile radio service carrier operating in Missouri.

On November 21, 2005, after good faith negotiations, the Company and US Cellular executed a Traffic Termination Agreement (“the Agreement”) for the state of Missouri pursuant to the terms of the Federal Act (see Agreement, Attachment II). Pursuant to the Act, the Company hereby submits this Agreement for approval by the Commission. The Agreement complies fully with Section 252(e) of the Federal Act because the Agreement is consistent with the public interest, convenience and necessity and does not discriminate against any telecommunications carrier. The Agreement consists of twenty-eight (28) pages that include three (3) Appendices. There are no outstanding issues between the Company and US Cellular that need the assistance of mediation or arbitration.

## **II. REQUEST FOR APPROVAL**

The Company seeks the Commission’s approval of the Agreement, consistent with the provisions of the Federal Act and Missouri law. The Company represents that the implementation of this negotiated and executed Agreement complies fully with both Missouri law and Section 252(e) of the Federal Act because the Agreement is consistent with the public interest, convenience and necessity and does not discriminate against any telecommunications carrier. The Company respectfully requests that the Commission grant expeditious approval of this Agreement, without change, suspension or delay in its implementation. This is a bilateral agreement, reached as a result of negotiations and compromise between the parties. Correspondence, orders and decisions in this matter should be addressed to:

Brian T. McCartney  
Brydon, Swearingen & England P.C.  
P.O. Box 456  
Jefferson City, MO 65102-0456  
[bmccartney@brydonlaw.com](mailto:bmccartney@brydonlaw.com)

G. Darryl Reed  
Sidley, Austin, Brown & Wood LLP  
Bank One Plaza  
10 South Dearborn Street  
Chicago, Illinois 60603  
[Greed@Sidley.com](mailto:Greed@Sidley.com)

### **III. COMMISSION AUTHORITY**

Under the Federal Telecommunications Act of 1996 (“the Act”), the Commission has the authority to grant the relief requested by the Company. Specifically, Section 252(a) of the Act provides:

#### **(a) AGREEMENTS ARRIVED AT THROUGH NEGOTIATION**

- (1) **VOLUNTARY NEGOTIATIONS.** -- Upon receiving a request for interconnection, services, or network elements pursuant to section 251, an incumbent local exchange carrier may negotiate and enter into a binding agreement with the requesting telecommunications carrier or carriers without regard to the standards set forth in subsections (b) and (c) of section 251. The agreement shall include a detailed schedule of itemized charges for interconnection and each service or network element included in the agreement. The agreement, including any interconnection agreement negotiated before the date of enactment of the Telecommunications Act of 1996, shall be submitted to the State commission under subsection (e) of this section.

#### **IV. STANDARD OF REVIEW**

Under Section 252 of the Act, the Commission has the authority to approve an agreement negotiated between a local exchange company (LEC) and other telecommunications carriers. The Commission may only reject an agreement if the agreement is discriminatory to a nonparty or is inconsistent with the public interest, convenience, and necessity. Section 252(e)(2) of the Act provides as follows:

**GROUND FOR REJECTION.--** The State Commission may only reject --

- (A) an agreement (or any portion thereof) adopted by negotiation under subsection (a) if it finds that --
  - (i) the agreement (or portion thereof) discriminates against a telecommunications carrier not a party to the agreement; or
  - (ii) the implementation of such agreement or portion is not consistent with the public interest, convenience, and necessity;

The affidavit of Mr. Dave Beier, VP - Regulatory of Fidelity Communications Services I establishes that the Agreement satisfies these standards. (Affidavit, Attachment I)

#### **V. CONCLUSION**

WHEREFORE, the Company respectfully requests the Commission to issue an Order that: (1) approves expeditiously the Agreement between the Company and US Cellular, and (2) grants such other relief as is reasonable in the circumstances.

Respectfully submitted,

By /s/ Brian T. McCartney

W.R. England, III Mo. #23975

Brian T. McCartney Mo. #47788

BRYDON, SWEARENGEN & ENGLAND P.C.

312 East Capitol Avenue, P.O. Box 456

Jefferson City, MO 65102-0456

[trip@brydonlaw.com](mailto:trip@brydonlaw.com)

[bmccartney@brydonlaw.com](mailto:bmccartney@brydonlaw.com)

(573) 635-7166

(573) 634-7431 (FAX)

Attorneys for the Company

#### CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the above and foregoing document this 6th day of December, 2005, to the following parties:

General Counsel  
Missouri Public Service Commission  
P.O. Box 360  
Jefferson City, Missouri 65102

Michael F. Dandino  
Office of the Public Counsel  
P.O. Box 7800  
Jefferson City, Missouri 65102

G. Darryl Reed  
Sidley, Austin, Brown & Wood LLP  
Bank One Plaza  
10 South Dearborn Street  
Chicago, Illinois 60603  
[Greed@Sidley.com](mailto:Greed@Sidley.com)

/s/ Brian T. McCartney

Brian T. McCartney