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August 20, 2003

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Secretary of the PSC
Missouri Public Service Commission
P.O. Box 360
Jefferson City, MO 65102

FILED³
AUG 20 2003

Re: Case No. LM-2004-0063

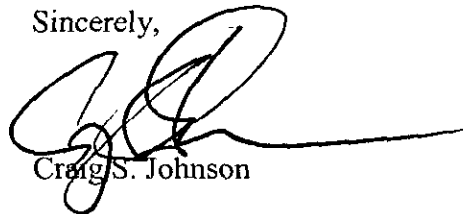
Missouri Public
Service Commission

Dear Secretary:

Enclosed please find an original and three copies of Applicant's Concurrence with Staff's Motion to Dismiss and Request for a Ruling. Applicant files this Request as soon as possible after receiving Staff's Motion to Dismiss, in order to shorten the time in which the Commission has to consider Staff's Motion. No other party has intervened in this proceeding.

A copy of this letter and a copy of the enclosed Concurrence and Request for Ruling has been served upon Michael Dandino, and Cliff Snodgrass, the only attorneys of record besides myself in this proceeding. Thank you for seeing it filed.

Sincerely,



Craig S. Johnson

CSJ:sw

Encl.

Cc: Michael Dandino, Office of Public Counsel
Cliff Snodgrass

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BEFORE THE PUBLIC SERVICE COMMISSION

FILED³

STATE OF MISSOURI

AUG 20 2003

Missouri Public Service Commission

In the Matter of the Joint Applications)
Of Utilicorp Communications Services)
Inc., D2R2, Inc., and ExOp of Missouri)
Inc for Authority and Approval of the)
Acquisition by D2R2 Inc. of all of the)
Outstanding Stock of ExOp of Missouri)
Inc. and the creation of a lien on)
a certain asset of Ex Op of Missouri Inc.)

Case No. LM-2004-0063

APPLICANT'S CONCURRENCE WITH STAFF MOTION TO DISMISS
and
REQUEST FOR RULING

Comes now Applicant D2R2, and upon receipt and review of Staff's August 18, 2003 Motion to Dismiss Application, and concurs in same. Further, consistent with Applicant's Motion for Expedited Treatment, Applicant respectfully requests that the Commission enter its ruling or order regarding Staff's Motion to Dismiss as soon as possible. In Support of this Concurrence and Request, Applicant states as follows:

1. Applicant filed its July 24, 2003 Application in order to be assured it was in complete compliance with all laws requiring approval of its purchase of the stock of ExOp of Missouri, Inc. As stated in the Application, Applicant desired an order approving it as the new owner of ExOp, or alternatively an order finding that the Commission lacked jurisdiction to approve the application, or that the sole statute conferring such jurisdiction had previously been waived.

2. Applicant had engaged in substantially the same evaluation of applicable statutes, and the prior waiver of applicability of Section 392.300.2 RSMo, as is contained

in Staff's Motion to Dismiss. The statutes are not a model of clarity in these regards. Applicant believes the waiver of Section 392.300.2 RSMo, customary for CLECs, is appropriate for CLECs. CLECs are competitive companies. In the event they fail, their customers will "snap back" to the ILEC. The public interest in requiring Commission approval for change in ownership of ILECs does not exist regarding the change of ownership in CLECs.

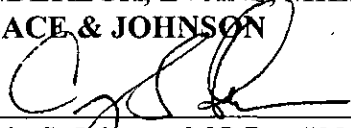
3. D2R2 is a newly formed Missouri corporation, formed for the purpose of acquiring all of the stock of ExOp from its current owner, and thereafter continuing to own all of the stock of ExOp. D2R2 hereby confirms, referencing paragraph 2 of Staff's Motion, that D2R2 is not now providing telecommunications service in the state of Missouri. If permitted to acquire the stock of ExOp, D2R2 will then not be providing telecommunications service. It will then own ExOp, and ExOp will continue to provide telecommunications service. D2R2 is and will not be a telecommunications company.

4. D2R2 respectfully requests that the Commission consider its Order granting Staff's Motion to Dismiss, or any alternative Order the Commission determines is proper, as soon as possible.

5. If the Commission rejects the basis of Staff's Motion to Dismiss, and continues to assert jurisdiction, Applicant then requests an Order approving the Application as soon as possible. In that event, Applicant requests an Order approving the Application in the time frame requested in Applicants' Motion for Expedited Treatment, as adopted by the Commission's August 4 Order. No party has intervened, opposed the Application, or requested a hearing, and an Order Approving the acquisition would be appropriate.

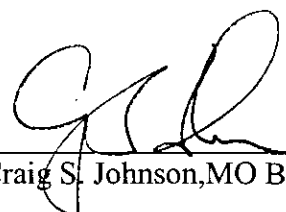
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By: _____


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CERTIFICATE OF SERVICE

The undersigned does hereby certify that a true and accurate copy of the foregoing was mailed, via U.S. Mail, postage prepaid, this 20 day of August, 2003, to Staff Counsel Cliff Snodgrass, and to Office of Public Counsel Michael Dandino.



Craig S. Johnson, MO Bar #28179