

BEFORE THE PUBLIC SERVICE COMMISSION
STATE OF MISSOURI

In the Matter of the Application)
)
of 2ND CENTURY COMMUNICATIONS INC.)
)
for a Certificate of Service Authority to Provide)
Competitive Resold Intrastate Interexchange)
Telecommunications Services)
and Non-Switched Basic Telecommunications)
Services within the State of Missouri.)

FILED³
NOV - 9 1999
Missouri Public
Service Commission

Case No. TA 2000-324

MOTION FOR PROTECTIVE ORDER

INTRODUCTION

2nd Century Communications, Inc. ("2nd Century" or "Movant"), by its attorneys and pursuant to MO. CODE REGS. ANN. tit. 4 § 240-2.085 hereby files this Motion for a Protective Order ("Motion") in the above-captioned proceedings. 2nd Century submits this Motion for the purpose of seeking the confidential treatment of certain commercially-sensitive financial information which is filed together with this Motion under confidential seal and which is further referred to as *Exhibit E* to its Application for a Certificate of Service Authority to Provide Basic Local Telecommunications Services in the State of Missouri and to Classify Such Services and the Company As Competitive ("Local Exchange Application") and is incorporated by reference as *Exhibit E* in the instant Application for a Certificate of Service Authority to Provide Competitive

Resold Intrastate Interexchange Telecommunications Services and Non-Switched Basic Telecommunications Services within the State of Missouri ("Interexchange Application").

In support of this Motion, 2nd Century states the following:

I. DESCRIPTION OF CONFIDENTIAL INFORMATION

1. MO. REV. STAT. § 392.455(1) requires the Missouri Public Service Commission ("Commission") to grant certificates to new entrants to provide basic telecommunications service on a common carrier basis provided that such applicants demonstrate that they possess sufficient financial resources and abilities to provide the telecommunications services requested in their applications. In conformity with the statute, 2nd Century is prepared to offer a copy of the Company's audited financial statements, which consist of a balance sheet, a cash flow statement, and an income statement, in support of its applications. These documents are specifically referred to as *Exhibit E* to the Local Exchange Application.

II. GROUND FOR CLAIM OF PROTECTIVE TREATMENT

4. 2nd Century seeks to protect the information contained in *Exhibit E* because its financial statements contain highly-confidential and strictly-proprietary information, the public disclosure of which potentially may result in direct and immediate harm to the competitive position of 2nd Century in Missouri and elsewhere.

5. Because the Company's financial statements contain confidential and commercially-sensitive information from which its competitors may derive economic value, 2nd Century actively seeks to protect such material from public disclosure. 2nd Century derives independent economic value from the fact that significant, detailed and proprietary information regarding the Company's financial structure and current financing activities is unknown to its competitors. Given this fact,

the disclosure of this information could provide existing and potential competitors, including competitive local exchange carriers ("CLECs"), incumbent local exchange carriers ("ILECs"), independent local exchange carriers, and interexchange carriers ("IXCs") in Missouri, as well as in other states in which 2nd Century provides or intends to provide telecommunication services, with an unfair and undeserved competitive advantage over 2nd Century and its affiliates.

6. 2nd Century is a privately-held corporation presently immune from a legal obligation to prepare or submit financial statements to any public entity. As such, the financial statements set forth in the *Exhibit E* to 2nd Century's Applications are not readily ascertainable by persons external to the Company, and none of the information for which this claim of confidentiality is made may be found in any format in any other public document.

III. PERIOD OF NONDISCLOSURE

7. 2nd Century requests that the material contained in *Exhibit E* to 2nd Century's Applications be held confidential for a minimum of three (3) years.

CONCLUSION

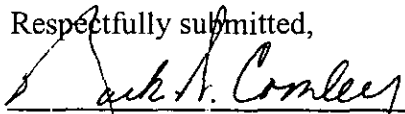
8. The information for which confidential treatment is sought in this Motion is both private and competitively-sensitive. The direct harm that could be caused to 2nd Century as a result of any such disclosure is real and not speculative. Moreover, to date, no other jurisdiction or governmental agency has required 2nd Century to make its financial statements available to the public. For all of these reasons, 2nd Century's financial statements should be protected from public disclosure.

WHEREFORE, 2nd Century Communications, Inc. respectfully requests that the Commission grant its Motion for Protective Order with respect to *Exhibit E* of its Application for a Certificate

of Service Authority to Provide Basic Local Telecommunications Services in the State of Missouri and to Classify Such Services and the Company As Competitive, and with respect to *Exhibit E* as incorporated into its Application for a Certificate of Service Authority to Provide Competitive Resold Intrastate Interexchange Telecommunications Services and Non-Switched Basic Telecommunications Services within the State of Missouri.

Respectfully submitted,

By:


Mark W. Comley, #28847
NEWMAN, COMLEY & RUTH P.C.
601 Monroe, Suite 301
P.O. Box 537
Jefferson City, MO
Telephone: (573) 634-2266
Facsimile: (573) 636-306

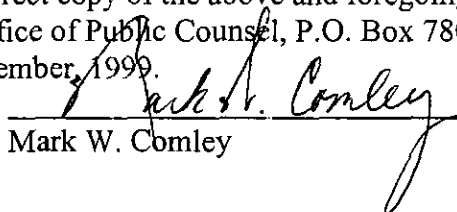
Jonathan E. Canis
Erin R. Swansiger
KELLEY DRYE & WARREN LLP
1200 19th Street, N.W., Suite 500
Washington, D.C. 20036
(202) 955-9600 telephone
(202) 955-9792 fax

Attorneys for 2ND CENTURY COMMUNICATIONS,
INC.

November 10, 1999

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the above and foregoing document was sent by U.S. Mail, postage prepaid, to Office of Public Counsel, P.O. Box 7800, Jefferson City, MO 65102-7800, on this 10th day of November, 1999.


Mark W. Comley