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August 22, 2000

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FILED³

AUG 22 2000

Missouri Public
Service Commission

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-2000-598

Dear Mr. Roberts:

Enclosed for filing in the above-captioned case are an original and eight (8) conformed copies of the **SUGGESTIONS IN SUPPORT OF THE UNANIMOUS 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,

Nathan Williams
Assistant General Counsel
(573) 751-8702
(573) 751-9285 (Fax)

NW/lb
Enclosure
cc: Counsel of Record

BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI

FILED³

AUG 22 2000

Missouri Public
Service Commission

In the Matter of the Application of
Universal Telecom, Inc., for A Certificate
of Service Authority to Provide Prepaid
Basic Local Telecommunications Services
in the State of Missouri and to Classify
Said Services and the Company As
Competitive

Case No. TA-2000-598

SUGGESTIONS IN SUPPORT OF
THE UNANIMOUS STIPULATION AND AGREEMENT

Comes now the Staff of the Missouri Public Service Commission ("Staff") and in support of the Unanimous Stipulation and Agreement filed in this matter states as follows:

BASIC LOCAL EXCHANGE TELECOMMUNICATIONS SERVICES

1. Universal Telecom, Inc. (Applicant) agreed in the Unanimous Stipulation and Agreement, paragraph 3, that any service authority it receives shall be conditional and not exercised until tariff(s) for services have become effective. The Applicant also agreed 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 Unanimous Stipulation and Agreement requires that the Applicant: a) file a complete application, including such undertakings as the Parties have deemed essential; b) enter into interconnection and/or resale agreements and file

¹The 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.

them for approval; and c) file tariffs for approval. The Staff believes this three-step process provides the necessary protections without unduly burdening or delaying certification.

3. The Unanimous Stipulation and Agreement provides, in paragraph 2, that the Applicant will adhere to the same quality of service and billing standards as those to which the incumbent LECs must adhere.

4. The Applicant agrees, in paragraph 2 of the Unanimous Stipulation and Agreement, that it will provide equitable access, as determined by the Commission, to all Missourians. The 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, the 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 Unanimous Stipulation and Agreement.³

5. The Unanimous Stipulation and Agreement was specifically designed to address the five (5) criteria set out in § 392.455, RSMo. Supp. 1999, that the Commission must address in the process of certificating new basic local telecommunications service providers.

The Applicant possesses sufficient technical, financial and managerial resources and abilities to provide basic local telecommunications service. In Exhibit C to its Application, as amended, the Applicant has demonstrated its technical and managerial resources and abilities. In Exhibit D to its Application, as amended, the Applicant has demonstrated its financial resources and abilities.

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

²§ 392.455, RSMo. Supp. 1999.

³As 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.

The 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. The Staff has concluded that the geographic area in which the Applicant proposes to offer service follows exchange boundaries and is not smaller than an exchange.

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

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

6. The Commission may classify a telecommunications provider or its services as competitive if the Commission determines it is subject to sufficient competition to justify a lesser degree of regulation. (See §392.361.2 RSMo. 1994). All the services a competitive company provides must be classified as competitive. (See §392.361.3 RSMo. 1994). As indicated in paragraph 8 of the Unanimous Stipulation and Agreement, no Party disputes 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 large incumbent LEC(s) in whose service territory(ies) the Applicant seeks authority to provide service. This access rate cap is discussed and stipulated to in paragraph 2. 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 §§ 392.500 and .510, RSMo. Instead, any increases in access rates above the cap shall be made pursuant to §§ 392.220 and 230, RSMo. Such a mechanism is permissible because §§ 392.361.5 and .6, RSMo., authorize the Commission to impose conditions and competitive classification rate changes that are reasonably necessary to protect the public interest.

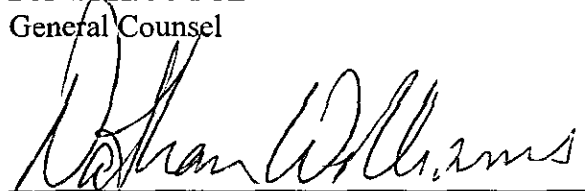
7. The Commission may waive the application of its rules and certain statutes if the Commission determines that waiver is consistent with the purposes of Chapter 392 RSMo. (See §§ 392.361.3 and 392.420 RSMo. 1994 and § 392.185 RSMo. Supp. 1999). The waivers requested the Application are waivers that have previously been granted to competitive local exchange carriers. The Unanimous Stipulation and Agreement includes all the waivers listed in the Application except §392.240.1, RSMo. 1994. Section 392.240.1, RSMo. 1994, was omitted from the list of waivers set forth in the Unanimous Stipulation and Agreement at the insistence of intervenor Southwestern Bell Telephone Company (SWBT). The Staff did not require this omission of §392.240.1, RSMo. 1994, from the waivers listed in the Unanimous Stipulation and Agreement and executed the Unanimous Stipulation and Agreement because the Staff did not want to impede the Applicant from receiving a certificate of service authority where the Applicant was willing to delete, at the requirement of intervenor SWBT, §392.240.1, RSMo., from the waivers it requested. Subsequent to executing this agreement, the Staff has received a copy of the Order Granting Certificate of Service Authority to Provide Basic Local and Local Exchange Telecommunications Services the Commission issued in In the Matter of the Application of Phone Bank, Inc., d/b/a Phone Banc. Inc., Case No. TA-2000-701 (Missouri Public Service Commission August 16, 2000), wherein the Commission, despite intervenor

Southwestern Bell Telephone Company's requirement that §392.240.1, RSMo. 1994, not be included in the waivers listed in the stipulation and agreement entered into in that case, included §392.240.1, RSMo. 1994, in the waivers granted to the applicant.

For all of the foregoing reasons, the Staff believes the Unanimous 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 Universal Telecom, Inc. for 1) a certificate of authority to provide basic local telecommunications services in those exchanges listed in its application; 2) to classify all the foregoing services and the company as competitive; and 3) to grant the waivers from statutes and Commission Rules requested in the Application.

Respectfully submitted,

DANA K. JOYCE
General Counsel

A handwritten signature in black ink, appearing to read "Nathan Williams", is written over a horizontal line.

Nathan Williams
Assistant General Counsel
Missouri Bar No. 35512

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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 attached service list this 22nd day of August, 2000.

Nathan Williams

Service List for
Case No. TA-2000-598
August 22, 2000

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