

**STATE OF MISSOURI  
PUBLIC SERVICE COMMISSION  
JEFFERSON CITY  
October 11, 2000**

**CASE NO: TA-2000-598**

**Office of the Public Counsel**  
P.O. Box 7800  
Jefferson City, MO 65102

**Christopher C. Swenson**  
Lewis, Rice & Fingersh, L.C.  
500 North Broadway, Suite 2000  
St. Louis, MO 63102-2147

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

**Mimi B. MacDonald**  
Southwestern Bell Telephone Company  
One Bell Center, Room 3510  
St. Louis, MO 63101

**Enclosed find certified copy of an ORDER in the above-numbered case(s).**

Sincerely,

A handwritten signature in black ink, appearing to read "Dale Hardy Roberts". The signature is written in a cursive, somewhat stylized script.

**Dale Hardy Roberts  
Secretary/Chief Regulatory Law Judge**

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

In the Matter of the Application of Universal    )  
Telecom, Inc., for a Certificate of Service    )  
Authority to Provide Prepaid Basic Local        ) Case No. TA-2000-598  
Telecommunications Services in the State of    )  
Missouri and to Classify Said Services and the )  
Company as Competitive.                            )

**ORDER GRANTING CERTIFICATE TO PROVIDE BASIC LOCAL**  
**AND INTEREXCHANGE TELECOMMUNICATIONS SERVICES**

**Procedural History**

Universal Telecom, Inc. (Universal), applied to the Missouri Public Service Commission on March 24, 2000, for a certificate of service authority to provide prepaid basic local telecommunications services in Missouri under Sections 392.420 - .440, RSMo 1994<sup>1</sup>, and Sections 392.410 and .450, RSMo Supp. 1999. On May 1, 2000, Universal filed an amended application. Universal asked the Commission to classify it as a competitive company and waive certain statutes and rules as authorized by Sections 392.361 and 392.420. Universal is a Kentucky corporation with principal offices located at 105 East Adams Street, Building II, Suite 200, LaGrange, Kentucky 40031.

The Commission issued a notice and schedule of applicants on April 18, 2000, directing interested parties wishing to intervene to do so by May 18, 2000. On May 3, 2000, Southwestern Bell Telephone Company (SWBT) filed an application to intervene which was granted on May 26, 2000.

---

<sup>1</sup> All statutory references are to Revised Statutes of Missouri 1994 unless otherwise indicated.

On June 12, 2000, Universal supplemented its application by providing revised and additional financial information to the Commission.

The parties filed a Stipulation and Agreement (Agreement), which is included with this order as Attachment 1, on August 15, 2000. The Staff of the Commission (Staff) filed Suggestions in Support of the Stipulation and Agreement on August 22, 2000.

Staff noted in the suggestions that the waivers presented in the agreement include the waivers listed in the Notice of Applications except that Section 392.240(1), RSMo 1994, was omitted at SWBT's request. On September 18, 2000, the Commission issued its Order and Notice Regarding Commission's Consideration of Stipulation and Agreement and Providing Time to Respond which notified the parties that Section 391.240(1), RSMo 1994, would be included in the waivers granted to Universal and provided the parties ten days to file objections, withdraw from the stipulation or request a hearing. No one filed an objection or requested withdrawal from the stipulation or requested a hearing.

In the Agreement, the parties waive their rights to present testimony, cross-examine witnesses, present oral argument or briefs, and to seek rehearing or judicial review. The requirement for a hearing is met when the opportunity for hearing has been provided and no proper party has requested the opportunity to present evidence. State ex rel. Rex Deffenderfer Enterprises, Inc. v. Public Service Commission, 776 S.W.2d 494, 496 (Mo. App. 1989). Since no one has requested a hearing in this case, the Commission may grant the relief requested based on the application.

### **Discussion**

Universal seeks certification to provide prepaid basic local telecommunications services in portions of Missouri that are currently

served by SWBT, GTE Midwest Incorporated (GTE), and Sprint Missouri, Inc., d/b/a Sprint (Sprint). Universal is not asking for certification in any area that is served by a small incumbent local exchange carrier (ILEC). Universal proposes to provide service in the exchanges currently served by SWBT, GTE and Sprint as listed in those provider's local exchange tariffs. Universal will specifically identify exchanges in its tariffs when the tariffs are filed. Universal is requesting that its services be classified as competitive and that the application of certain statutes and regulatory rules be waived.

#### **A. Requirements of 4 CSR 240-2.060(4)**

Commission Rule 4 CSR 240-2.060(4) requires a foreign corporation applying for certification to provide telecommunications services to include in its application a certificate from the Secretary of State showing that it is authorized to do business in Missouri, a description of the types of service it intends to provide, a description of the exchanges where it will offer service, and a proposed tariff with a 45-day effective date. Universal has provided all the required documentation except for the proposed tariffs. In its Amended Application, Universal requested a temporary waiver of 4 CSR 240-2.060(4)(H) until the intervention period in this case closed. In the stipulation and agreement, the parties have requested that the requirement to file a tariff be waived on the basis that Universal has not yet obtained resale agreements with SWBT, Sprint or GTE. Universal agreed to submit to the Commission for approval proposed tariffs once it is party to the appropriate interconnection agreement. Universal's certificate will be regarded as conditional until such time as it files and obtains Commission approval of a tariff.

The Agreement provides that Universal will file the tariffs in this case and give notice of the tariff filing to all the parties. Along

with that filing, Universal has agreed to provide a written disclosure of all interconnection agreements it has entered into which affect its Missouri service areas. The Commission has found that holding open the certificate case until a tariff is filed may result in the case being left open without activity for an extended period. Therefore, this case will be closed and, when Universal files the required tariff, it will be assigned a new case number or this case may be reopened. Universal will be directed to provide the notice and disclosures required by the Agreement when it files its proposed tariff.

## **B. Basic Local Service Certification**

Section 392.455, RSMo Supp. 1999, sets out the requirements for granting certificates to provide basic local telecommunications service to new entrants. A new entrant must: (1) possess sufficient technical, financial and managerial resources and abilities to provide basic local telecommunications service; (2) demonstrate that the services it proposes to offer satisfy the minimum standards established by the Commission; (3) set forth the geographic area in which it proposes to offer service and demonstrate that such area follows exchange boundaries of the ILEC and is no smaller than an exchange; and (4) offer basic local telecommunications service as a separate and distinct service. In addition, the Commission must give due consideration to equitable access for all Missourians to affordable telecommunications services, regardless of where they live or their income.

Exhibit C to the application lists the names and qualifications of Universal's management team. Universal submitted as Exhibit D to its application certain financial documentation. As noted, Universal later supplemented this information on June 12, 2000. The parties agree that

Universal possesses sufficient technical, financial and managerial resources and abilities to provide basic local telecommunications service.

Universal has agreed to provide services that will meet the minimum basic local service standards required by the Commission, including quality of service and billing standards. The parties agree that Universal proposes to offer basic local services that satisfy the minimum standards established by the Commission.

Universal wishes to be certificated to offer services in all the exchanges presently served by SWBT, GTE and Sprint as described in their basic local tariffs. The parties agree that Universal has sufficiently identified the geographic area in which it proposes to offer basic local service and that the area follows ILEC exchange boundaries and is no smaller than an exchange.

Universal has agreed to offer basic local telecommunications service as a separate and distinct service and to provide equitable access, as determined by the Commission, for all Missourians within the geographic area in which it will offer basic local services in compliance with Section 392.455(5), RSMo Supp. 1999.

### **C. Competitive Classification**

The Commission may classify a telecommunications provider as a competitive company if the Commission determines it is subject to sufficient competition to justify a lesser degree of regulation. Section 392.361.2. In making that determination, the Commission may consider such factors as market share, financial resources and name recognition, among others. In the Matter of the Investigation for the Purpose of Determining the Classification of the Services Provided by Interexchange Telecommunications Companies Within the State of Missouri, 30 Mo. P.S.C. (N.S.) 16 (1989); In the Matter of Southwestern Bell Telephone Company's

Application for Classification of Certain Services as Transitionally Competitive, 1 Mo. P.S.C.3d 479, 484 (1992). In addition, the commission may classify a telecommunications company as a competitive telecommunications company only upon a finding that all telecommunications services offered by such company are competitive telecommunications services pursuant to Section 392.361.3. The Commission has found that whether a service is competitive is a subject for case-by-case examination and that different criteria may be given greater weight depending upon the service being considered. *Id.* at 487.

The parties have agreed that Universal should be classified as a competitive telecommunications company. The parties agree that Universal's switched exchange access services may be classified as a competitive service, conditioned upon certain limitations on Universal's ability to charge for its access services. Universal has agreed that, unless otherwise ordered by the Commission, its originating and terminating access rates in each exchange will be no greater than the corresponding access rates for the large ILEC within whose service area Universal operates. The parties agree that the grant of service authority and competitive classification to Universal should be expressly conditioned on the continued applicability of Section 392.200, RSMo Supp. 1999, and on the requirement that if any incumbent local exchange company in whose service area Universal is operating decreases its originating and /or terminating access rates, that Universal shall file an appropriate tariff amendment within 30 days to maintain the cap. Universal and the parties further agreed that increases in switched access services rates above the maximum switched access service rates set forth in the agreement must be made pursuant to Sections 392.220, RSMo Supp. 1999, and 392.230, rather than Sections 392.500 and 392.510.

The parties agree or do not object that waiver of the following statutes is appropriate: Sections 392.210.2, 392.270, 392.280, 392.290, 392.300.2, 392.310, 392.320, 392.330, RSMo Supp. 1999, and 392.240(1), 392.340. The parties also agree that application of these Commission rules could be waived: 4 CSR 240-10.020, 4 CSR 240-30.010(2)(C), 4 CSR 240-30.040, 4 CSR 240-33.030, and 4 CSR 240-35.

### **Findings of Fact**

The Missouri Public Service Commission, having considered all of the competent and substantial evidence upon the whole record, makes the following findings of fact:

- A. The Commission finds that competition in the basic local exchange and interexchange telecommunications markets is in the public interest.
- B. The Commission finds that Universal has met the requirements of 4 CSR 240-2.060(4) for applicants for certificates of service authority to provide telecommunications services with the exception of the filing of a tariff with a 45-day effective date.
- C. The Commission finds that Universal has demonstrated good cause to support a temporary waiver of the tariff filing requirement and the waiver shall be granted.
- D. The Commission finds that Universal meets the statutory requirements for provision of basic local telecommunications services and has agreed to abide by those requirements in the future. The Commission determines that granting Universal a certificate of service authority to provide basic local exchange telecommunications services is in the public



interest. Universal's certificate shall become effective when its tariff becomes effective.

- E. The Commission finds that Universal is a competitive company and should be granted waiver of the statutes and rules set out in the ordered paragraph below.
- F. The Commission finds that Universal's certification and competitive status should be expressly conditioned upon the continued applicability of Section 392.200, RSMo Supp. 1999, and on the requirement that any increases in switched access services rates above the maximum switched access service rates set forth in the agreement must be pursuant to Sections 392.220, RSMo Supp. 1999, and 392.230, rather than Sections 392.500 and 392.510.

### **Conclusions of Law**

The Missouri Public Service Commission has reached the following conclusions of law:

The Commission has the authority to grant certificates of service authority to provide telecommunications service within the state of Missouri. Universal has requested certification under Sections 392.420 - .440, and Sections 392.410 and .450, RSMo Supp. 1999, which permit the Commission to grant a certificate of service authority where it is in the public interest. Sections 392.361 and .420 authorize the Commission to modify or suspend the application of its rules and certain statutory provisions for companies classified as competitive or transitionally competitive.

The federal Telecommunications Act of 1996 and Section 392.455, RSMo Supp. 1999, were designed to institute competition in the basic local

exchange and interexchange telecommunications markets in order to benefit all telecommunications consumers. See Section 392.185, RSMo Supp. 1999.

The Commission has the legal authority to accept a Stipulation and Agreement as offered by the parties as a resolution of the issues raised in this case, pursuant to Section 536.060, RSMo Supp. 1999. Based upon the Commission's review of the applicable law and Agreement of the parties, and upon its findings of fact, the Commission concludes that the Agreement should be approved.

**IT IS THEREFORE ORDERED:**

1. That the Stipulation and Agreement of the parties, filed on August 15, 2000, is approved.

2. That Universal Telecom, Inc., is granted a certificate of service authority to provide basic local telecommunications services in the state of Missouri, subject to the conditions of certification set out above and to all applicable statutes and Commission rules except as specified in this order. The certificate of service authority is conditional and shall become effective when the company's tariff becomes effective.

3. That Universal Telecom, Inc., is classified as a competitive telecommunications company. Application of the following statutes and regulatory rules shall be waived:

**Statutes**

392.210.2 - uniform system of accounts  
392.240.1 - rates-rentals-service & physical connections  
392.270 - valuation of property (ratemaking)  
392.280 - depreciation accounts  
392.290 - issuance of securities  
392.300.2 - acquisition of stock  
392.310 - stock and debt issuance  
392.320 - stock dividend payment  
392.340 - reorganization(s)  
392.330, RSMo Supp. 1999 - issuance of securities,  
debts and notes

### Commission Rules

4 CSR 240-10.020	- depreciation fund income
4 CSR 240-30.010(2)(C)	- posting of tariffs
4 CSR 240-30.040	- uniform system of accounts
4 CSR 240-33.030	- minimum charges
4 CSR 240-35	- reporting of bypass and customer-specific arrangements

4. That the certification and competitive status granted to Universal Telecom, Inc., are expressly conditioned upon the continued applicability of Section 392.200, RSMo Supp. 1999, and on the requirement that any increases in switched access service rates above the maximum switched access service rates set forth in the agreement must be pursuant to Sections 392.220, RSMo Supp. 1999, and 392.230, rather than Sections 392.500 and 392.510.

5. That the request for waiver of 4 CSR 240-2.060(4)(H), which requires the filing of a 45-day tariff, is granted.

6. That Universal Telecom, Inc., shall file tariff sheets with a minimum 45-day effective date reflecting the rates, rules, regulations and the services it will offer within 30 days after the effective date of a Commission order approving an interconnection agreement that will allow Universal to provide services. The tariff shall include a listing of the statutes and Commission rules waived above.

7. That Universal Telecom, Inc., shall give notice of the filing of the tariffs described above to all parties or participants in this case. In addition, Universal Telecom, Inc., shall file a written disclosure of all interconnection agreements which affect its Missouri service areas, all portions of Missouri service areas for which it does not have an interconnection agreement, and an explanation of why no interconnection agreement is necessary for those areas.

8. That this order shall become effective on October 21, 2000.

**BY THE COMMISSION**

A handwritten signature in black ink, reading "Dale Hardy Roberts". The signature is written in a cursive, slightly slanted style.

**Dale Hardy Roberts**  
**Secretary/Chief Regulatory Law Judge**

( S E A L )

Keith Thornburg, Regulatory Law Judge,  
by delegation of authority pursuant to  
Section 386.240, RSMo 1994.

Dated at Jefferson City, Missouri,  
on this 11th day of October, 2000.

BEFORE THE  
STATE OF MISSOURI  
PUBLIC SERVICE COMMISSION

**FILED<sup>2</sup>**

AUG 15 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

**UNANIMOUS STIPULATION AND AGREEMENT**

Applicant Universal Telecom, Inc. ("Applicant" or "UTI") initiated this proceeding on or about March 24, 2000, by filing an Application requesting a certificate of service authority to provide basic resold local and basic resold local exchange telecommunications services in those portions of Missouri that are currently served by Southwestern Bell Telephone Company ("SWBT"), Sprint/United Telephone Company ("Sprint"), and GTE Midwest, Incorporated ("GTE").

SWBT filed its Application to Intervene on or about May 3, 2000 and the Missouri Public Service Commission ("Commission") granted SWBT's timely application to intervene on May 26, 2000. No other party has sought or has been granted intervention herein.

**A. Standards and Criteria**

1. For purposes of this Unanimous Stipulation and Agreement, the Parties agree that applications for basic local exchange service authority in exchanges served by "large" local exchange companies (LECs)<sup>1</sup> should be processed in a manner similar to that in which applications for interexchange and local exchange authority currently are handled.

2. In determining whether Applicant's application for certificate of service authority should be granted, the Commission should consider Applicant's technical, financial, and managerial resources and abilities to provide basic local telecommunications service. Applicant

must demonstrate that the basic local services it proposes to offer satisfy the minimum standards established by the Commission, including, but not limited to, Applicant agreeing to file and maintain basic local service tariffs with the Commission in the same manner and form as the Commission requires of incumbent local exchange companies ("ILECs") with which Applicant seeks to compete. Further, Applicant agrees to meet the minimum basic local service standards, including quality of service and billing standards, as the Commission requires of the ILECs with which Applicant seeks to compete. Notwithstanding the provisions of §392.500 R.S.Mo. (1994), as a condition of certification and competitive classification, Applicant agrees that, unless otherwise ordered by the Commission, Applicant's originating and terminating access rates will be no greater than the lowest Commission-approved corresponding access rates in effect for each large ILEC within whose service area(s) Applicant seeks authority to provide service. Additionally, Applicant agrees that if the ILEC, in whose service area the Applicant is operating, decreases its originating and/or terminating access service rates, Applicant shall file an appropriate tariff amendment to reduce its originating and/or terminating access rates within thirty (30) days of the ILEC's reduction of its originating and/or terminating access rates in order to maintain the cap. Further, Applicant agrees to offer basic local telecommunications service as a separate and distinct service and has sufficiently identified the geographic area in which it proposes to offer basic local service. Such area follows exchange boundaries of the ILECs in the same area and is no smaller than an exchange. Finally, Applicant agrees to provide equitable access to affordable telecommunications services, as determined by the Commission for all Missourians within the geographic area in which it proposes to offer basic local service, regardless of residence or income. See §392.455 R.S.Mo. Supp. 1999.

3. Applicant has submitted its Application without tariffs and seeks a temporary waiver of 4 CSR 240-2.060(6)(C). Applicant has not obtained approved Resale

---

<sup>1</sup>Large LECs are defined as LECs that serve 100,000 or more access lines, § 386.020 R.S.Mo. Supp. 1999. In Missouri, the current large LECs are SWBT, Sprint, and GTE.

Agreements with SWBT, Sprint or GTE.<sup>2</sup> Applicant agrees to file its initial tariffs in this certification docket and serve all parties thereto with written notice at the time the initial tariffs are submitted to afford them an opportunity to participate in the tariff approval process. Applicant will provide copies of the tariff immediately to a requesting Party. Any service authority shall be regarded as conditional and shall not be exercised until such time as tariffs for services have become effective. When filing its initial basic local tariff, Applicant also shall file and serve a written disclosure of all resale and/or interconnection agreements which affect its Missouri service areas; all portions of its Missouri service areas for which it does not have a resale and/or interconnection agreement with the ILEC; and an explanation of why such a resale and/or interconnection agreement is unnecessary for such areas.

4. Pursuant to § 392.420 R.S.Mo., Applicant has requested that the Commission waive the application of the following statutory provisions and rules to its basic local telecommunications services, and the Parties agree that the Commission should grant such request provided that § 392.200 R.S.Mo. should continue to apply to all of Applicant's services:

Statutory Provisions

§ 392.210.2  
§ 392.270  
§ 392.280  
§ 392.290  
§ 392.300.2  
§ 392.310  
§ 392.320  
§ 392.330  
§ 392.340

Commission Rules

4 CSR 240-10.020  
4 CSR 240.30.010(2)(C)  
4 CSR 240-30.040  
4 CSR 240-32.030(4)(C)  
4 CSR 240-33.030  
4 CSR 240-35

5. In negotiating the remaining provisions of this Unanimous Stipulation and Agreement, the Parties employed the foregoing standards and criteria, which are intended to meet the requirements of existing law and §§392.450 and 392.455 R.S.Mo. regarding applications for certificates of local exchange service authority to provide or resell basic local telecommunications service.

---

<sup>2</sup> Good cause for failure to file proposed tariffs with the Application must be shown. The lack of an

B. Applicant Certification

6. Applicant has stated in its Application that it seeks authority to provide service in all exchanges currently served by SWBT, Sprint and GTE as listed in the incumbent providers' local exchange tariffs. Applicant hereby agrees that its Application should be deemed amended to include by reference the terms and provisions described in paragraphs 2-5 above.

7. Based upon its verified Application, as amended by this Unanimous Stipulation and Agreement, Applicant asserts, and no party makes a contrary assertion, that there is sufficient evidence from which the Commission can find and conclude that Applicant:

- a. possesses sufficient technical, financial and managerial resources and abilities to provide resold basic local telecommunications service and local exchange telecommunications service, including exchange access service;
- b. proposes and agrees to offer basic local telecommunications services that satisfy the minimum standards established by the Commission;
- c. has sufficiently identified the geographic area in which it proposes offer basic local telecommunications service, and such area follows exchange boundaries of the ILECs in the same areas, and such area is no smaller than an exchange;
- d. will offer basic local telecommunications service as a separate and distinct service;
- e. has agreed to provide equitable access to affordable basic local telecommunications services, as determined by the Commission, for all Missourians within the geographic area in which Applicant proposes to offer basic local service, regardless of where they live or their income; and

---

approved interconnection agreement (47 USC § 252) constitutes "good cause."



f. has sought authority which will serve the public interest.

8. Applicant asserts, and no Party opposes, that Applicant's Application and request for authority to provide basic resold local telecommunications services and local exchange telecommunications services (including exchange access service) should be granted. All services authorized herein should be classified as competitive telecommunications services provided that the requirements of § 392.200 R.S.Mo. continue to apply, and Applicant shall remain classified as a competitive telecommunications company. Applicant asserts, and no Party opposes, that such services will be subject to sufficient competition by the services of the ILECs to justify a lesser degree of regulation of Applicant's services consistent with the protection of ratepayers and the promotion of the public interest. Such classification should become effective upon the tariffs for the services becoming effective. Such authority should be conditional, not to be exercised until such time as tariffs for those services have been filed (together with the written disclosure as stipulated above) and have become effective. The Commission's Order should state the foregoing conditions substantially as follows:

The service authority and service classification herein granted are subject to the requirements of §392.200 R.S.Mo. and are conditional and shall not be exercised until such time as tariffs for services have become effective.

The Parties agree that Applicant's switched access services may be classified as competitive services. The Parties further agree that Applicant's intrastate switched exchange access services are subject to §392.200 R.S.Mo. Unless otherwise determined by the Commission, any increases in intrastate switched access service rates above the maximum switched access service rates as set forth in paragraph 2 herein shall be made pursuant to §§392.220 and 392.230 R.S.Mo. and not §§392.500 and 392.510. Applicant agrees that if the ILEC, in whose service area the Applicant is operating, decreases its originating and/or terminating access service rates, Applicant shall file an appropriate tariff amendment to reduce its originating and/or terminating access rates within thirty (30) days of the ILEC's reductions of its originating and/or terminating access rates in order

to maintain the cap. The Commission's Order should state the foregoing conditions substantially as follows:

The service authority and service classification for switched exchange access granted herein is expressly conditioned on the continued applicability of §392.200 R.S.Mo. and the requirement that any increases in switched access service rates above the maximum switched access service rates set forth herein shall be made pursuant to §§392.220 and 392.230 R.S.Mo. and not §§392.500 and 392.510 R.S.Mo. Further, if the ILEC, in whose service area the Applicant is operating, decreases its originating and/or terminating access service rates, Applicant shall file an appropriate tariff amendment to reduce its originating and/or terminating access rates within thirty (30) days of the ILEC's reductions of its originating and/or terminating access rates in order to maintain the cap.

9. Applicant's request for a temporary waiver of 4 CSR 240-2.060(6)(C), which requires applications to include a proposed tariff with a 45-day effective date, is not opposed by the Parties and should be granted, because at the time of filing its Application Applicant did not have, and still does not yet have, an approved resale or interconnection agreement with any ILEC. Applicant agrees that at such time as all facts necessary for the development of tariffs become known, it will submit the tariff(s) in this docket, with a minimum 45-day proposed effective date, to the Commission for its approval, together with the written disclosure as stipulated above. Applicant shall serve notice to all parties and participants in this docket of the filing of its tariff(s) at the time filed with the Commission and serve the tariff(s) with the aforesaid written disclosure and shall upon request immediately provide any Party with a copy of Applicant's proposed tariff(s). The Commission's order should state these obligations as conditions to the temporary waiver of 4 CSR 240-2.060(6)(C), substantially as follows:

Applicant's request for temporary waiver of 4 CSR 240-2.060(6)(C) is hereby granted for good cause in that Applicant does not yet have an approved resale or interconnection agreement with any of the incumbent local exchange carriers within whose service areas it seeks authority to provide service; provided, when Applicant submits its tariff(s) in this docket to the Commission such tariff(s) shall have a minimum 45-day effective date and the Applicant shall serve written notice upon the Parties hereto of such submittal and shall provide copies of such tariff(s) to such Parties immediately upon request. When filing its initial basic local service tariff in this docket, the Applicant also shall file and serve upon the Parties hereto a written disclosure of all resale or interconnection agreements which affect its Missouri service areas; all portions of its Missouri service areas

for which it does not have a resale or interconnection agreement with the ILEC; and its explanation of why such resale or interconnection agreement is unnecessary for any such areas.

10. Applicant's request for waiver of the application of the following rules and statutory provisions as they relate to the regulation of Applicant's basic local telecommunications services should be granted:

Statutory Provisions

§ 392.210.2  
§ 392.270  
§ 392.280  
§ 392.290  
§ 392.300.2  
§ 392.310  
§ 392.320  
§ 392.330  
§ 392.340

Commission Rules

4 CSR 240-10.020  
4 CSR 240-30.010(2)(C)  
4 CSR 240-30.040  
4 CSR 240-030(4)(C)  
4 CSR 240-33.030  
4 CSR 240-35

11. This Unanimous Stipulation and Agreement has resulted from extensive negotiations among the signatories and the terms thereof are interdependent. In the event the Commission does not adopt this Stipulation in total, this Unanimous Stipulation and Agreement shall be void, and no signatory shall be bound by any of the agreements or provisions hereof. The stipulations herein are specific to the resolution of this proceeding and are made without prejudice to the rights of the signatories to take other positions in other proceedings.

12. In the event the Commission accepts the specific terms of this Unanimous Stipulation and Agreement, the Parties and participants waive with respect to the issues resolved herein, their respective rights pursuant to §§536.070(2) and 536.080.1 R.S.Mo. 1994 to present testimony, to cross-examine witnesses, to present oral argument or written briefs, their respective rights to the reading of the transcript by the Commission pursuant to §536.080.2 R.S.Mo. 1994, and their respective rights to seek rehearing pursuant to §386.500 R.S.Mo. 1994 and their respective rights to seek judicial review pursuant to §386.510 R.S.Mo. 1994. The Parties agree to cooperate with Applicant and with each other in presenting this Unanimous Stipulation and

Agreement for approval to the Commission and shall take no action, direct or indirect, in opposition to the request for approval of the Applicant Application made herein.

13. The Staff shall file suggestions or a memorandum in support of this Unanimous Stipulation and Agreement and the other parties shall have the right to file responsive suggestions or prepared testimony. All responsive suggestions, prepared testimony, or memoranda shall be subject to the terms of any Protective Order that may be entered in this case.

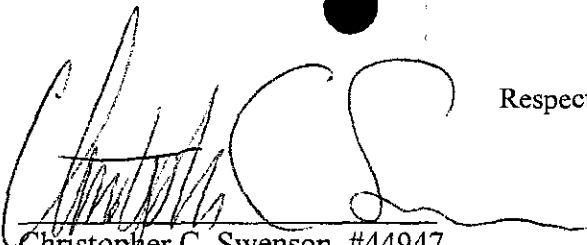
14. The Staff also shall have the right to provide, at any agenda meeting at which this Unanimous Stipulation and Agreement is noticed to be considered by the Commission, whatever oral explanation the Commission requests; provided that Staff shall provide, to the extent reasonably practicable, the other 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, except to the extent that it refers to matters that are privileged or protected by disclosure pursuant to any protective order that may be issued in this case.

15. The Office of the Public Counsel is a signatory to this Unanimous Stipulation and Agreement for the sole purpose of stating that it has no objection to this Unanimous Stipulation and Agreement.

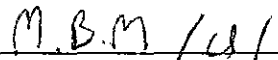
16. Finally, Applicant will comply with all applicable Commission rules and regulations, except those which specifically are waived by the Commission.


WHEREFORE, the signatories respectfully request the Commission to issue its Order approving the terms of this Unanimous Stipulation and Agreement and issue its Order granting authority and classification as requested by Applicant subject to the conditions described above, at its earliest convenience.


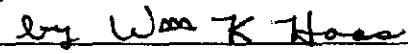
Respectfully submitted,

  
Christopher C. Swenson, #44947  
Thomas P. Berra, Jr., #43399  
**LEWIS, RICE & FINGERSH, L.C.**  
500 North Broadway, Suite 2000  
St. Louis, Missouri 63102-2147  
(314) 444-7600  
(314) 241-6056 (facsimile)  
cswenson@lewisrice.com

**COUNSEL TO APPLICANT  
UNIVERSAL TELECOM, INC.**

  
Paul G. Lane, #27011  
Leo J. Bub, #34326  
Anthony K. Conroy, #35199  
Mimi B. MacDonald, #37606  
**SOUTHWESTERN BELL  
TELEPHONE COMPANY**  
One Bell Center, Room 3510  
St. Louis, Missouri 63101-  
(314) 235-4094  
(314) 247-0014 (facsimile)  
mm8072@momail.sbc.com

  
Michael F. Dandino, #24590  
Senior Public Counsel  
Office of the Public Counsel  
PO Box 7800  
Jefferson City, Missouri 65102  
mdandino@mail.state.mo.us

  
  
Nathan Williams, #35512  
Assistant General Counsel  
Attorney for the Staff of the  
Missouri Public Service Commission  
PO Box 360  
Jefferson City, Missouri 65102  
(573) 751-8702 (Telephone)  
(573) 751-9285 (Facsimile)  
nwiliam @ mail.state.mo.us

### **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 15<sup>th</sup> day of August 2000.

Wm K Hase

FYI: To Be Issued By Delegate )

AL/Sec'y: Therding / Pope

10-5  
Date Circulated

10-11  
Return by 3:30pm

10am

TA-2000-598  
CASE NO.

10/5  
Lump, Chair

Albert

Drainer, Vice Chair

Can  
Murray, Commissioner

8/5  
Schemenauer, Commissioner

KS  
Simmons, Commissioner

## STATE OF MISSOURI

### OFFICE OF THE PUBLIC SERVICE COMMISSION

I have compared the preceding copy with the original on file in this office and

I do hereby certify the same to be a true copy therefrom and the whole thereof.

WITNESS my hand and seal of the Public Service Commission, at Jefferson City,  
Missouri, this 11<sup>th</sup> day of Oct. 2000.

Dale Hardy Roberts

Dale Hardy Roberts  
Secretary/Chief Regulatory Law Judge

