

**STATE OF MISSOURI
PUBLIC SERVICE COMMISSION
JEFFERSON CITY
September 7, 2000**

CASE NO: TA-2000-736

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

Sincerely,



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 Allied)	
Riser of Missouri, Inc., for a Certificate)	
of Service Authority to Provide Basic Local)	<u>Case No. TA-2000-736</u>
and Interexchange Telecommunications Services)	
Within the State of Missouri.)	

ORDER GRANTING CERTIFICATE TO PROVIDE BASIC LOCAL
AND INTEREXCHANGE TELECOMMUNICATIONS SERVICES

Procedural History

Allied Riser of Missouri, Inc. (Allied), applied to the Missouri Public Service Commission on May 4, 2000, for a certificate of service authority to provide basic local and interexchange telecommunications services in Missouri under Sections 392.420 - .440, RSMo 1994¹, and Sections 392.410 and .450, RSMo Supp. 1999. Allied 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. Allied is a Delaware corporation with principal offices located at 1700 Pacific Avenue, Suite 400, Dallas, Texas 75201.

The Commission issued a notice and schedule of applicants on May 9, 2000, directing interested parties wishing to intervene to do so by June 8, 2000. On May 30, 2000, Southwestern Bell Telephone Company (SWBT) filed an application to intervene which was granted on June 9, 2000. On May 15, 2000, Allied supplemented its application by providing information requested in the Commission's Order Directing Filing issued on May 10, 2000.

¹ All statutory references are to Revised Statutes of Missouri 1994 unless otherwise indicated.

The parties filed a Stipulation and Agreement (Agreement), which is included with this order as Attachment 1, on July 20, 2000. The Staff of the Commission (Staff) filed Suggestions in Support of the Stipulation and Agreement on July 24, 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 August 9, 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 Allied 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

Allied seeks certification to provide basic local and interexchange 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). Allied is not asking for

certification in any area that is served by a small incumbent local exchange carrier (ILEC). Allied proposes to provide service in the exchanges currently served by SWBT, GTE and Sprint as listed in those provider's local exchange tariffs. Allied will specifically identify exchanges in its tariffs when the tariffs are filed. Allied 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. Allied has provided all the required documentation except for the proposed tariffs. Allied requested a temporary waiver of 4 CSR 240-2.060(4) (H) until it has entered into an interconnection agreement with the underlying local exchange carrier and that agreement has been approved by the Commission. Allied agreed to submit to the Commission for approval proposed tariffs once it is party to the appropriate interconnection agreement. The Agreement provides that Allied will file the tariffs in this case and give notice of the tariff filing to all the parties. Along with that filing, Allied 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 Allied files the required tariff, it will be assigned a new case

number or this case may be reopened. Allied 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 B to the application lists the names and qualifications of Allied's management team. Allied submitted as Exhibit C to its application certain financial documentation. The parties agree that Allied possesses sufficient technical, financial and managerial resources and abilities to provide basic local telecommunications service.

Allied 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 Allied proposes to offer basic local services that satisfy the minimum standards established by the Commission.

Allied 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 Allied 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.

Allied 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. Interexchange Certification

The grant of interexchange telecommunications service authority must be in the public interest under Sections 392.430 and 392.440. Allied asserted and Staff concluded that the public interest would be served by granting Allied interexchange telecommunications service authority because doing so will increase the availability and selection of telecommunications services and products to the public and also increase the availability of these services and products on a competitive and affordable basis.

D. 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 Allied should be classified as a competitive telecommunications company. The parties agree that Allied's switched exchange access services may be classified as a competitive service, conditioned upon certain limitations on Allied's ability to charge for its access services. Allied 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 Allied operates. The parties agree that the grant of service authority and competitive classification to Allied should be expressly conditioned on 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 cost-justified 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 Allied 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 Allied 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 the local exchange services and interexchange markets are competitive and that granting Allied certificates of service authority to provide local exchange and interexchange telecommunications services is in the public interest. Allied's certificates shall become effective when its tariffs become effective.
- E. The Commission finds that the interexchange telecommunication services market is competitive and that granting Allied a certificate of service authority to provide interexchange telecommunications services is in the public interest.

Allied's certificate shall become effective when its tariff becomes effective.

- F. The Commission finds that Allied 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 Allied a certificate of service authority to provide basic local exchange telecommunications services is in the public interest. Allied's certificate shall become effective when its tariff becomes effective.
- G. The Commission finds that Allied is a competitive company and should be granted waiver of the statutes and rules set out in the ordered paragraph below.
- H. The Commission finds that Allied'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 cost-justified 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. Allied 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 July 20, 2000, is approved.

2. That Allied Riser of Missouri, Inc., is granted a certificate of service authority to provide interexchange 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 shall become effective when the company's tariff becomes effective.

3. That Allied Riser of Missouri, 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 shall become effective when the company's tariff becomes effective.

4. That Allied Riser of Missouri, 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

5. That the certification and competitive status granted to Allied Riser of Missouri, 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 cost-justified pursuant to Sections 392.220, RSMo Supp. 1999, and 392.230, rather than Sections 392.500 and 392.510.

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

7. That Allied Riser of Missouri, 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 Allied to provide services. The tariff shall include a listing of the statutes and Commission rules waived above.

8. That Allied Riser of Missouri, Inc., shall give notice of the filing of the tariffs described above to all parties or participants in this case. In addition, Allied Riser of Missouri, 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.

9. That this order shall become effective on September 19, 2000.

10. That this case may be closed on September 20, 2000.

BY THE COMMISSION



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 7th day of September, 2000.

FILED²

JUL 20 2000

Missouri Public
Service Commission

BEFORE THE PUBLIC SERVICE COMMISSION
STATE OF MISSOURI

In the Matter of the Application of)
Allied Riser of Missouri, Inc.)
for a Certificate of Service)
Authority to provide Basic Local and)
Interexchange Telecommunications)
Services within the State of Missouri)
Case No. TA-2000-736

UNANIMOUS STIPULATION AND AGREEMENT

Allied Riser of Missouri, Inc. (hereinafter "Allied") initiated this proceeding on May 4, 2000, by filing an Application requesting a certificate of service authority to provide basic local exchange and interexchange telecommunications Services within the State of Missouri currently served by Southwestern Bell Telephone Company ("SWB"), Sprint/United Telephone Company ("Sprint"), and GTE Midwest, Inc. ("GTE"). Southwestern Bell Telephone Company (SWB) applied to intervene in this matter and its application was granted. GTE and Sprint did not seek and have not been granted intervention in this proceeding.

A. STANDARDS AND CRITERIA

1. The parties employed the following standards and criteria, which are intended to meet the requirements of existing law, particularly Sections 392.450 and 392.455, RSMo. Supp. 1999 regarding applications for certificates of local exchange service authority to provide or resell basic local telecommunications service, in negotiating the provisions of this Stipulation and Agreement.

2. For purposes of this Stipulation and Agreement, the parties agree that applications for basic local exchange service

authority in exchanges served by a "large" local exchange company (LEC) ¹ should be processed in a manner similar to that in which applications for interexchange and local exchange authority are currently handled.

3. In determining whether Allied's application for certificate of service authority should be granted, the Commission should consider Allied's technical, financial and managerial resources and abilities to provide basic local telecommunications service. Allied must demonstrate that the basic local services it proposes to offer satisfy the minimum standards established by the Commission, including but not limited to the applicant agreeing to file and maintain basic local service tariff(s) with the Commission in the same manner and form as the Commission requires of incumbent local exchange telecommunications companies with which the applicant seeks to compete. Further, Allied agrees to meet the minimum basic local service standards, including quality of service and billing standards, as the Commission requires of the incumbent local exchange telecommunications companies with which the applicant seeks to compete. Notwithstanding the provisions of Section 392.500 RSMo. Supp. 1999, as a condition of certification and competitive classification, Allied agrees that, unless otherwise ordered by the Commission, the applicant's originating

¹Large LEC's are defined as LECs who serve 100,000 or more access lines. Section 386.020 RSMo. Supp. 1999. In Missouri, the current large LECs are SWB, GTE and Sprint.

and terminating access rates will be no greater than the lowest Commission approved corresponding access rates in effect for each large incumbent LEC within whose service area(s) applicant seeks authority to provide service. Additionally, Allied agrees that if the ILEC, in whose serve area the Applicant is operating, decreases its originating and/or terminating access service rates, Allied 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, Allied agrees to offer basic local telecommunications service as a separate and distinct service and must sufficiently identify the geographic service area in which it proposes to offer basic local telecommunications service. Such area must follow exchange boundaries of the incumbent local exchange telecommunications companies in the same area and must be no smaller than an exchange. Finally, Allied agrees to provide equitable access as determined by the Commission for all Missourians within the geographic area in which it proposes to offer basic local service, regardless of where they live or their income, to affordable telecommunications services. See Section 392.455 RSMo. Supp. 1999

4. Allied has submitted its application without tariffs and seeks a temporary waiver of 4 CSR 240-2.060(6)(C)² Allied agrees

²Good cause for failure to file proposed tariffs with the

to file its initial tariff(s) in the certification docket and serve all parties with written notice at the time the initial tariff(s) are submitted to afford them an opportunity to participate in the tariff approval process. Copies of the tariff(s) will be provided by Allied to such parties immediately upon request. Any service authority granted in this proceeding shall be regarded as conditional and shall not be exercised until such time as tariff(s) for services have become effective. When filing its initial basic local tariff(s) Allied shall also file and serve a written disclosure of all interconnection and/or resale agreements which affect its Missouri service areas, all portions of its Missouri service areas for which it does not have an interconnection agreement with the incumbent local exchange carrier, and its explanation of why such an interconnection and/or resale agreement is unnecessary for such areas.

5. Allied has, pursuant to Section 392.420 RSMo. Supp. 1999 requested that the Commission waive the application of any or all of the following statutory provisions and rules to basic local telecommunications services, and all parties agree that the Commission should grant such request provided that Section 392.200 RSMo. Supp 1999 should continue to apply to all of Allied's services:

application must be shown. The lack of an approved interconnection agreement (47 USC 252) constitutes good cause. At the time of the filing of its application, AFN did not have an approved interconnection agreement.

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 240-32.040 (4) (C)
4 CSR 240-33.030
4 CSR 240-35

6. Allied has, pursuant to Section 392.420 RSMo. Supp. 1999, requested that the Commission waive the application of any or all of the following statutory provisions and rules to interexchange telecommunications services as they relate to the regulation of Allied's new 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 240-33.030
4 CSR 240-35

7. In negotiating the remaining provisions of this Unanimous Stipulation and Agreement, the parties have employed the foregoing standards and criteria, which are intended to meet the requirements of existing law and Sections 392.450 and 392.455, RSMo. Supp 1999, regarding applications for certificates of service authority to provide basic local telecommunications services. Allied hereby agrees that its Application should be deemed further amended as required to include by reference the terms and provisions described in paragraphs 4-6 hereinabove and paragraph 10 below to the extent that its Application might be inconsistent therewith.

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

A. possesses sufficient technical, financial and managerial resources and abilities to provide basic local telecommunications service, including exchange access service:

B. proposes and agrees to offer basic local services that will satisfy the minimum standards established by the Commission;

C. has sufficiently identified the geographic area in which it proposes to offer basic local service and such area follows exchange boundaries of the incumbent local exchange telecommunications companies in the same areas, and such area is no smaller than an exchange;

D. will offer basic local telecommunications services as a separate and distinct service;

E. has agreed to provide equitable access as determined by the Commission for all Missourians within the geographic area in which it proposes to offer basic local service, regardless of where they live or their income, to affordable telecommunications services; and

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

9. Allied asserts and no party opposes, that Allied's Application and request for authority to provide basic local exchange and interexchange telecommunications service as a facility and non-facility based provider and on a resale basis should be granted. All services authorized herein should be classified as competitive telecommunications services, provided that the requirements of Section 392.200 RSMo Supp 1999 continue to apply, and Allied shall remain classified as a competitive telecommunications company. Allied asserts, and no party opposes, that such services will be subject to sufficient competition by the services of the incumbent LECs to justify a lesser degree of regulation of Allied'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 Section 392.200 and are conditional and shall not be exercised until such time as tariffs for services have become effective."

The parties agree that the applicant's switched exchange access services may be classified as competitive services. The parties further agree that the applicant's switched exchange access services are subject to Section 392.200 RSMo. Supp. 1999. 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 3 herein shall be made pursuant to 392.220 and 392.230 and not 392.500 and 392.510 RSMo. Supp 1999. Allied agrees that if the ILEC, in whose service area Allied is operating, decreases its originating and/or terminating access service rates, Allied 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. 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 Section 392.200 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 Sections 392.220 and 392.230 and not Sections 392.500 and 392.510 RSMo. Supp. 1999. Further, if the ILEC, in whose service area Allied is operating, decreases its originating and/or terminating access service rates, Allied 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"

10. Allied'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 the filing of the application, Allied does not yet have an approved resale or interconnection agreement with SWBT, Sprint and GTE. Allied agrees that at such time as all facts necessary for the development of tariffs become known, it will submit tariffs 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. Allied shall serve notice to all parties and participants in this docket of the filing of its tariffs at the time they are filed with the Commission, and serve them with the aforesaid written disclosure and shall upon request immediately provide any party with a copy of those tariffs. The Commission's order should state these obligations as conditions to the 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 did not yet have an approved interconnection agreement with the incumbent local exchange carriers within whose service area it seeks authority to provide service; provided, when applicant submits its tariffs in this docket to the Commission such tariffs shall have a minimum of a 45-day effective date and the applicant shall serve written notice upon the parties hereto of such submittal, and shall provide copies of such tariffs to such parties immediately upon request. When filing its initial basic local tariff in this docket, the applicant shall also file and serve upon the parties hereto 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 an interconnection agreement with the incumbent local exchange carrier; and its

explanation of why such an interconnection agreement is unnecessary for any such areas."

11. Allied's request for waiver of the applications of the following rules and statutory provisions to basic local telecommunications services as they relate to the regulation of Allied's new 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 240-32.040 (4) (C)
4 CSR 240-33.030
4 CSR 240-35
392.210.2

12. Allied's request for waiver of the applications of the following rules and statutory provisions to interexchange telecommunications services as they relate to the regulation of Allied's new 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 240-33.030
4 CSR 240-35

13. This Unanimous Stipulation and Agreement has resulted extensive negotiations among the signatories and the terms hereof are interdependent. In the event the Commission does not adopt this Stipulation in total, then 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.

14. 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 Section 536.080.1, RSMo. Supp. 1999, to present testimony, to cross-examine witnesses, and to present oral argument or written briefs; their respective rights to the reading of the transcript by the Commission pursuant to Section 536.080.2, RSMo. Supp. 1999; and their respective rights to seek rehearing pursuant to Section 386.500 RSMo. Supp. 1999 and to seek judicial review pursuant to Section 386.510, RSMo. Supp. 1999. The

parties agree to cooperate with the 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 Allied application made herein.

15. 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 memorandum shall be subject to the terms of any Protective Order that may be entered in this case.

The Staff shall also 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 the Staff shall, to the extent reasonably practicable, provide 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 it refers to matters that are privileged or protected from disclosure pursuant to any protective order issued in this case.

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

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

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

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 and waiving certain statutes and rules as requested by Allied, subject to the conditions described above, as expeditiously as possible.

Respectfully submitted,

Richard S. Brownlee
Richard S. Brownlee, III
Mo. Bar No. 22422
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(573) 636-8135
(573) 636-5226 (Facsimile)

FOR: Allied Riser of
Missouri, Inc.

Julie Kardin by [Signature] 7/19/00
Missouri Public Service
Commission
State of Missouri
301 West High Street
P.O. Box 360
Jefferson City, MO 65102
(573) 751-8706
(573) 751-9285 (Facsimile)

FOR: Staff of Missouri Public
Service Commission

Anthony Conroy by [Signature]
Paul G. Lane, #27011 7/18/00
Anthony K. Conroy, #35199
Leo J. Bub, #34326
Mimi B. MacDonald, #37606
Southwestern Bell Telephone
Company
One Bell Center, Room 3518
St. Louis, MO 63101-1976
(314) 235-2508
(314) 247-0014 (Facsimile)

FOR: Southwestern Bell Telephone Company

Michael Dandino by [Signature] 7/19/00
Office of Public Counsel
Truman State Office Building
Room 250
P.O. Box 7800
Jefferson City, MO 65102
(573) 751-4857
(573) 751-5562 (Facsimile)

CERTIFICATE OF SERVICE

Comes now Applicant, and states that two copies of this application was hand delivered to the Office of Public Counsel on the 20 day of July, 2000.

Richard S. Brownlee
Richard S. Brownlee, III

FYI: To Be Issued By Delegate ()

Alt/Sec'y: Therrellburg / Hojo

9-5

Date Circulated

9-8

Return by 3 p.m.

10 a.m.

LA-2000-736
CASE NO.

[Signature]
Lumpke, Chair

[Signature]
Drainer, Vice Chair

[Signature]
Murray, Commissioner

[Signature]
Schemenauer, Commissioner

[Signature]
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 7th day of September 2000.

[Signature: Dale Hardy Roberts]

Dale Hardy Roberts
Secretary/Chief Regulatory Law Judge

