

STATE OF MISSOURI
PUBLIC SERVICE COMMISSION
JEFFERSON CITY
October 5, 2000

CASE NO: TA-2000-712

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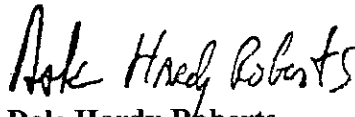
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Enclosed find certified copy of an ORDER in the above-numbered case(s).

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)
Fidelity Communications Services III, Inc.)
for a Certificate of Service Authority to)
Provide Basic Local Telecommunications) Case No. TA-2000-712
Services in Portions of the State of)
Missouri and to Classify Said Services and)
the Company as Competitive)

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

Procedural History

Fidelity Communications Services III, Inc. (FCSIII) applied to the Missouri Public Service Commission (Commission) on May 1, 2000, for a certificate of service authority to provide basic local telecommunications services in Missouri under Sections 392.420 - .440 RSMo 1994¹, and Sections 392.410 and .450, RSMo Supp. 1999. FCSIII 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, RSMo. FCSIII is a Missouri corporation with principal offices located at 60 North Clark, Sullivan, Missouri 63080.

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) timely filed its application to intervene, which the Commission granted on June 8, 2000. No other entity intervened. In the same order that granted

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

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intervention, the Commission also ordered the parties to file a procedural schedule no later than July 10, 2000. The parties filed a Unanimous Stipulation and Agreement (Agreement), which is included with this order as Attachment 1, on July 10, 2000.

The Staff of the Commission (Staff) filed suggestions in support of the Unanimous Stipulation and Agreement on July 17, 2000. In the Agreement, the parties waived 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

FCSIII seeks certification to provide basic local telecommunications services in portions of Missouri that are currently served by SWBT. FCSIII is not asking for certification in any area that is served by a small incumbent local exchange carrier (ILEC). FCSIII is requesting that its basic local services be classified as competitive and that the application of certain statutes and regulatory rules be waived.

A. Requirements of Commission Rule 4 CSR 240-2.060(6)

Commission Rule 4 CSR 240-2.060(4) requires an application for certification to provide telecommunications services to include 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. FCSIII has provided all the required documentation,

except for the proposed tariff. FCSIII requested a temporary waiver of Commission Rule 4 CSR 240-2.060(6)(C) until it has entered into an interconnection agreement with the underlying local exchange carrier and that agreement has been approved by the Commission.

FCSIII agreed to submit to the Commission for approval a proposed tariff with a minimum 45-day effective date once it is party to the appropriate interconnection agreement. The Agreement provides that FCSIII will file the tariff in this case and give notice of the tariff filing to all the parties. Along with that filing FCSIII 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 FCSIII files the required tariff it will be assigned a new case number. FCSIII 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 incumbent local exchange telecommunications company 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.

FCSIII submitted as Exhibit IV to its application certain financial documentation. Exhibit III to the application lists the names and qualifications of FCSIII's management team. The parties agreed that FCSIII possesses sufficient technical, financial and managerial resources and abilities to provide basic local telecommunications service.

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

FCSIII wishes to be certificated to offer services in all the exchanges presently served by SWBT as described in its basic local tariffs.

The parties agreed that FCSIII 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.

FCSIII 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, all the services a competitive company provides must be classified as competitive. 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 FCSIII should be classified as a competitive telecommunications company. The parties have also agreed that FCSIII's switched exchange access services may be classified as a competitive service, conditioned upon certain limitations on FCSIII's ability to charge for its access services. FCSIII has agreed that, unless otherwise ordered by the Commission, its 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 areas FCSIII seeks to provide service. The parties have agreed that the grant of service authority and competitive classification to FCSIII 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 shall be made pursuant to Sections 392.220, RSMo Supp. 1999, and 392.230, rather than Sections 392.500 and 392.510. In addition, the parties agreed that, if the ILEC in whose service area FCSIII is operating decreases its originating and/or terminating access service

rates, FCSIII shall file an appropriate tariff amendment to reduce its originating and/or terminating access rates within 30 days of the ILEC's reduction of its originating and/or terminating access rates in order to maintain the cap.

The parties agreed 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, and 392.340. The parties also agreed 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 240-32.030(4)(C), 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 telecommunications market is in the public interest.
- B. The Commission finds that FCSIII has met the requirements of Commission Rule 4 CSR 240-2.060(6) 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 FCSIII 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 market is competitive and that granting FCSIII a certificate of service authority to provide local exchange telecommunications

services is in the public interest. FCSIII's certificate shall become effective when its tariff becomes effective.

- E. The Commission finds that FCSIII 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 FCSIII a certificate of service authority to provide basic local exchange telecommunications services is in the public interest. FCSIII's certificate shall become effective when its tariff becomes effective.
- F. The Commission finds that FCSIII is a competitive company and should be granted waiver of the statutes and rules set out in the ordered paragraph below.
- G. The Commission finds that FCSIII'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 shall be made pursuant to Sections 392.220, RSMo Supp. 1999, and 392.230, rather than Sections 392.500 and 392.510. In addition, if the ILEC, in whose service area FCSIII is operating decreases its originating and/or terminating access service rates, FCSIII shall file an appropriate tariff amendment to reduce its originating and/or terminating access rates within 30 days of the ILEC's reduction of its originating and/or terminating access rates in order to maintain the cap.

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. FCSIII 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 telecommunications market 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 the Agreement of the parties, and upon its findings of fact, the Commission concludes that the Unanimous Stipulation and Agreement should be approved.

IT IS THEREFORE ORDERED:

1. That the Unanimous Stipulation and Agreement of the parties, filed on July 10, 2000, is approved.
2. That Fidelity Communications Services III, Inc. is granted a certificate of service authority to provide local exchange

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 Fidelity Communications Services III, Inc.'s tariff becomes effective.

3. That Fidelity Communications Services III, 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 FCSIII's tariff becomes effective.

4. That Fidelity Communications Services III, 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 |
| 392.270 | - | 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 240-32.030(4)(C) | - | exchange boundary maps |
| 4 CSR 240-33.030 | - | minimum charges |
| 4 CSR 240-35 | - | reporting of bypass and customer-specific arrangements |

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

6. That Fidelity Communications Services III, 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 FCSIII to provide services. The tariff shall include a listing of the statutes and Commission rules waived above.

7. That Fidelity Communications Services III, Inc. shall give notice of the filing of the tariffs described above to all parties or participants in this case. In addition, Fidelity Communications Services III, 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 Fidelity Communications Services III, Inc.'s certification and competitive status 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 shall be made pursuant to Sections 392.220, RSMo Supp. 1999, and 392.230, rather than Sections 392.500 and 392.510. Further, if the ILEC in whose service area Fidelity Communications Services III, Inc. is operating decreases its originating and/or terminating access service rates, Fidelity Communications Services III, Inc. shall file an appropriate tariff amendment to reduce its originating and/or terminating access rates within 30 days of the ILEC's reduction of its originating and/or terminating access rates in order to maintain the cap.

9. That this order shall become effective on October 15, 2000.

BY THE COMMISSION



Dale Hardy Roberts
Secretary/Chief Regulatory Law Judge

(S E A L)

Shelly A. Register, Regulatory Law
Judge, by delegation of authority
pursuant to Section 386.240, RSMo 1994.

Dated at Jefferson City, Missouri,
on this 5th day of October, 2000.

BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI

FILED²
JUL 1 0 2000

Missouri Public
Service Commission

In the Matter of the Application of)
Fidelity Communication Services III, Inc.)
For a Certificate of Service Authority to)
Provide Basic Local Telecommunications)
Service in Portions of the State of)
Missouri and to Classify Said Services and)
the Company as Competitive.)

Case No. TA-2000-712

UNANIMOUS STIPULATION AND AGREEMENT

1. Fidelity Communication Services III, Inc. ("FCSIII" or "Applicant") initiated this proceeding on May 1, 2000 by filing an Application requesting a certificate of service authority to provide basic local exchange telecommunications services on a facilities and resold basis throughout all exchanges currently served by the incumbent local exchange telecommunications company of Southwestern Bell Telephone Company ("SWBT").

2. The Commission has granted the timely application to intervene of SWBT.

3. 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)¹ should be processed in a manner similar to that in which applications for interexchange and local exchange authority are currently handled.

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

¹ Large LECs 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 SWBT, GTE and Sprint.

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, FCSIII 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., as a condition of certification and competitive classification, FCSIII agrees that, unless otherwise ordered by the Commission, the Applicant's originating 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, FCSIII agrees that if the ILEC, in whose service area the Applicant is operating, decreases its originating and/or terminating access service rates, FCSIII 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, FCSIII 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 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, FCSIII 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 services, regardless of residence or their income. See Section 392.455 RSMo. (1999 Supp.)

5. FCSIII has submitted its application without tariffs and seeks a temporary waiver of 4 CSR 240-2.060(6)(C). FCSIII has not obtained an approved resale agreement or

interconnection agreement with SWBT.² FCSIII 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. Copies of the tariff(s) will be provided by Applicant to such parties immediately upon request. 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, FCSIII shall also 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 incumbent local exchange carrier, and its explanation of why such a resale and/or interconnection agreement is unnecessary for such areas.

6. FCSIII has, pursuant to Section 392.420 RSMo., 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., should continue to apply to all FCSIII's services:

STATUTORY PROVISIONS

COMMISSION RULES

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

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

² Good cause for failure to file proposed tariffs with the Application must be shown. The lack of approved interconnection agreement (47 U.S.C. §252) constitutes good cause.

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., regarding applications for certificates of local exchange service authority to provide or resell basic local telecommunications services and follows the provisions of the Commission's order of June 1, 2000 in Case No. TO-99-596 dealing with CLEC access rates, etc.

FCSIII'S CERTIFICATION

8. FCSIII has submitted in its Application that it proposes to offer service in the specific SWBT exchanges listed in the incumbent's local exchange tariff. FCSIII hereby agrees that its Application should be deemed further amended as required to include by reference the terms and provisions described in paragraph 4-6 hereinabove and paragraph 11 below to the extent that its Application might be inconsistent therewith.

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

A. possesses sufficient technical, financial and managerial resources and abilities to provide basic local telecommunications service and local exchange 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 to affordable basic local 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 where they live or their income; and

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

10. FCSIII asserts, and no party opposes, that FCSIII's application and request for authority to provide basic local telecommunications service and local exchange telecommunications service (including exchange access service) should be granted. All services authorized herein should be classified as competitive telecommunications services, provided that the requirements of Section 392.200 continue to apply, and FCSIII shall remain classified as a competitive telecommunications company. FCSIII 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 FCSIII'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 RSMo., 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. 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 4 herein shall be made pursuant to Sections 392.220 and 392.230 RSMo., and not Sections 392.500 and 392.510 RSMo. FCSIII agrees that if the ILEC, in whose service area FCSIII is operating, decreases its originating and/or terminating access service rates, FCSIII 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 RSMo., 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 RSMo., and not Sections 392.500 and 392.510 RSMo. Further, if the ILEC, in whose service area FCSIII is operating, decreases its originating and/or terminating access service rates, FCSIII 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."

11. FCSIII'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, FCSIII does

not yet have approved resale or interconnection agreements with SWBT. FCSIII 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. FCSIII 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 waiver of 4 CSR 240-2.060(6)(C) is hereby granted for good cause in that applicant does not yet have approved resale or interconnection agreements with the incumbent local exchange carrier 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 a resale and/or interconnection agreement with the incumbent local exchange carrier; and its explanation of why such a resale and/or interconnection agreement is unnecessary for any such areas.”

12. FCSIII’s request for waiver of the applications of the following statutory provisions and rules and as they relate to the regulation of FCSIII’s new services should be granted:

STATUTORY PROVISIONS

COMMISSION RULES

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

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

13. This Unanimous Stipulation and Agreement has resulted from 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., 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.; and their respective rights to seek rehearing pursuant to Section 386.500 RSMo.; and to seek judicial review pursuant to Section 386.510, RSMo. 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 FCSIII application made herein.

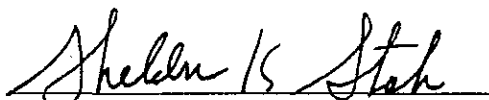
15. The Staff shall file suggestions or a memorandum in support of this Unanimous Stipulation and Agreement and the other parties shall have the right to file responsive suggestions or prepared testimony. All responsive suggestions, prepared testimony, or memorandum shall be subject to the terms of any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

16. 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.

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

18. 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.

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 FCSIII, subject to the conditions described above, as expeditiously as possible.



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Attorney for Staff of the Public Service
Commission

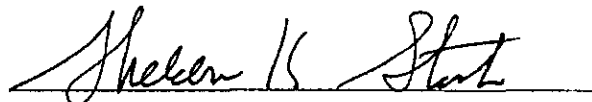


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CERTIFICATE OF SERVICE

The undersigned hereby certifies that a copy of the foregoing Unanimous Stipulation and Agreement was served upon counsel for all parties of record in Case No. TA-2000-712 by depositing a true copy thereof in the United States mail, postage prepaid; or by hand delivery, this 7th day of July, 2000.



FYI: To Be Issued By Delegate
ALJ/Sec'y: Register/Boyce
9-25 10-5
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TA-2000-712
CASE NO.

ALJ
Lumpe, Chair
all
Drainer, Vice Chair
CM
Murray, Commissioner
ALJ
Schemenauer, Commissioner
absent
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 5th day of Oct. 2000.



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