

BB

Case No. TA-2000-31

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

The Commission issued a notice and schedule of applicants on July 27, 1999, directing interested parties wishing to intervene to do so by August 26 for the basic local application and August 11 for the interexchange application. Southwestern Bell Telephone Company (SWBT) filed its Application to Intervene on August 11. Prism filed a Motion to Amend Application on August 18, to request the standard waiver of 4 CSR 240-30-040. On October 28, the Commission granted Prism leave to amend its application as requested and granted SWBT permission to intervene.

The parties filed a Joint Stipulation and Agreement (Agreement) on November 17, 1999. The Staff of the Commission (Staff) also filed its Suggestions in Support of the Agreement on November 17. 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 verified application.

Discussion

Prism wishes certification to provide resold and facilities-based interexchange, basic local exchange, and non-switched private line local exchange telecommunications services in portions of Missouri that are currently served by SWBT. Prism proposes to operate

in all of the exchanges described in Exhibit II to its application. Prism is requesting that it and 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 corporation applying for certification to provide telecommunications services to include in its application a certificate from the Secretary of State showing 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. Prism has provided all the required documentation except for the proposed tariff. The company requested a temporary waiver of 4 CSR 240-2.060(4)(H) until it has entered into interconnection agreements with the underlying local exchange carriers and those agreements have been approved by the Commission. The company 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 agreements. Prism will file its initial tariff and give notice of the tariff filing to all the parties to this certification case. Copies of the tariff will be provided by the Applicant to such parties immediately upon request. Along with that filing, Prism has agreed to provide a written disclosure of all interconnection agreements it has entered into 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 an interconnection agreement is not necessary in that service area.

B. Basic Local Service Certification

Section 392.455, RSMo Supp. 1998, 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.

Prism submitted as Exhibit IV to its application certain financial information. Prism stated in its application that its parent company, Prism Communication Services, Inc. (PSCI) will provide the managerial and technical expertise necessary for Prism to provide its services in Missouri. Exhibit III to the application lists the names and qualifications of PSCI's management team. In addition to academic credentials, the team members have experience in various areas of the telecommunications industry. Prism asserts and no other

party makes a contrary assertion that Prism possesses sufficient technical, financial and managerial resources and abilities to provide basic local telecommunications service and local exchange telecommunications service, including exchange access service.

Prism 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.

Prism wishes to be certificated to offer services in all the exchanges presently served by SWBT as described in their basic local tariffs (see Exhibit II to the application). The parties agreed that Prism 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.

Prism 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. 1998.

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. § 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. § 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 Prism should be classified as a competitive telecommunications company. The parties have also agreed that all services authorized in this order should be classified as a competitive service, provided that the requirements of Section 392.200, RSMo Supp. 1998 continue to apply. Prism 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 at the date of certification for the large incumbent LEC(s) within whose service area(s) in which Prism seeks to operate.

The parties have agreed that the grant of service authority and competitive classification to Prism should be expressly conditioned on the continued applicability of Section 392.200, RSMo Supp. 1998. The parties agreed that unless otherwise determined by the Commission in Case No. TO-99-596, any increases in switched access service rates above maximum switched access service rates set forth in

the agreement must be cost-justified pursuant to Sections 392.220, RSMo Supp. 1998, and 392.230, rather than Sections 392.500 and 392.510.

The parties agreed that waiver of the following statutes is appropriate: Sections 392.210.2, 392.240(1), 392.270, 392.280, 392.290, 392.300.2, 392.310, 392.320, 392.330, RSMo Supp. 1998, 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(1)(B), 4 CSR 240-32.030(1)(C), 4 CSR 240-32.030(2), 4 CSR 240-32.050(3-6), 4 CSR 240-32.070(4), 4 CSR 240-33.030, 4 CSR 240-33.040(5), 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 Prism 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 Prism 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 Prism meets the statutory requirements for provision of basic local telecommunications services and has agreed to abide by those requirements in the future. The Commission finds that granting Prism a certificate of service authority to provide interexchange, basic local exchange and local exchange telecommunications services is in the public interest. Prism's certificate shall become effective when its tariff becomes effective.
- E. The Commission finds that Prism 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 Prism's certification and competitive status should be expressly conditioned upon the continued applicability of Section 392.200, RSMo Supp. 1998, 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. 1998, 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. Prism has requested certification under Sections 392.420 - .440, and Sections 392.410 and .450, RSMo Supp. 1998 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. 1998, 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. 1998.

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. 1998. Based upon the Commission's review of the applicable law and Stipulation and Agreement of the parties, and upon its findings of fact, the Commission concludes that the Stipulation and Agreement should be approved.

IT IS THEREFORE ORDERED:

1. That the Joint Stipulation and Agreement of the parties filed on November 17, 1999 (attached to this order as Attachment A) is approved.

2. That Prism Missouri Operations, LLC, is granted a certificate of service authority to provide interexchange, basic local exchange, and non-switched private line 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 the company's tariff becomes effective.

3. That Prism Missouri Operations, LLC, 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) - ratemaking
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. 1998 - issuance of securities,
debts and notes

Commission Rules

4 CSR 240-10.020 - depreciation fund income
4 CSR 240-30.010(2)(C) - rate schedules
4 CSR 240-30.040 - uniform system of accounts
4 CSR 240-32.030(1)(B) - exchange boundary maps
4 CSR 240-32.030(1)(C) - record-keeping
4 CSR 240-32.030(2) - in-state record-keeping
4 CSR 240-32.050(3) - local office record-keeping
4 CSR 240-32.050(4) - telephone directories
4 CSR 240-32.050(5) - call intercept
4 CSR 240-32.050(6) - telephone number changes
4 CSR 240-32.070(4) - public coin telephone
4 CSR 240-33.030 - minimum charges rule
4 CSR 240-33.040(5) - financing fees
4 CSR 240-35 - reporting of bypass and customer-specific arrangements

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

5. That Prism Missouri Operations, LLC, 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 which will allow Prism Missouri Operations, LLC to provide services. Said tariff sheets shall be filed in a new case file. The tariff shall include a listing of the statutes and Commission rules waived above.

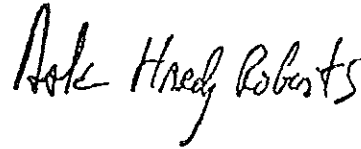
6. That Prism Missouri Operations, LLC, shall give notice of the filing of the tariffs described above to all parties or participants. In addition, Prism Missouri Operations, LLC shall file a written disclosure of all interconnection agreements which affect its Missouri service areas, all portions of 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.

7. That Prism Missouri Operations, LLC's certification and competitive status are expressly conditioned upon the continued applicability of Section 392.200, RSMo Supp. 1998, 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. 1998, and 392.230, rather than Sections 392.500 and 392.510.

8. That this order shall become effective on January 10, 2000.

9. That this case may be closed on January 11, 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
4 CSR 240-2.120(1), (November 30, 1995)
and Section 386.240, RSMo 1994.

Dated at Jefferson City, Missouri,
on this 30th day of December, 1999.

BEFORE THE PUBLIC SERVICE COMMISSION
STATE OF MISSOURI

FILED³

NOV 17 1999

In the Matter of the Application of)
Prism Missouri Operations, LLC for)
A Certificate of Service Authority to)
Provide Interexchange, Basic Local)
Exchange, and Non-Switched Private Line)
Local Exchange Telecommunications)
Service in portions of the State of Missouri)
And for Competitive Classification.)

Case No. TA-2000-31

Missouri Public
Service Commission

1. Prism Missouri Operations, LLC ("Prism" or "Applicant") initiated this proceeding on July 15, 1999 by filing an Application requesting certificate of service authority to provide resold and facilities-based interexchange, basic local exchange, and non-switched private line local exchange telecommunications service in exchanges currently served by Southwestern Bell Telephone Company ("SWBT"). Prism intends to provide its proposed services through a combination of leased, owned and resold facilities and services.

2. The Commission issued its standard Notice of Applications, which included this case, on July 27, 1999, and set an intervention deadline of August 11, 1999. SWBT filed its Application to Intervene on August 11, 1999. By Order issued on October 28, 1999, the Commission granted SWBT intervention and directed the parties to file a proposed procedural schedule on or before November 30, 1999. No other party has sought or has been granted intervention.

3. For purposes of this Stipulation and Agreement, the parties agree that applications for local exchange authority in exchanges served by "large" local exchange companies ("LEC's")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 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 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, the Applicant agreeing to file and maintain basic local service tariff(s) with the Commission

¹ Large LECs are defined as LEC's who serve 100,000 or more access lines. Section 386.020 RSMo. Supp. 1997. In Missouri, the current large LEC's are SWBT, GTE and Sprint.

in the same manner and form as the Commission requires of incumbent local exchange telecommunications companies with which the 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 incumbent local exchange telecommunications companies with which the Applicant seeks to compete. Notwithstanding the provisions of Section 392.500 RSMo 1994, as a condition of certification and competitive classification, Applicant 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 the large incumbent LEC(s) within whose service area(s) Applicant seeks authority to provide service. Further, Applicant 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 must be 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 their income. See Section 392.455 RSMo Supp. 1998.

5. Applicant has submitted its application without tariffs and seeks a temporary waiver of 4 CSR 240-2.060(4)(H)². Applicant agrees to file its initial tariff(s) in this certification case 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 the Applicant to such parties immediately upon request. Any service authority granted pursuant to this Application shall be regarded as conditional and shall not be exercised until such time as the tariff for services shall have become effective. When filing its initial basic local tariff(s), Applicant shall also file and serve a written disclosure of all resale or interconnection agreements which affect Applicant's 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 such areas.

² Good cause for failure to file proposed tariffs with the Application must be shown. The lack of an approved interconnection agreement (47 USC252) constitutes good cause.

6. Applicant has requested, pursuant to Section 392.420 RSMo 1994 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 of Applicant's services:

STATUTORY PROVISIONS

Section 392.210.2
 Section 392.270
 Section 392.280
 Section 293.290.1
 Section 392.300.2
 Section 392.310
 Section 392.320
 Section 392.330
 Section 392.340

COMMISSION RULES

4 CSR 240-10.020
 4 CSR 240-30.040
 4 CSR 240-35

7. Applicant has requested, pursuant to Section 392.420 RSMo 1994 that the Commission waive the application of any or all of the following statutory provisions and rules as it relates to the regulation of interexchange telecommunications service offered by the Applicant, and all parties agree that the Commission should grant such request:

392.240(1)	Rates-reasonable average return on investment.
392.270	Property valuation.
392.280	Depreciation rates.
392.290	Issuance of stocks and bonds.
392.310	Issuance of stocks and bonds.
392.320	Issuance of stocks and bonds.
392.330	Issuance of stocks and bonds.
392.340	Reorganization
4 CSR 240-10.020	Income on depreciation fund investments.
4 CSR 240-30.010(2)(C)	Posting exchange rates at central offices.
4 CSR 240-30.040	Uniform System of Accounts.
4 CSR 240-32.030(1)(B)	Exchange boundary maps.
4 CSR 240-32.030(1)(C)	Record of access lines.
4 CSR 240-32.030(2)	Records kept within state.
4 CSR 240-32.050(3-6)	Telephone directories.
4 CSR 240-32.070(4)	Coin telephones.
4 CSR 240-33.030	Inform customers of lowest priced service.
4 CSR 240-33.040(5)	Finance fee.

8. In negotiating the remaining provisions of this 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. 1998 regarding applications for certificates of local exchange authority to provide basic local telecommunications services.

B. PRISM'S CERTIFICATION

8. Applicant stated in its Application that the specific exchanges in which it seeks authority to provide service are identified in SWBT's local exchange tariffs. Applicant 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 11 below to the extent that its Application might be inconsistent therewith.

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

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 exchange;

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.

10. Applicant asserts, and no party opposes, that Applicant's application and request for authority to provide basic local 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 RSMo Supp. 1998 continue to apply, and Applicant shall be

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 incumbent LECs 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 Section 392.200 RSMo and are conditional and shall not be exercised until such time as tariffs for services become effective."

The parties also 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. 1998. The parties recognize the pendency of Case No. TO-99-596, regarding access rates to be charged by competitive local exchange telecommunications companies. Unless otherwise determined by the Commission in Case No. TO-99-596, any increases in switched access service rates above maximum switched access service rates as set forth in paragraph 4 herein shall be cost justified and shall be made pursuant to 392.220 and 392.230 and not 392.500 and 392.510 RSMo Supp. 1998. The Commission's order should state the foregoing conditions substantially as follows:

"Unless otherwise ordered by the Commission, the service authority and service classification for switched access service granted herein is expressly conditioned on the continued applicability of Section 392.200 RSMo Supp. 1998 and the requirement that any increases in switched access service rates above the maximum switched access service rates set forth herein shall cost justified and shall be made pursuant to Sections 392.220 and 392.230 and not Sections 392.500 and 392.510 RSMo Supp. 1998."

11. Applicant's request for a temporary waiver of 4 CSR 240-2.060(4)(H), 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 yet have approved a resale or interconnection agreement with any incumbent LEC. Applicant 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. Applicant 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 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 to the temporary waiver of 4 CSR 240-060(4)(H), substantially as follows:

"Applicant's request for temporary waiver of 4 CSR 240-2.060(4)(H) is hereby granted for good cause in that Applicant did not yet have an approved resale or interconnection agreement with the incumbent local exchange carriers within whose service areas it seeks authority to provide service; provided, when Applicant submits its tariffs in this docket to the Commission such tariffs 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 tariffs to such parties immediately upon request. When filing its initial basic local service tariff in this docket, the Applicant shall also 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 incumbent local exchange carrier; and its explanation of why such a resale or interconnection agreement is unnecessary for any such areas."

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

STATUTORY PROVISIONS

COMMISSION RULES

Section 392.210.2
Section 392.270
Section 392.280
Section 392.290.1
Section 392.300.2
Section 392.310
Section 392.320
Section 392.330
Section 392.340

4 CSR 240-10.020
4 CSR 240-30.040
4 CSR 240-35

Applicant agrees to comply with all applicable rules, regulations and statutory obligations except for those which are specifically waived by the Commission.

13. This 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 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 Stipulation and Agreement, the parties and participants waive, with respect to the issues resolved herein: their respective rights pursuant to Sections 536.070(2) and 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 Stipulation and Agreement for approval to the Commission and shall take no action, direct or indirect, in opposition to the request for approval of Applicant's application made herein.

15. The Staff may submit Staff Recommendation concerning matters not addressed in this Stipulation. In addition, if requested by the Commission, the Staff will submit to the Commission a memorandum explaining its rationale for entering into this Stipulation and Agreement. Each party of record and participant herein shall be served with a copy of any memorandum and shall be entitled to submit to the Commission, within five (5) days of receipt of Staff's memorandum, a responsive memorandum which shall also be served on all parties and participants. All memoranda submitted by the parties shall be considered privileged in the same manner as settlement discussions under the Commission's rules, shall be maintained on a confidential basis by all parties and participants, and shall not become a part of the record of this proceeding or bind or prejudice the party submitting such memorandum in any future proceeding whether or not the Commission approves this Stipulation and Agreement. The contents of any memorandum provided by any party are its own and are not acquiesced in or otherwise adopted by the other signatories to the Stipulation and Agreement, whether or not the Commission approves and adopts this Stipulation and Agreement.

The Staff shall also have the right to provide, at any agenda meeting at which this 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 the meeting in which the Staff will respond to the Commission's

request of such explanation once such explanation is requested from the Staff. Staff's oral explanation shall be subject to public disclosure.

16. The Office of the Public Counsel, while not a signatory to this Stipulation and Agreement, has been contacted with regard to its filing, and to the signatory parties' best information and belief, has offered no objection.

WHEREFORE, the signatories respectfully request the Commission to issue its Order approving the terms of this Stipulation and Agreement and issue its Order granting authority and classification as requested by Prism Missouri Operations, LLC subject to the conditions described above, as expeditiously as possible.

Respectfully submitted,

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RECEIVED
DEC 30 1999
COMMISSION COUNSEL
PUBLIC SERVICE COMMISSION

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a copy of the foregoing Stipulation and Agreement was served upon counsel for all parties of record in Case No. TA-2000-31 by depositing a true copy thereof in the United States Mail, postage prepaid, this 16th day of November, 1999.

Julie A. Kaminski
Julie A. Kaminski