

BEFORE THE PUBLIC SERVICE COMMISSION  
OF THE STATE OF MISSOURI

In the Matter of the Application of CCCMO, Inc. )  
d/b/a Connect! for a Certificate of Service )  
Authority to Provide Basic Local Telecommunica- ) Case No. TA-2000-199  
tions Services and Local Exchange Telecommuni- )  
cations Service in the State of Missouri, and )  
to Classify Said Services as Competitive. )

ORDER GRANTING CERTIFICATE OF SERVICE AUTHORITY TO PROVIDE  
BASIC LOCAL AND LOCAL EXCHANGE TELECOMMUNICATIONS SERVICES

Procedural History

CCCMO, Inc., d/b/a Connect! (Connect!), applied to the Commission on August 31, 1999, for a certificate of service authority to provide basic local and local exchange telecommunications service in Missouri under Chapter 392 of the Missouri Revised Statutes. Connect! asked the Commission to classify it as a competitive company and waive certain statutes and rules as authorized by Section 392.420, RSMo. Connect! is a Missouri corporation with principal offices located at 124 West Capitol Avenue, Suite 250, Little Rock, Arkansas 72201.

The Commission issued a notice and schedule of applicants on September 14, 1999, directing interested parties wishing to intervene to do so by October 14, 1999. The Commission granted permission to intervene to Southwestern Bell Telephone Company (SWBT) on October 27, 1999.

On December 8, 1999, the parties filed a Stipulation and Agreement (Agreement), which is included with this order as Attachment 1. The Agreement states that the Office of the Public Counsel, while not a signatory to the Agreement, has been contacted with regard to its filing and has offered no objections. The Agreement will be treated as unanimous. Commission Rule 4 CSR 240-2.115(1) states in part: "If no party requests a hearing, the commission will treat the stipulation and agreement as a unanimous stipulation and agreement."

The Staff of the Commission (Staff) filed suggestions in support of the Agreement on December 9, 1999. 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

Connect! proposes to provide facilities-based and resold basic local and local exchange telecommunications services, as a separate and distinct service, throughout all Missouri exchanges currently served by SWBT, Sprint/United Telephone Company (Sprint), and GTE Midwest, Inc. (GTE). The specific exchanges in which Connect! proposes to operate are listed in the companies' local exchange

tariffs. Applicant is not asking for certification in any area that is served by a small incumbent local exchange provider. Connect! 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 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 it is authorized to do business in Missouri, a description of the types of services it intends to provide, a description of the exchanges where it will offer service, and a proposed tariff with a 45-day effective date. Connect! 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 an interconnection agreement with one of the underlying local exchange carriers and that agreement has 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 agreement. The Stipulation and Agreement provides that Connect! will file the tariff in this case and give notice of the tariff filing to all the parties. Along with that filing Connect! has agreed to provide a written disclosure of all interconnection agreements it has entered into which affect its Missouri service areas. However, the Commission has found that

holding open the certificate case until a tariff is filed may result in the case being left open without any activity for an extended period. Therefore, this case will be closed and when Connect! files the required tariff, it will be assigned a new case number. Connect! will be directed to provide the notice and disclosures required by the Stipulation and Agreement when it files its proposed tariff.

## **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.

Connect! submitted as Exhibit 3 to its application the financial documents including a balance sheet dated March 31, 1999, and a Statement of Operations for the three months ended March 31, 1999. Exhibit 4 to the application lists the names and qualifications of the applicant's management team. The parties agreed that Connect!

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

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

Connect! wishes to be certificated to offer services in all the exchanges presently served by SWBT, Sprint, and GTE as described in the basic local exchange tariffs of those companies. The parties agreed that Connect! has sufficiently identified the geographic area in which it proposes to offer basic local service and that the area follows the incumbent local exchange carrier's exchange boundaries and is no smaller than an exchange.

Connect! 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. 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). 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. *Supra*, 1 Mo. P.S.C. 3d at 487. In addition, all the services a competitive company provides must be classified as competitive. Section 392.361.3, RSMo.

The parties have agreed that Connect! should be classified as a competitive telecommunications company. The parties have also agreed that the applicant's switched exchange access services may be classified as a competitive service, conditioned upon certain limitations on the applicant's ability to charge for its access services. Connect! 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 the large incumbent LECs within whose service areas Connect! seeks authority to provide service. The parties have agreed that the grant of service authority and competitive classification to Connect! should be expressly conditioned on the continued applicability of Section 392.200, RSMo Supp. 1998, and on the requirement that any increases in switched access services rates set forth herein shall be

cost-justified and made pursuant to Sections 392.220, RSMo Supp. 1998, and 392.230, and not Sections 392.500 and 392.510.

The parties have agreed that waiver of the following statutes is appropriate: Sections 392.210.2, 392.270, 392.280, 392.290.1, 392.300.2, 392.310, 392.320, 392.330, and 392.340, RSMo. Connect! also requests waiver of the following Commission rules: 4 CSR 240-10.020, 4 CSR 240-30.040, and 4 CSR 240-35. Although Connect!, in its application, requested waiver of 4 CSR 240-32.030 and 4 CSR 240-10.010, the parties did not include these provisions in the list of waivers in the Stipulation and Agreement.

### **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 markets is in the public interest.
- B. The Commission finds that Connect! 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 Connect! 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 Connect! a certificate of service authority to provide local exchange telecommunications services is in the public interest. The Applicant's certificate shall become effective when its tariff becomes effective.
- E. The Commission finds that Connect! meets the statutory requirements for provision of basic local telecommunications services and indicates it will abide by those requirements in the future. The Commission determines that granting Connect! a certificate of service authority to provide basic local telecommunications services is in the public interest. The certificate of Connect! shall become effective when its tariff becomes effective.
- F. The Commission finds that Connect! 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 certification and competitive status of Connect! should be expressly conditioned on the requirement that, unless otherwise ordered by the Commission, if Connect! provides access services, its originating and terminating access rates will be no greater than the lowest Commission-approved corresponding access rates in effect for the large incumbent local exchange company within whose service areas Connect! seeks to provide service.



H. The Commission finds that the certification and competitive status of Connect! 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 rates set forth herein shall be cost-justified and made pursuant to Sections 392.200, RSMo Supp. 1998, and 392.230, RSMo 1994, rather than Sections 392.500 and 392.510, RSMo 1994.

### 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. Connect! has requested certification under Sections 392.420 - .440, and Sections 392.410 and 392.450, 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 392.420 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.

Based upon the Commission's review of the applicable law and upon its findings of fact, the Commission concludes that certificate and competitive classification requested by Connect! should be granted.

**IT IS THEREFORE ORDERED:**

1. That the Stipulation and Agreement of the parties, filed on December 8, 1999, is approved.

2. That CCCMO, Inc., d/b/a Connect!, 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 the company's tariff becomes effective.

3. That CCCMO, Inc., d/b/a Connect!, is granted a certificate of service authority to provide basic 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.

4. That CCCMO, Inc., d/b/a Connect!, 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
- 392.290.1 - issuance of securities
- 392.300.2 - acquisition of stock
- 392.310 - stock and debt issuance
- 392.320 - stock dividend payment
- 392.330 - issuance of securities, debts and notes
- 392.340 - reorganization(s)

Commission Rules

- 4 CSR 240-10.020 - depreciation fund income
- 4 CSR 240-30.040 - uniform system of accounts
- 4 CSR 240-35 - reporting of bypass and customer-specific arrangements

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

6. That CCCMO, Inc., d/b/a Connect!, 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 it provide services. The tariff shall include a listing of the statutes and Commission rules waived above.

7. That CCCMO, Inc., d/b/a Connect!, shall give notice of the filing of the tariffs described above to all parties or participants in this case. In addition, CCCMO, Inc., d/b/a Connect!, 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 unless otherwise ordered by the Commission, CCCMO, Inc., d/b/a Connect!'s certification and competitive status are conditioned upon its rates for originating and terminating access being no greater than the lowest Commission-approved corresponding access rates in effect for the large incumbent local exchange company within whose service areas CCCMO, Inc., d/b/a Connect!, seeks to provides service.

9. That CCCMO, Inc., d/b/a Connect!'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 rates set forth herein shall be cost-justified and made pursuant to Sections 392.200, RSMo Supp. 1998, and 392.230, RSMo 1994, rather than Sections 392.500 and 392.510, RSMo 1994.

10. That this order shall become effective on January 11, 2000.

11. That this case may be closed on January 12, 2000.

**BY THE COMMISSION**

( S E A L )



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

Vicky Ruth, 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 29th day of December, 1999.

FILED<sup>2</sup>

DEC 8 1999

Missouri Public Service Commission

BEFORE THE MISSOURI PUBLIC SERVICE COMMISSION

In the Matter of the Application of CCCMO, )  
Inc. d/b/a Connect! For a Certificate of Service )  
Authority to Provide Basic Local Telecommuni- )  
cations Services and Local Exchange )  
Telecommunications Service in the State of )  
Missouri, and to Classify said Services )  
as Competitive. )

Case No. TA-2000-199

STIPULATION AND AGREEMENT

1. CCCMO, Inc. d/b/a Connect! ("Connect!") initiated this proceeding on August 31, 1999, by filing an Application requesting a certificate of service authority to provide all forms of resold and facilities based basic local and local exchange telecommunications services in exchanges currently served by Southwestern Bell Telephone Company, Sprint/United Telephone Company and GTE Midwest, Inc., in the State of Missouri.

2. Southwestern Bell Telephone Company has intervened in this proceeding.

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

4. In determining whether Connect!'s application for certificate of service authority should be granted, the Commission should consider the applicant's technical, financial and managerial resources and abilities to provide basic local telecommunications service. Connect! 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 tariffs with the Commission in the same manner and form as the

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<sup>1</sup>Large LECs are defined as LECs who serve 100,000 or more access lines in Missouri Section 386.020 R.S.MO. The current large LECs are Southwestern Bell Telephone Company, GTE, and United.

Commission requires of incumbent local exchange telecommunications companies with which Connect! seeks to compete. Further, Connect! 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 Connect! seeks to compete. Notwithstanding the provisions of Section 392.500 R.S.Mo.(1994), as a condition of certification and competitive classification, Connect! agrees that, unless otherwise ordered by the Commission, Connect!'s originating and terminating access rates will be no greater than the lowest Commission approved corresponding access rates in effect for the large incumbent LECs within whose service areas Connect! seeks authority to provide service. Further, Connect! agrees to offer basic local telecommunications service as a separate and distinct service and has identified the geographic service area in which it proposes to offer basic local service. Such area follows exchange boundaries of the incumbent local exchange telecommunications companies in the same area, and is no smaller than an exchange. Finally, Connect! agrees to provide equitable access to affordable telecommunications services, as determined by the Commission, for all Missourians within the geographic area in which it proposes to offer basic local service, regardless of residence or income. See Section 392.455 R.S.Mo.

5. Connect! has submitted its application without tariffs and seeks a temporary waiver of 4 CSR 240-2.060(4)(H).<sup>2</sup> Applicant will file its initial tariff in this certification docket and serve all parties thereto with written notice at the time the initial tariff is submitted to afford them an opportunity to participate in the tariff approval process. Copies of the tariff will be provided by the applicant to such parties immediately upon request. Any service authority shall be regarded as

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<sup>2</sup>Good cause for failure to file proposed tariffs with the application must be shown. The lack of an approved interconnection agreement (47 USC 252) constitutes good cause.

conditional and shall not be exercised until such time as such tariff(s) for service have been approved by the Commission and such tariffs have become effective. When filing its initial basic local tariff, Connect! shall also file and serve a written disclosure of all 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.

6. Connect! has, pursuant to Section 392.420 R.S.Mo. requested that the Commission waive the application for the following statutory provisions and rules regarding all of its services, and all parties agree that the Commission should grant such request provided that Section 392.200 R.S.Mo. should continue to apply to all of Connect!'s services.

<u>Statutes</u>	<u>Rules</u>
Section 392.210.2	4 CSR 240-10.020
Section 392.270	4 CSR 240-30.040
Section 392.280	4 CSR 240-35
Section 392.290.1	
Section 392.300.2	
Section 392.310	
Section 392.320	
Section 392.330	
Section 392.340	

7. 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 R.S.Mo., regarding applications for certificates of local exchange authority to provide basic local telecommunications services.

**B. CONNECT! CERTIFICATION**

8. Connect! hereby agrees that its original Application should be deemed amended as required to include by reference the terms and provisions described in paragraphs 4-6 herein above to the extent that its original Application might be inconsistent therewith.

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

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

10. Connect! asserts, and no party opposes, that Connect!'s application and request for authority to provide basic local exchange telecommunications 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 Applicant shall remain classified as a competitive telecommunications company. Applicant asserts and no party opposes, that such new 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 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 Applicant's switched exchange access services are subject to Section 392.200. Any increases in switched access service rates above the maximum switched access service rates as set forth in paragraph 4 herein shall be cost-justified and be made pursuant to 392.220 and 392.230 and not 392.500 and 392.510. 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 set forth herein shall be cost justified and made pursuant to Sections 392.220 and 392.230 and not Sections 392.500 and 392.510.”

11. Connect!'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 applicant does not yet have approved interconnection agreements with the large LECs. 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 stipulated above. Applicant shall serve notice to all parties to this docket of the filing of its tariff(s) 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 the temporary waiver of 4 CSR 240-2.060(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 does not yet have an approved interconnection agreements with certain incumbent LECs; provided, when applicant files its tariffs in this docket to the Commission such tariffs shall have a minimum of a 45-day effective date and applicant shall serve written notice upon the parties hereto of such filing, 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 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 with the incumbent local exchange carrier; and its explanation of why such an interconnection agreement is not necessary for such areas.”

12. Connect!’s request for waiver of the application of the following rules and statutory provisions as they relate to the regulation of all of Connect!’s services should be granted:

<u>Statutes</u>	<u>Rules</u>
Section 392.210.2	4 CSR 240-10.020
Section 392.270	4 CSR 240-30.040
Section 392.280	4 CSR 240-35
Section 392.290.1	
Section 392.300.2	
Section 392.310	
Section 392.320	
Section 392.330	
Section 392.340	

13. This Stipulation and Agreement has resulted from 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.

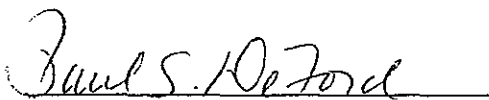
14. In the event the Commission accepts the specific terms of this Stipulation and Agreement, the parties and participants waive, with respect to the issues resolved herein; their respective rights pursuant to Section 536.080.1, R.S.Mo.(1994), to present testimony, to cross-examine witnesses, and to present oral argument or written briefs; their respective rights to the reading of the transcript by the Commission pursuant to Section 536.080.2 R.S.Mo.(1994); and their respective rights to rehearing pursuant to Section 386.500 R.S.Mo.(1994) and to seek judicial review pursuant to Section 386.510 R.S.Mo.(1994). The parties agree to cooperate with the Applicant and with each other in presenting this Stipulation and Agreement for approval of Connect!'s application made herein.

15. The Staff may submit a Staff Recommendation concerning matters not addressed in this Stipulation. In addition, if requested by the Commission, the Staff shall have the right to 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 be maintained on a confidential basis by all parties and participants, and shall not become a part of the record of this 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.

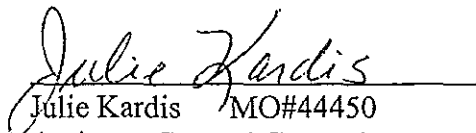
The Staff shall also have the right to provide, at any agenda meeting at which this Stipulation and Agreement is noticed to be considered by the Commission, whatever oral explanation the Commission requests, provided that the Staff shall, to the extent reasonably practicable, provide the other parties and participants with advance notice of when the Staff shall respond to the Commission's request for such explanation once such explanation is requested from the Staff. The Staff's oral explanation shall be subject to public disclosure.

16. The Office of Public Counsel, while not a signatory to this Stipulation and Agreement, has been contacted with regard to its filing and 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 and waiving certain statutes and rules as requested by Connect!, subject to the conditions described above, as expeditiously as possible.



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**RECEIVED**

DEC 29 1999

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PUBLIC SERVICE COMMISSION