

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

CASE NO: TA-2000-585

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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)	
ConnectSouth Communications of Missouri, Inc.)	
for a Certificate of Service Authority to)	
Provide Basic Local Telecommunications Service,)	<u>Case No. TA-2000-585</u>
Local Exchange Telecommunications Service)	
and Interexchange Telecommunications Service)	
in the State of Missouri and to Classify)	
Said Services and the Company as Competitive)	

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

Procedural History

ConnectSouth Communications of Missouri, Inc. (ConnectSouth) applied to the Missouri Public Service Commission (Commission) on March 21, 2000, for a certificate of service authority to provide basic local, local exchange and interexchange telecommunications services in Missouri under Sections 392.420 - .440 RSMo 1994¹, and Sections 392.410 and .450, RSMo Supp. 1999. ConnectSouth 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. ConnectSouth is a Delaware corporation with principal offices located at 9600 Great Hills Trail, Suite 250 East, Austin, Texas 78759. On March 21, 2000, ConnectSouth also requested a protective order, which the Commission granted on April 7, 2000.

The Commission issued a notice and schedule of applicants on March 28, 2000, directing interested parties wishing to intervene in the interexchange and nonswitched local exchange service authority of its

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

application to do so by April 12, 2000, and in the basic local and nonswitched local exchange service authority portion of its application to do so by April 27, 2000. On March 30, 2000, ConnectSouth filed an amendment to its application.

On April 10, 2000, Southwestern Bell Telephone Company (SWBT) timely filed its application to intervene, which the Commission granted on May 31, 2000. No other entity intervened. In the same order that granted intervention, the Commission also ordered the parties to file a procedural schedule no later than June 30, 2000.

On June 30, 2000, ConnectSouth filed a request for an extension of time for filing a Unanimous Stipulation and Agreement (Agreement), stating that the parties had been negotiating an Agreement that they had hoped to file by June 30, 2000. ConnectSouth stated that the parties anticipated that they would come to an agreement and be able to sign the Agreement in the near future. ConnectSouth requested that the June 30, 2000 procedural schedule filing date be suspended until such time as the parties had signed the Agreement. On July 12, 2000, ConnectSouth filed the Agreement signed by all the parties. The Commission will grant ConnectSouth's request for an extension of time. The Unanimous Stipulation and Agreement is included with this order as Attachment 1.

The Staff of the Commission (Staff) filed Suggestions in Support of the Unanimous Stipulation and Agreement on July 13, 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.

On July 6, 2000, ConnectSouth filed proposed tariff sheets with an issuance date of July 7, 2000, and an effective date of August 20, 2000, for interexchange and local exchange telecommunications services to be provided throughout the state of Missouri. Substitute tariff sheets were filed on July 24 and July 28, 2000. On August 10, 2000, Staff filed its recommendation that the Commission grant ConnectSouth a certificate to provide interexchange telecommunications services and local exchange telecommunications services restricted to dedicated, private line services, grant applicant competitive classification, approve applicant's proposed tariff, P.S.C. Mo. No. 1, with a proposed effective date of August 20, 2000, and approve the waivers listed in the notice of applications. On August 15, 2000, the Commission granted ConnectSouth a certificate of service authority to provide interexchange and nonswitched local exchange telecommunications services and approved the tariff effective August 20, 2000.

Discussion

ConnectSouth seeks certification to provide basic local and local exchange telecommunications services in portions of Missouri that are currently served by SWBT, GTE Midwest Incorporated (GTE) and Sprint Missouri, Inc. d/b/a Sprint (Sprint). ConnectSouth is not asking for certification in any area that is served by a small incumbent local exchange carrier (ILEC). ConnectSouth is requesting that its 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(6) requires an application for basic local 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. ConnectSouth has provided all the required documentation, except for the proposed tariff. ConnectSouth 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 carriers and that agreement has been approved by the Commission. ConnectSouth 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 ConnectSouth will file the tariff in this case and give notice of the tariff filing to all the parties. Along with that filing ConnectSouth has agreed to provide a written disclosure of all interconnection agreements it has entered into which affect its Missouri service areas. On June 30, 2000, ConnectSouth filed written disclosure of interconnection agreements, stating that it believes it had reached an agreement with SWBT with reference to an interconnection agreement to be filed in the very near future. ConnectSouth indicated that it was attempting to negotiate interconnection agreements with Sprint and GTE and anticipated filing those interconnection agreements in the near future. On August 8, 2000, ConnectSouth filed notice that it had filed an interconnection agreement with SWBT with the Commission for approval. ConnectSouth indicated that it continues negotiations with Sprint and GTE and anticipates finalizing these agreements in the near future.

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 ConnectSouth files the required tariff it will be assigned a new case number. ConnectSouth will be directed to provide further 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.

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

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

ConnectSouth wishes to be certificated to offer services in all the exchanges presently served by SWBT, GTE and Sprint as described in their basic local tariffs. The parties agreed that ConnectSouth 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.

ConnectSouth 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 ConnectSouth should be classified as a competitive telecommunications company. The parties have also agreed that ConnectSouth's switched exchange access services may be classified as a competitive service, conditioned upon certain limitations on ConnectSouth's ability to charge for its access services. ConnectSouth 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 ConnectSouth seeks to provide service. The parties have agreed that the grant of service authority and competitive classification to ConnectSouth 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 ConnectSouth is operating decreases its originating and/or terminating access service rates, ConnectSouth 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 ConnectSouth 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 ConnectSouth 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 ConnectSouth a certificate of service authority to provide local exchange telecommunications services is in the public interest. ConnectSouth's certificate shall become effective when its tariff becomes effective.

- E. The Commission finds that ConnectSouth 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 ConnectSouth a certificate of service authority to provide basic local exchange telecommunications services is in the public interest. ConnectSouth's certificate shall become effective when its tariff becomes effective.
- F. The Commission finds that ConnectSouth 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 ConnectSouth'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, the parties agreed that if the ILEC, in whose service area ConnectSouth is operating, decreases its originating and/or terminating access service rates, ConnectSouth 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. ConnectSouth 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.

On August 17, 2000, ConnectSouth filed a motion for expedited treatment requesting that ConnectSouth's application for a certificate of service authority to provide basic local, local exchange and interexchange telecommunications services and the accompanying tariffs be placed on the Commission's agenda for August 31, 2000. In addition, ConnectSouth also requested that the effective date for the Commission's order be reduced

from ten days to four days. ConnectSouth stated that it was requesting this motion to expedite treatment in order to facilitate its immediate entry into the telecommunications market and stated that it hopes to begin to offer services on September 4, 2000.

ConnectSouth also stated that it was filing a motion to expedite the approval of its interconnection agreement in Case No. TO-2001-95. ConnectSouth stated that all parties except SWBT had agreed to either support or not oppose ConnectSouth's request for a shorter effective period for the Commission's order of four days. ConnectSouth stated that it knew of no harm that would accrue nor harm that would be avoided if the Commission did not act by the date stated in its motion. No responsive pleadings were filed. Since no harm to be avoided was stated and no negative effect would accrue, the Commission found no reason that this request to set a case on its August 31 agenda be granted. However, as there are no objections, the Commission will issue this order with a four-day effective date in an effort to expedite the effectiveness of this order.

IT IS THEREFORE ORDERED:

1. That the Unanimous Stipulation and Agreement of the parties, filed on July 12, 2000, is approved.

2. That ConnectSouth Communications of Missouri, 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 ConnectSouth Communications of Missouri, Inc.'s tariff becomes effective.

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

4. That ConnectSouth Communications of Missouri, Inc. is classified as a competitive telecommunications company. Application of the following statutes and regulatory rules shall be waived:

Statutes

392.210.2	-	uniform system of accounts
392.270	-	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 ConnectSouth Communications of Missouri, Inc. shall file tariff sheets with a minimum 45-day effective date reflecting the rates, rules, regulations and the services it will offer within 30 days after the effective date of a Commission order approving an interconnection agreement that will allow ConnectSouth Communications of Missouri, Inc. to provide

services. The tariff shall include a listing of the statutes and Commission rules waived above.

7. That ConnectSouth Communications of Missouri, Inc. shall give notice of the filing of the tariffs described above to all parties or participants in this case. In addition, ConnectSouth Communications of Missouri, Inc. shall file a written disclosure of any additional interconnection agreements not already filed in this case 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 ConnectSouth Communications of Missouri, 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, the parties agreed that if the ILEC in whose service area ConnectSouth Communications of Missouri, Inc. is operating decreases its originating and/or terminating access service rates, ConnectSouth Communications of Missouri, 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 the request for an extension of time for filing a Unanimous Stipulation and Agreement filed by ConnectSouth Communications of Missouri, Inc., on June 30, 2000, is granted.

10. That the request for expedited treatment filed by ConnectSouth Communications of Missouri, Inc., on August 17, 2000, is granted in part in that the Commission will issue its order making the effective date four

days after the issuance of this order, and all other requests in ConnectSouth Communications of Missouri, Inc.'s motion to expedite treatment are denied.

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

BY THE COMMISSION

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

Dale Hardy Roberts
Secretary/Chief Regulatory Law Judge

(S E A L)

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
STATE OF MISSOURI**

FILED²
JUL 12 2000

In the Matter of the Application)
of ConnectSouth Communications)
of Missouri, Inc., for Certificate)
of Service Authority to Provide)
Basic Local, Local Exchange)
and Interexchange)
Telecommunications Service in Portions)
Of the State of Missouri and to Classify)
Said Services as Competitive)

Case No. TA-2000-585

Missouri Public
Service Commission

UNANIMOUS STIPULATION AND AGREEMENT

ConnectSouth Communications of Missouri, Inc. ("Applicant" or "ConnectSouth"), initiated this proceeding on March 21, 2000, by filing an Application requesting a certificate of service authority to provide basic local, local exchange telecommunications services (including exchange access service) in those portions of Missouri that are currently served by Southwestern Bell Telephone Company ("SWBT"), Sprint/United Telephone Company ("United"), and GTE Midwest, Incorporated ("GTE"), and interexchange telecommunications services throughout Missouri and for competitive classification.

The Missouri Public Service Commission ("Commission") has granted SWBT's timely application to intervene.

A. Standards and Criteria

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

2. In determining whether ConnectSouth's application for certificate of service authority should be granted, the Commission should consider ConnectSouth's technical, financial, and managerial resources and abilities to provide basic local telecommunications service. ConnectSouth must demonstrate that the basic local services it proposes to offer satisfies the minimum standards established by the Commission, including but not limited to the filing and maintenance of basic local service tariffs with the Commission in the same manner and form as the Commission requires of incumbent local exchange companies ("ILECs") with which Applicant seeks to compete. Further, ConnectSouth agrees to meet the minimum basic local service standards, including quality of service and billing standards, as the Commission requires of the ILECs with which Applicants seeks to compete. Notwithstanding the provisions of § 392.500 RSMo (1994), as a condition of certification and competitive classification, ConnectSouth agrees that, unless otherwise ordered by the Commission, ConnectSouth's originating and terminating access rates will be no greater than the lowest Commission-approved corresponding access rates in effect for each large ILEC within whose service area(s) ConnectSouth seeks authority to provide service.

Additionally, ConnectSouth agrees that if the ILEC, in whose service area the Applicant is operating, decreases its originating and/or terminating access service rates, ConnectSouth 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, ConnectSouth agrees to offer basic local telecommunications service as a separate and distinct service and has sufficiently identified the geographic area in which it proposes to offer basic local service. Such area follows exchange boundaries of the ILECs in the same area

¹ Large LECs are defined as LECs that serve 100,000 or more access lines, § 386.020 RSMo Supp. 1999. In Missouri, the current large LECs are SWBT, United, and GTE.

and is no smaller than an exchange. Finally, ConnectSouth agrees to provide equitable access to affordable telecommunications services, as determined by the Commission for all Missourians within the geographic area in which it proposes to offer basic local service, regardless of residence or income. See § 392.455 RSMo. Supp. 1999.

3. ConnectSouth has submitted its Application without tariffs and seeks a temporary waiver of 4 CSR 240-2.060(6)(C). ConnectSouth agrees to file its initial tariffs in this certification docket and serve all parties thereto with written notice at the time the initial tariffs are submitted to afford them an opportunity to participate in the tariff approval process. Applicant will provide copies of the tariff immediately to a requesting Party. Any service authority shall be regarded as conditional and shall not be exercised until such time as tariffs for services have become effective. When filing its initial basic local tariff, ConnectSouth also shall file and serve a written disclosure of all resale and/or interconnection agreements which affect its Missouri service areas; all portions of its Missouri service areas for which it does not have a resale and/or interconnection agreement with the ILEC; and an explanation of why such a resale and/or interconnection agreement is unnecessary for such areas.

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

Statutory Provisions

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

Commission Rules

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

§ 392.330
§ 392.340

5. Pursuant to § 392.420 RSMo 1994, Applicant requests that the Commission waive the application of any or all of the following statutory provisions and rules as they relate to the regulation of Applicant's interexchange services and nonswitched local exchange services, and all Parties agree that the Commission should grant such request:

Statutory Provisions

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

Commission Rules

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

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

B. ConnectSouth Certification

7. ConnectSouth hereby agrees that its Application should be deemed amended to include by reference the terms and provisions described in paragraphs 2-6 above.

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

- 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 satisfy the minimum standards established by the Commission;
- c. has sufficiently identified the geographic area in which it proposes offer basic local telecommunications service, and such area follows exchange boundaries of the ILECs in the same areas, and such area is no smaller than an exchange;
- d. will offer basic local telecommunications service as a separate and distinct service;
- e. has agreed to provide equitable access to affordable basic local telecommunications services, as determined by the Commission, for all Missourians within the geographic area in which ConnectSouth 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.

9. ConnectSouth asserts, and no Party opposes, that ConnectSouth's Application and request for authority to provide basic local telecommunications services and local exchange telecommunications services (including exchange access service), and interexchange services should be granted. All services authorized herein should be classified as competitive telecommunications services provided that the requirements of § 392.200 RSMo continue to apply, and ConnectSouth shall remain classified as a competitive telecommunications company. ConnectSouth asserts, and no Party opposes, that such services will be subject to sufficient competition by the services of

the ILECs to justify a lesser degree of regulation of ConnectSouth's services consistent with the protection of ratepayers and the promotion of the public interest. Such classification should become effective upon the tariffs for the services becoming effective. Such authority should be conditional, not to be exercised until such time as tariffs for those services have been filed (together with the written disclosure as stipulated above) and have become effective. The Commission's Order should state the foregoing conditions substantially as follows:

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

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

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

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

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

Statutory Provisions

§ 392.210.2

§ 392.270

§ 392.280

§ 392.290

§ 392.300.2

§ 392.310

§ 392.320

§ 392.330

§ 392.340

Commission Rules

4 CSR 240-10.020

4 CSR 240-30.010(2)(C)

4 CSR 240-30.040

4 CSR 240-32.030(4)(C)

4 CSR 240-33.030

4 CSR 240-35

12. ConnectSouth's request for waiver of the application of the following rules and statutory provisions as they relate to the regulation of ConnectSouth's interexchange and nonswitched local services should be granted:

Statutory Provisions

§ 392.210.2

§ 392.270

§ 392.280

§ 392.290

§ 392.300.2

§ 392.310

§ 392.320

§ 392.330

§ 392.340

Commission Rules

4 CSR 240-10.020

4 CSR 240-30.010(2)(C)

4 CSR 240-30.040

4 CSR 240-33.030

4 CSR 240-35

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

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 §§ 536.070(2) and 536.080.1 RSMo 1994 to present testimony, to cross-examine witnesses, to present oral argument or written briefs, their respective rights to the reading of the transcript by the Commission pursuant to § 536.080.2 RSMo 1994, and their respective rights to seek rehearing pursuant to §386.500 RSMo 1994 and their respective rights to seek judicial review pursuant to §386.510 RSMo 1994. The Parties agree to cooperate with Applicant and with each other in presenting this Unanimous Stipulation and Agreement for approval to the Commission and shall take no action, direct or indirect, in opposition to the request for approval of the ConnectSouth Application made herein.


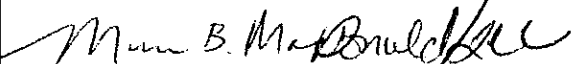
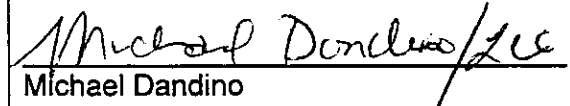
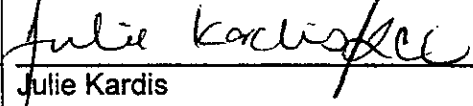
15. The Staff shall file suggestions or a memorandum in support of this Unanimous Stipulation and Agreement and the other parties shall have the right to file responsive suggestions or prepared testimony. All responsive suggestions, prepared testimony, or memorandum shall be subject to the terms of any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

16. The Staff also shall have the right to provide, at any agenda meeting at which this Unanimous Stipulation and Agreement is noticed to be considered by the Commission, whatever oral explanation the Commission requests; provided that Staff shall provide, to the extent reasonably practicable, the other Parties and participants with advance notice of when the Staff shall respond to the Commission's request for such explanation once such explanation is requested from the Staff. Staff's oral explanation shall be subject to public disclosure, except to the extent that it refers to matters that are privileged or protected by disclosure pursuant to any protective order that may be issued in this case.

17. 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.

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

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

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FYI: To Be Issued By Delegate

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TH-2000-585
CASE NO.

JS
Lumpe, Chair

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Drainer, Vice Chair

cm
Murray, Commissioner

JS
Schemenauer, Commissioner

about
Simmons, Commissioner

P. 11

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

