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BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI

In the Matter of the Application of Snappy)
Phone of Texas, Inc., d/b/a Snappy Phone, for)
a Certificate of Authority to Provide Basic) Case No. TA-2000-372
Local and Interexchange Telecommunications)
Services within the State of Missouri.)

ORDER GRANTING CERTIFICATE TO PROVIDE BASIC LOCAL
AND INTEREXCHANGE TELECOMMUNICATIONS SERVICES

Procedural History

Snappy Phone of Texas, Inc. d/b/a Snappy Phone (Snappy Phone) applied to the Missouri Public Service Commission on December 15, 1999, for a certificate of service authority to provide basic local exchange and interexchange telecommunications services in Missouri under Sections 392.420 - .440, RSMo 1994¹, and Sections 392.410 and .450, RSMo Supp. 1999. Snappy Phone 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. Snappy Phone is a Texas corporation with principal offices located at 6901 West 70th Street, Post Office Box 29620, Shreveport, Louisiana 71149.

The Commission issued a notice and schedule of applicants on December 21, 1999, directing interested parties wishing to intervene to do so by January 20, 2000. On January 10, 2000, Southwestern Bell Telephone

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

Company (SWBT) filed an application to intervene that was granted on January 20, 2000.

On February 15, 2000, Snappy Phone filed a Supplement to Application stating that granting its application would be in the public interest in that it would promote equitable access for telecommunications subscribers and would promote competition and choice in the market. On February 16, 2000, Snappy Phone filed an amendment related to paragraph nine of its application revising references to requested waivers of statutory requirements and rules. On April 7, 2000, Snappy Phone again supplemented its application by filing a surety bond in the amount of \$100,000.00.

The parties filed a Stipulation and Agreement (Agreement), which is included with this order as Attachment 1, on April 7, 2000. The Agreement stated that the Office of the Public Counsel, while not a signatory to the Agreement, had been contacted with regard to its filing and had offered no objection. 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 Stipulation and Agreement on April 25, 2000. In the Agreement, the parties waived their rights to present testimony, cross-examine witnesses, present oral argument or briefs, and to seek rehearing or judicial review. The requirement for a hearing is met when the opportunity for hearing has been provided and no proper party has requested the opportunity to present

evidence. State ex rel. Rex Deffenderfer Enterprises, Inc. v. Public Service Commission, 776 S.W.2d 494, 496 (Mo. App. 1989). Since no one has requested a hearing in this case, the Commission may grant the relief requested based on the application.

Discussion

Snappy Phone seeks certification to provide basic local and interexchange telecommunications services on a resold basis in portions of Missouri that are currently served by SWBT in the exchanges listed in SWBT's local exchange tariffs. Snappy Phone is not at this time asking for certification in any area that is served by any other incumbent local exchange carrier (ILEC). Snappy Phone is not asking for certification in any area that is served by a small ILEC. Snappy Phone stated that if it decided to seek authority to provide services in other parts of Missouri that it would do so in a subsequent proceeding.

Snappy Phone is requesting that it be classified as a competitive telecommunications company and that its basic local and interexchange telecommunication services be classified as competitive and that the application of certain statutes and regulatory rules be waived.

A. Requirements of 4 CSR 240-2.060(4)

Commission Rule 4 CSR 240-2.060(4) requires a foreign corporation applying for certification to provide telecommunications services to include in its application a certificate from the Secretary of State showing that it is authorized to do business in Missouri, a description of the types of service it intends to provide, a description of the exchanges

where it will offer service, and a proposed tariff with a 45-day effective date. Snappy Phone provided the required documentation with its application except for the proposed tariff. The company requested a temporary waiver of 4 CSR 240-2.060(4)(H) that requires the filing of a tariff. In the Stipulation and Agreement 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 Agreement provides that Snappy Phone will file the tariff in this case and give notice of the tariff filing to all the parties. Snappy Phone also agreed to provide a written disclosure of all interconnection agreements it has entered into which affect its Missouri service areas. The parties also agreed that any certificate of service authority granted in this case would be conditional and not effective until such time as Snappy Phone's tariff was filed, approved and becomes effective.

On April 18, 2000, Snappy Phone filed its tariff in this case and the tariff was assigned file number 200000957. The tariff will be considered in a separate order of the Commission after the Commission's Staff has had an opportunity to review the proposed tariff and file a recommendation.

B. Basic Local Service Certification

Section 392.455, RSMo Supp. 1999, sets out the requirements for granting certificates to provide basic local telecommunications service to new entrants. A new entrant must: (1) possess sufficient technical, financial and managerial resources and abilities to provide basic local telecommunications service; (2) demonstrate that the services it proposes

) to offer satisfy the minimum standards established by the Commission; (3) set forth the geographic area in which it proposes to offer service and demonstrate that such area follows exchange boundaries of the ILEC and is no smaller than an exchange; and (4) offer basic local telecommunications service as a separate and distinct service. In addition, the Commission must give due consideration to equitable access for all Missourians to affordable telecommunications services, regardless of where they live or their income.

) Exhibit B to the application lists the names and qualifications of Snappy Phone's management team. Snappy Phone submitted as Exhibit C to its application certain financial documentation. As noted above, Snappy Phone also filed a surety bond on April 7, 2000, in further support of its financial qualifications. The parties agreed that Snappy Phone possesses sufficient technical, financial and managerial resources and abilities to provide basic local telecommunications service.

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

) Snappy Phone wishes to be certificated to offer services in all the exchanges presently served by SWBT as described in SWBT's local exchange tariffs. The parties agreed that Snappy Phone 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.

Snappy Phone has agreed to offer basic local telecommunications service as a separate and distinct service and to provide equitable access, as determined by the Commission, for all Missourians within the geographic area in which it will offer basic local services in compliance with Section 392.455(5), RSMo Supp. 1999.

C. Interexchange Certification

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

D. Competitive Classification

The Commission may classify a telecommunications provider as a competitive company if the Commission determines it is subject to sufficient competition to justify a lesser degree of regulation. Section 392.361.2. In making that determination, the Commission may consider such factors as market share, financial resources and name recognition, among others. In the Matter of the Investigation for the Purpose of Determining the Classification of the Services Provided by Interexchange

Telecommunications Companies Within the State of Missouri, 30 Mo. P.S.C. (N.S.) 16 (1989); In the Matter of Southwestern Bell Telephone Company's Application for Classification of Certain Services as Transitionally Competitive, 1 Mo. P.S.C. 3d 479, 484 (1992).

In addition, the Commission may classify a telecommunications company as a competitive telecommunications company only upon a finding that all telecommunications services offered by such company are competitive telecommunications services pursuant to Section 392.361.3. The Commission has found that whether a service is competitive is a subject for case-by-case examination and that different criteria may be given greater weight depending upon the service being considered. *Id.* at 487.

The parties have agreed that Snappy Phone should be classified as a competitive telecommunications company. The parties have also agreed that all of the services Snappy Phone proposes to offer should be classified as competitive. The parties further agreed that switched exchange access services may be classified as a competitive service, conditioned upon certain limitations on Snappy Phone's ability to charge for its access services. Snappy Phone 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 for the large ILECs within whose service area(s) Snappy Phone seeks to operate. The parties have agreed that the grant of service authority and competitive classification to Snappy Phone should be expressly conditioned on the continued applicability of Section 392.200, RSMo Supp. 1999, and on the requirement that any increases in switched access

services rates above the maximum switched access service rates set forth in the agreement must be cost-justified pursuant to Sections 392.220, RSMo Supp. 1999, and 392.230, rather than Sections 392.500 and 392.510.

The parties agreed that waiver of certain statutes and Commission rules should be granted based upon the competitive classification of the company and its services². A 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. 1999, and 392.340. A waiver of the following Commission rules is appropriate: 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 and the interexchange telecommunications markets is in the public interest.
- B. The Commission finds that Snappy Phone 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.

² The waivers listed in the Stipulation and Agreement did not reflect current rule numbers. This order uses current references.

- C. The Commission finds that Snappy Phone 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 interexchange telecommunication services market is competitive and that granting Snappy Phone a certificate of service authority to provide interexchange telecommunications services is in the public interest. Snappy Phone's certificate shall become effective when its tariff becomes effective.
- E. The Commission finds that Snappy Phone 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 Snappy Phone a certificate of service authority to provide basic local exchange telecommunications services is in the public interest. Snappy Phone's certificate shall become effective when its tariff becomes effective.
- F. The Commission finds that Snappy Phone is a competitive company and should be granted a waiver of the statutes and rules set out in the ordered paragraph below.
- G. The Commission finds that Snappy Phone's certification and competitive status should be expressly conditioned upon the continued applicability of Section 392.200, RSMo Supp. 1999, and on the requirement that any increases in switched access services rates above the maximum switched access service rates

set forth in the agreement must be cost-justified pursuant to Sections 392.220, RSMo Supp. 1999, and 392.230, rather than Sections 392.500 and 392.510.

Safekeeping of Bond

As noted, Snappy Phone supplemented its application by filing a surety bond. This bond was filed in the Commission's Records Room. In order to assure the safekeeping of the surety bond and its availability as may be required, the Commission will direct that the Commission's Secretary provide for the bond to be placed in the Commission's safe maintained by the Commission's Administration Division. Inspection of and copies of the bond may be provided as requested, however, the bond shall not be released from the custody of the Commission or Commission's Secretary except by order of the Commission and pursuant to Sections 386.090 and 386.240.

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. Snappy Phone has requested certification under Sections 392.420 - .440, and Sections 392.410 and .450, RSMo Supp. 1999, which permit the Commission to grant a certificate of service authority where it is in the public interest. Sections 392.361 and .420 authorize the Commission to modify or suspend the application of its rules and certain statutory

provisions for companies classified as competitive or transitionally competitive.

The federal Telecommunications Act of 1996 and Section 392.455, RSMo Supp. 1999, were designed to institute competition in the basic local exchange telecommunications market in order to benefit all telecommunications consumers. See Section 392.185, RSMo Supp. 1999.

The Commission has the legal authority to accept a Stipulation and Agreement as offered by the parties as a resolution of the issues raised in this case, pursuant to Section 536.060, RSMo Supp. 1999. Based upon the Commission's review of the applicable law and Agreement of the parties, and upon its findings of fact, the Commission concludes that the Agreement should be approved.

IT IS THEREFORE ORDERED:

1. That the Stipulation and Agreement of the parties, filed on April 7, 2000, is approved.

2. That Snappy Phone of Texas, Inc. d/b/a Snappy Phone, is granted a certificate of service authority to provide interexchange telecommunications services in the state of Missouri, subject to the conditions of certification set out above and to all applicable statutes and Commission rules except as specified in this order. The certificate of service authority shall become effective when the company's tariff becomes effective.

3. That Snappy Phone of Texas, Inc. d/b/a Snappy Phone, is granted a certificate of service authority to provide basic local telecommunications services in the state of Missouri, subject to the

conditions of certification set out above and to all applicable statutes and Commission rules except as specified in this order. The certificate of service authority shall become effective when the company's tariff becomes effective.

4. That Snappy Phone of Texas, Inc. d/b/a Snappy Phone, is classified as a competitive telecommunications company. Application of the following statutes and regulatory rules shall be waived:

Statutes

- 392.210.2 - uniform system of accounts
- 392.240.1 - rates-rentals-service & physical connections
- 392.270 - valuation of property (ratemaking)
- 392.280 - depreciation accounts
- 392.290 - issuance of securities
- 392.300.2 - acquisition of stock
- 392.310 - stock and debt issuance
- 392.320 - stock dividend payment
- 392.340 - reorganization(s)
- 392.330, RSMo Supp. 1999 - issuance of securities, debts and notes

Commission Rules

- 4 CSR 240-10.020 - depreciation fund income
- 4 CSR 240-30.010(2)(C) - posting of tariffs
- 4 CSR 240-30.040 - uniform system of accounts
- 4 CSR 240-32.030(4)(C) - report filing
- 4 CSR 240-33.030 - minimum charges
- 4 CSR 240-35 - reporting of bypass and customer-specific arrangements

That the request for waiver of 4 CSR 240-2.060(4)(H), which requires the filing of a 45-day tariff with an application, is granted. The Commission will consider that tariff that was filed subsequent to the filing of the application in a separate order.

5. That Snappy Phone of Texas, Inc. d/b/a Snappy Phone, shall give notice of the filing of the tariffs described above to all parties or

participants in this case. In addition, Snappy Phone of Texas, Inc. d/b/a Snappy Phone, 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.


6. That Snappy Phone of Texas, Inc. d/b/a Snappy Phone'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 must be cost-justified pursuant to Sections 392.220, RSMo Supp. 1999, and 392.230, rather than Sections 392.500 and 392.510.

7. That the Commission's Record's Department, acting under the supervision of the Commission's Secretary, shall deliver the original surety bond filed in this case to the Commission's administrative division so that the bond may be kept in the Commission's safe and made available for inspection or copying as requested. The bond shall not be released from the custody of the Commission or Commission's Secretary except by order of the Commission.

8. That the Commission's Staff shall file a recommendation in this case regarding the tariff filed by the applicant at least seven working days prior to the effective date of the tariff.

9. That this order shall become effective on May 10, 2000.

BY THE COMMISSION



Dale Hardy Roberts
Secretary/Chief Regulatory Law Judge

(S E A L)

Keith Thornburg, Regulatory Law Judge,
by delegation of authority pursuant to
4 CSR 240-2.120(1) (November 30, 1995)
and Section 386.240, RSMo 1994.

Dated at Jefferson City, Missouri,
on this 28th day of April, 2000.

In the Matter of the Application)
of Snappy Phone of Texas, Inc. for)
a Certificate of Authority to)
Provide Basic Local and)
Interexchange Telecommunications)
Services within the)
State of Missouri.)

Case No. TA-2000-372

STIPULATION AND AGREEMENT

Snappy Phone of Texas, Inc. (hereinafter "Snappy Phone") initiated this proceeding on December 15, 1999, by filing an Application requesting a certificate of service authority to provide basic local exchange and interexchange services in exchanges currently served by Southwestern Bell Telephone Company, GTE, and Sprint. Southwestern Bell Telephone Company (SWB) applied to intervene in this matter and its application was granted. GTE and Sprint did not seek and have not been granted intervention in this proceeding.

A. STANDARDS AND CRITERIA

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

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

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

3. In determining whether Snappy Phone's application for certificate of service authority should be granted, the Commission should consider Snappy Phone's technical, financial and managerial resources and abilities to provide basic local telecommunications service. Snappy Phone must demonstrate that the basic local services it proposes to offer satisfy the minimum standards established by the Commission, including but not limited to the applicant agreeing to file and maintain basic local service tariff(s) with the Commission in the same manner and form as the Commission requires of incumbent local exchange telecommunications companies with which the applicant seeks to compete. Further, Snappy Phone 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, Snappy Phone 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 LECs

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

) within whose service area(s) applicant seeks authority to provide service. Further, Snappy Phone 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 and must be no smaller than an exchange. Finally, Snappy Phone agrees to provide equitable access as determined by the Commission for all Missourians within the geographic area in which it proposes to offer basic local service, regardless of where they live or their income, to affordable telecommunications services. See Section 392.455 RSMo. (1999 Supp.)

) 4. Snappy Phone has submitted its application without tariffs and seeks a temporary waiver of 4 CSR 240-2.060(4)(H)² Snappy Phone agrees to file its initial tariff(s) in the certification docket and serve all parties with written notice at the time the initial tariff(s) are submitted to afford them an opportunity to participate in the tariff approval process. Copies of the tariff(s) will be provided by Snappy Phone to such parties immediately upon request. Any service authority granted in this proceeding shall be regarded as conditional and shall not be exercised until such time as tariff(s) for services have become effective. When filing its initial basic local tariff(s); Snappy

²Good 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. At the time of the filing of its application, Snappy Phone did not have an approved interconnection agreement.

Phone 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 such areas.

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

STATUTORY PROVISIONS

392.210.2
392.270
392.280
392.290.1
392.300.2
392.310
392.320
392.330
392.340

COMMISSION RULES

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

6. Snappy Phone has, pursuant to Section 392.420 RSMo., requested that the Commission waive the application of any or all of the following statutory provisions and rules to interexchange

) telecommunications services as they relate to the regulation of Snappy Phone's new services should be granted:

STATUTORY PROVISIONS

392.240 (1)

COMMISSION RULES

4 CSR 240-30.010 (2) (C)
4 CSR 240-32.030 (1) (B) & (C), (2)³
4 CSR 240-32.050 (3) - (6)
4 CSR 240-32.070 (4)
4 CSR 240-33.030
4 CSR 240-33.040 (5)

) 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 342.455, RSMo. Supp 1999, regarding applications for certificates of service authority to provide basis local telecommunications services.

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

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

³ 4 CSR 240-32.030 (1) (B) & (1) (C) have been revised and are presently codified in 4 CSR 240-32.030 (4) (C) & (4) (A) 2.

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

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

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

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

9. Snappy Phone asserts and no party opposes, that Snappy Phone's Application and request for authority to provide basic local exchange and interexchange telecommunications service as a non-facility based provider on a resale basis should be granted. All services authorized herein should be classified as competitive telecommunications services, provided that the requirements of Section 392.200 RSMo Supp 1999 continue to apply, and Snappy Phone shall remain classified as a competitive telecommunications company. Snappy Phone 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 Snappy Phone's services consistent with the protection of ratepayers and the promotion of the public interest. Such

) classification should become effective upon the tariffs for the services becoming effective. Such authority should be conditional, not to be exercised until such time as tariffs for those services have been filed (together with the written disclosure as stipulated above) and have become effective. The Commission's Order should state the foregoing conditions substantially as follows:

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

) The parties agree that the applicant's switched exchange access services may be classified as competitive services. The parties further agree that the applicant's switched exchange access services are subject to Section 392.200. The parties recognize the pendency of Case No. TO-99-596 regarding access rates to be charged by competitive local exchange telecommunication companies. Unless otherwise determined by the Commission in Case No. TO-99-596 any increases in switched access service rates above the maximum switched access service rates as set forth in paragraph 2 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 above the maximum switched

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access service rates set forth herein shall be cost-justified and be made pursuant to Sections 392.220 and 392.230 and not Sections 392.500 and 392.510."

10. Snappy Phone'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 the filing of the application, Snappy Phone did not yet have an approved interconnection agreement with the large incumbent LEC. Snappy Phone agrees that within thirty (30) days of an order approving an interconnection agreement with an underlying carrier, Snappy Phone 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. Snappy Phone shall serve notice to all parties and participants in this docket of the filing of its tariffs at the time they are filed with the Commission, and serve them with the aforesaid written disclosure and shall upon request immediately provide any party with a copy of those tariffs. The Commission's order should state these obligations as conditions to the waiver of 4 CSR 240-2.060(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 interconnection agreement with the incumbent local exchange carriers within whose service area it seeks authority to provide service; provided, when applicant submits its tariffs in

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this docket to the Commission such tariffs shall have a minimum of a 45-day effective date and the applicant shall serve written notice upon the parties hereto of such submittal, and shall provide copies of such tariffs to such parties immediately upon request. When filing its initial basic local tariff in this docket, the applicant shall also file and serve upon the parties hereto a written disclosure of: all 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."

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

STATUTORY PROVISIONS

392.210.2
392.270
392.280
392.290.1
392.300.2
392.310
392.320
392.330
392.340

COMMISSION RULES

)

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

COMMISSION RULES

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

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

STATUTORY PROVISIONS

392.240 (1)

COMMISSION RULES

- 4 CSR 240-30.010 (2) (C)
- 4 CSR 240-32.030 (4) (C) & (4) (A) 2, (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)

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,

) briefs; their respective rights to the reading of the transcript by the Commission pursuant to Section 536.080.2, RSMo. 1994; and their respective rights to seek rehearing pursuant to Section 386.500 RSMo. 1994 and to seek judicial review pursuant to Section 386.510, RSMo. 1994. 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 the Snappy Phone 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 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

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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. Staff's oral explanation shall be subject to public disclosure.

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

17. The Office of Public Counsel, while not a signatory to this Stipulation and Agreement, has been contacted regarding this 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 as requested by Snappy Phone, subject to the conditions described above, as expeditiously as possible.

Respectfully submitted,

Richard S. Brownlee III

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FOR: Snappy Phone
of Texas

NW by RSB III 4/6/00 per t/c

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