

BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI

In the matter of the application)
requesting authority (1) for GTE)
North Incorporated to transfer)
certain assets to GTE Midwest)
Incorporated, (2) for the merger)
of Contel of Iowa, Inc., Contel)
of Missouri, Inc., Contel of)
Minnesota, Inc., The Kansas State)
Telephone Company, Contel of)
Kansas, Inc., and Contel Systems)
of Missouri, Inc., into GTE Midwest)
Incorporated, and (3) for the)
transfer of certificates of public)
convenience and necessity.)

Case No. TM-93-1

APPEARANCES

James C. Stroo and **William D. Kolb**, Attorneys, GTE Telephone Operations, 1000 GTE Dr., P.O. Box 307, Wentzville, MO 63385

Randy Bakewell, Office of the Public Counsel, P.O. Box 7800, Jefferson City, MO 65102

Mary Ann Young, General Counsel, Missouri Public Service Commission, P.O. Box 360, Jefferson City, MO 65102

REPORT AND ORDER

Procedural History

On July 1, 1992, GTE North Incorporated (GTE North), Contel of Missouri, Inc., d/b/a GTE Systems of Missouri (Contel System), Contel of Iowa, Inc., d/b/a GTE Iowa (Contel of Iowa), The Kansas State Telephone Company, d/b/a GTE of Eastern Missouri (GTE of Eastern Missouri), and GTE Midwest, Incorporated (GTE Midwest) (hereinafter referred to as Joint Applicants) filed a Joint Application pursuant to Sections 392.300, 392.410, RSMo 1986, and 4 CSR 240-2.060(4) for authority to (1) transfer assets from GTE North to GTE Midwest, (2) merge with certain other affiliates, and

(3) transfer the certificates of public convenience and necessity of the Joint Applicants to GTE Midwest. On July 21, 1992, the Commission issued an Order and Notice and established an intervention date. On November 16, 1992, the parties filed an Unanimous Stipulation and Agreement for Commission consideration. A hearing was held as scheduled on December 1, 1992, for consideration of the Stipulation and Agreement.

Findings of Fact

The Missouri Public Service Commission, having considered the competent and substantial evidence on the whole record, makes the following findings of fact.

Joint Applicants, other than GTE Midwest, are telecommunications companies and public utilities as those terms are defined by Section 386.020, RSMo 1986. As public utilities, Joint Applicants provide telecommunications services to members of the public within the areas certificated to them by the Missouri Public Service Commission. Joint Applicant, GTE Midwest, is a newly formed subsidiary of GTE North authorized to do business in the State of Missouri. GTE Midwest, at this time, is not authorized to, nor is it, providing any telecommunications services in the State of Missouri. In this proceeding, Joint Applicants sought Commission approval to (1) transfer assets from GTE North in the states of Iowa, Nebraska, Minnesota, and Missouri to GTE Midwest, (2) to merge GTE Midwest with Contel of Minnesota, Inc., Contel of Kansas, Contel of Iowa, Inc., Contel of Missouri, Inc., Contel Systems of Missouri, Inc., and the Kansas Telephone Company,

and (3) to transfer the certificates of public convenience and necessity of the Joint Applicants to GTE Midwest.

On November 16, 1992, the parties filed a Stipulation and Agreement, Attachment A to this Report and Order and incorporated herein by reference, which proposed to settle all issues in this case. The Stipulation and Agreement recommends that the Commission approve the application filed in this proceeding and provides: (1) that GTE Midwest will retain surveillance data on the same separated company basis as currently provided up to, and including, the next GTE Midwest rate case, (2) that upon the closing date of the merger, GTE Midwest will file adoption notices for each of the merging companies indicating GTE Midwest's adoption of the contents of the individual tariff books of each of the merging companies for the exchanges specified in the adoption notice, which will be consistent with the exchanges currently covered by the merging companies' individual tariffs, (3) that GTE Midwest will take steps to file a consolidated tariff designed to replace the separate tariffs of the merging companies within a reasonable time, but no later than January, 1994, and (4) that GTE Midwest will maintain basic and continuing property records in such condition to permit evaluation of those records in studying new depreciation rates in the next rate case and will improve records to the extent they do not currently exist and meet such standard, except that GTE Midwest is not obligated to generate records to this standard for properties it acquired from other telephone companies who were unable to provide continuing property records.

Additionally, the parties assured the Commission that all companies will continue operating as they presently exist today and that none of the rates will change until new tariffs are filed in accordance with the Stipulation and Agreement. Furthermore, the parties submitted that even though the Stipulation and Agreement set a December 1, 1992 date for a Commission order approving the Stipulation and Agreement the failure of an order being issued on said date will not nullify the agreement.

The Commission has reviewed the Stipulation and Agreement and the evidence in this matter. The Commission finds that approval of the merger will not be detrimental to the public interest. The Stipulation and Agreement provides for sufficient safeguards for the continued provision of safe and adequate telecommunications service to the affected customers and provides for sufficient safeguards to allow Staff and Public Counsel to review changes in operations which result from the merger.

Conclusions of Law

The Missouri Public Service Commission has arrived at the following conclusions of law.

The Commission has jurisdiction over this matter pursuant to Section 392.300, RSMo (Supp. 1990). Section 392.300 requires that the companies shall obtain authority from this Commission prior to any sale or transfer of the whole or any part of franchise, facilities or system necessary and useful in the performance of its duties to the public. The standard of review is whether the sale or transfer would be detrimental to the public.

State ex rel. Fee Fee Trunk Sewer, Inc. v. Litz, 596 SW2d 466, 468 (Mo. App. 1980); State ex rel. City of St. Louis v. PSC, 73 SW2d 393, 400 (Mo. banc 1934).

The Commission may approve a Stipulation of the issues in this case where it finds that the Stipulation is not detrimental to the public. The Commission has so found and, therefore, concludes that the application should be approved.

IT IS THEREFORE ORDERED:

1. That the Stipulation and Agreement filed in this case be, and is, hereby approved and adopted.

2. That Joint Applicants be, and are, hereby authorized (1) to transfer assets from GTE North in the states of Iowa, Nebraska, Minnesota, and Missouri to GTE Midwest, (2) to merge GTE Midwest with Contel of Minnesota, Inc., Contel of Kansas, Contel of Iowa, Inc., Contel of Missouri, Inc., Contel Systems of Missouri, Inc., and the Kansas Telephone Company, and (3) to transfer the certificates of public convenience and necessity of the Joint Applicants to GTE Midwest in accordance with the application and the terms and conditions of the Stipulation and Agreement approved in Ordered paragraph 1.

3. That GTE Midwest shall file a consolidated tariff designated to replace the separate tariffs of the merging companies on or before January 31, 1994.

4. That Joint Applicants may take such actions as are necessary to complete the transactions approved in this Report and Order.

5. That this Report and Order shall become effective on
December 18, 1992.

BY THE COMMISSION

Brent Stewart

Brent Stewart
Executive Secretary

(S E A L)

McClure, Chm., Mueller, Rauch,
Perkins and Kincheloe, CC., Concur.

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STIPULATION AND AGREEMENT

COME NOW GTE North Incorporated, Contel of Missouri, Inc., d/b/a GTE Missouri, Contel System of Missouri, Inc., d/b/a GTE Systems of Missouri, Contel of Iowa, Inc., d/b/a GTE Iowa (Contel of Iowa), The Kansas State Telephone Company, d/b/a GTE of Eastern Missouri, GTE Midwest Incorporated (GTE Midwest), (together hereafter referred to as the Merging Companies), the Office of the Public Counsel (Public Counsel), and the Staff of the Missouri Public Service Commission (Staff) and present the following as their Stipulation and Agreement concerning resolution of the above-referenced case. The entities listed above constitute all the parties to Case No. TM-93-1 before the Missouri Public Service Commission and will hereafter be referred to as "Stipulating Parties".

1. The Stipulating Parties hereby recommend that the Missouri Public Service Commission approve the Application filed in this docket on July 1, 1992 requesting authority (1) for GTE North

to transfer certain assets to GTE Midwest Incorporated, (2) for the merger of Contel of Iowa Inc., Contel of Missouri, Inc., Contel of Minnesota, Inc., The Kansas State Telephone Company, Contel of Kansas, Inc., and Contel Systems of Missouri, Inc. into GTE Midwest Incorporated, and (3) for the transfer of certificates of public convenience and necessity (hereinafter referred to as Application), subject to the following agreements and conditions.

1) That GTE Midwest agrees to retain surveillance data on the same separated company basis as currently provided up to and including the next GTE Midwest rate case.

2) That upon the closing date of the merger, GTE Midwest agrees to file adoption notices for each of the Merging Companies indicating GTE Midwest's adoption of the contents of the individual tariff books of each of the merging Companies for the exchanges specified in the adoption notice, which will be consistent with the exchanges currently covered by the Merging Companies' individual tariffs.

3) That GTE Midwest agrees to take steps to file a consolidated tariff designed to replace the separate tariffs of Merging Companies within a reasonable time, but no later than January, 1994. This date may be extended by agreement of Public Counsel, Staff and GTE Midwest if circumstances develop that render this date infeasible or inappropriate. If such an agreement is reached, the Commission shall be advised.

4) GTE Midwest agrees to maintain basic and continuing property records in such condition to permit evaluation of those

records in studying new depreciation rates in the next rate case, and agrees to improve records to the extent they do not currently exist and meet such standard, except that GTE Midwest is not obligated to generate records to this standard for properties it acquired from other telephone companies who were unable to provide continuing property records.

2. The parties do not agree as to the appropriate ratemaking treatment for the costs incurred in this docket, but agree to postpone consideration of that issue to the next rate case of GTE Midwest.

3. Nothing in this Stipulation and Agreement alters the terms of the Stipulation and Agreement filed on January 18, 1991 in Case No. TM-91-123, In the Matter of the Merger of GTE Corp. and Contel Corp., except to the extent specified herein, or except to the extent the passage of time has altered the provisions of the stipulation.

4. None of the parties to this Stipulation And Agreement shall be deemed to have approved or acquiesced in any question of Commission authority, decommissioning methodology, ratemaking principle, valuation methodology, cost of service methodology or determination, depreciation principle or method, rate design methodology, cost allocation, cost recovery, or prudence, that may underlie this Stipulation And Agreement, or for which provision is made in this Stipulation And Agreement.

5. The Staff shall have the right to submit to the Commission, in memorandum form, an explanation of its rationale for

entering into this Stipulation And Agreement and to provide to the Commission whatever further explanation the Commission requests. Such memorandum shall not become a part of the record of this proceeding and shall not bind or prejudice the Staff in any future proceeding or in this proceeding in the event the Commission does not approve the Stipulation And Agreement. It is understood by the signatories hereto that any rationales advanced by the Staff in such a memorandum are its own and are not acquiesced in or otherwise adopted by any other party hereto.

6. This Stipulation And Agreement represents a negotiated settlement for the sole purpose of addressing the authority requested by the Application in this case. The parties to this Stipulation And Agreement shall not be prejudiced, bound by, or in any way affected by the terms of this Stipulation And Agreement: (a) in any future proceeding; (b) in any proceeding currently pending under a separate docket; and/or (c) in this proceeding should the Commission decide not to approve this Stipulation And Agreement or in any way condition its approval of same.

7. The prepared direct testimonies, schedules, and report of witnesses Barry W. Paulson, Robert G. Deter and H. Ryan Gaddy shall be received into evidence without the necessity of these witnesses taking the witness stand.

8. The provisions of this Stipulation And Agreement have resulted from extensive negotiations among the signatory parties and are interdependent. In the event that the Commission does not

approve and adopt the terms of this Stipulation And Agreement in total, it shall be void and no party hereto shall be bound by, prejudiced, or in any way affected by any of the agreements or provisions hereof unless otherwise provided herein.

9. In the event the Commission accepts the specific terms of this Stipulation And Agreement, the signatories waive their respective rights to cross-examine witnesses; their respective rights to present oral argument and written briefs pursuant to Section 536.080.1 RSMo 1986; their respective rights to the reading of the transcript by the Commission pursuant to Section 536.080.2 RSMo 1986; and their respective rights to judicial review pursuant to Section 386.510 RSMo 1986.

WHEREFORE, the parties hereto recommend that the Commission approve the Application herein and issue an order approving this application no later than December 1, 1992 with a ten day effective date to permit closing of this transaction by December 31, 1992.

Respectfully submitted,

STAFF OF THE MISSOURI PUBLIC
SERVICE COMMISSION

MERGING COMPANIES
GTE MIDWEST ET AL.

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CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing have been mailed or hand-delivered to all counsel of record as shown on the following service list this 16th day of November, 1992.

Robert Mack

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