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August 16, 1999

FILED²

AUG 16 1999

Missouri Public
Service Commission

Mr. Dale Hardy Roberts
Secretary/Chief Regulatory Law Judge
Missouri Public Service Commission
P.O. Box 360
Jefferson City, MO 65102

**Re: In the Matter of the Application of Grand River Communications, Inc., d/b/a Grand River
Long Distance for a Certificate of Service Authority to Provide Interexchange and Local
Exchange Telecommunications Service in Missouri; Case No. TA-2000-33**

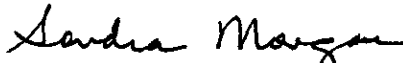
Dear Mr. Roberts:

Enclosed please find the original plus fourteen (14) copies of Response to AT&T's Application to Intervene and Motion to Consolidate for filing on behalf of Grand River Communications, Inc. in the above referenced matter. Please bring this matter to the attention of the appropriate Commission personnel. A copy of this filing is being sent to all parties of record.

Thank you for your attention to this matter.

Very truly yours,

BRYDON, SWEARENGEN & ENGLAND P.C.

By: 
Sondra B. Morgan

SBM/k

Enclosures

cc: Office of Public Counsel
General Counsel - PSC
Paul S. DeFord
Kevin K. Zarling

**BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI**

FILED²
AUG 16 1999

In the Matter of the Application of Grand River
Communications, Inc., d/b/a Grand River Long
Distance for a Certificate of Service Authority
to Provide Interexchange and Local Exchange
Telecommunications Service in Missouri)
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Missouri Public
Service Commission
Case No. TA-2000-33

In the Matter of the Application of Grand River
Communications, Inc., d/b/a Lathrop Long
Distance for a Certificate of Service Authority
to Provide Interexchange and Local Exchange
Telecommunications Service in Missouri)
)
)
)
)

Case No. TA-2000-35

RESPONSE OF GRAND RIVER COMMUNICATIONS, INC.

Comes now Grand River Communications, Inc., ("Grand River") d/b/a Grand River Long Distance ("GRLD") and d/b/a Lathrop Long Distance ("LLD") and for its Response to AT&T Communications of the Southwest, Inc.'s ("AT&T") Application to Intervene and Motion to Consolidate states to the Missouri Public Service Commission ("Commission") as follows:

1. On June 10, 1999, the Commission issued a Report and Order in Case No. TO-99-254¹ which terminated the Primary Toll Carrier ("PTC") plan and established guidelines for the implementation of intraLATA dialing parity ("ILD"). The Commission also approved the ILDP plans of Grand River Mutual Telephone Company ("GRMTC") and Lathrop Telephone Company ("LTC").² On June 18, 1999, in its Motion for Clarification, Grand River and Lathrop requested modification of their ILDP plans. On June 24, 1999, in its Order Regarding Requests for

¹ *In the Matter of an Investigation Concerning the Primary Toll Carrier Plan and IntraLATA Dialing Parity.*

² Orders approving the ILDP implementation plans were also issued by the Commission on June 10, 1999 in Case Nos. TO-99-506 and TO-99-512 respectively.

Clarification and Motion to Modify Customer Notice, the Commission modified the plans as requested.

2. In order to comply with the Commission's orders terminating the Primary Toll Carrier plan and implementing ILDP and in order to assure that the customers of its local exchange companies will be able to make intraLATA toll calls, Grand River filed two applications under two fictitious names for authority to provide interexchange and local exchange (non-switched) telecommunications services, one using the "d/b/a" Grand River Long Distance and one using the "d/b/a" Lathrop Long Distance. This will result in the establishment of two separate and discrete service areas and will result in the establishment of two separate business divisions associated with the two discrete service areas served by the corresponding local exchange companies. For example, Grand River Communications, Inc., d/b/a Grand River Long Distance will provide long distance service to customers in those exchanges served by Grand River Mutual Telephone Corporation. All of GRLD's service offerings will be universally available to customers within the exchanges served by GRMTC. This will also be true for LLD which will provide service to the customers of LTC. However, the rates to be charged for both entities are identical, thus there are no "deaveraged" rates within or among the two service areas. The applications and tariffs were prepared separately because of the Commission's preference to have separate certificates and tariffs for each fictitious name under which the company intends to do business and not because of any intent by Grand River to deaverage rates. Both Grand River Long Distance and Lathrop Long Distance offer one flat rate pricing option for toll service at \$.15 per minute.

3. On August 6, 1999, AT&T filed Applications to Intervene in Grand River's

application cases. Both of AT&T's pleadings plainly state that **"AT&T does not oppose approval of the applications or the accompanying tariffs."** (Emphasis supplied.) However, AT&T claims that Grand River's applications and their accompanying tariffs are similar to AT&T's proposed "intraLATA toll overlay plan" tariff which was suspended by the Commission in Case No. TT-2000-22.³ Grand River now files this Response and states that **it's applications for certificates of service authority and tariff filings are clearly distinguishable from AT&T's intraLATA toll overlay plan** for the reasons set forth below:

A. Rate Structure. AT&T states in its pleadings that Grand River "will be providing interexchange toll service at different rates in the exchanges of Grand River Mutual Telephone Company than it charges in the exchanges of Lathrop Telephone Company." A review of the proposed tariffs for these two companies shows that AT&T is mistaken. The proposed tariffs are identical except for the fictitious names of the two long distance companies. Thus, AT&T's allegation that Grand River will be "charging different rates for 1+ interexchange service based upon the underlying ILEC franchise territory" is simply not true. Grand River's filings are clearly different from AT&T's intraLATA overlay plan which has been suspended by the Commission because rates proposed by AT&T are different in various parts of the state.

This is the first major difference between Grand River's tariff filings and AT&T's proposed intraLATA overlay plan. *Grand River will offer service to all customers in the tariffed exchanges* under the same terms, conditions, and rates. Conversely, the effect of

³ "The effect of the proposed tariffs is to put in place a rate structure identical to that proposed to [sic] AT&T's "intraLATA overlay plan" tariff which has been suspended by the Commission. . . . To the extent applicant's proposed tariffs are similar, if not identical, in principal [sic] to AT&T's proposed tariffs, it is AT&T's position that they must be treated and processed in the same manner by the Commission."

AT&T's intraLATA toll overlay plan will be that AT&T would provide its proposed service *only in a part of the area where it has certificates and tariffs in place*. As explained in the STCG's pleadings in Case No. TO-2000-22, this violates the Federal Telecommunications Act of 1996 and the FCC's rate averaging order in Case No. FCC-96-331.⁴

B. Standing. AT&T does not oppose Grand River's applications or the accompanying tariffs. Moreover, AT&T is not now (nor does it propose to be) a customer of Grand River's competitively classified services. Rather, AT&T is, at best, merely a competitor *at this time*. Ironically, AT&T is currently seeking to exit these very markets, and if AT&T successfully abandons these markets, then AT&T will not even be a competitor. These facts call into question AT&T's standing to intervene, as well as AT&T's true motivation. AT&T's applications to intervene appear to be motivated primarily by "sour grapes" because the affiliates of Grand River (i.e. GRMTC and LTC) intervened in AT&T's "intraLATA overlay" tariff filing. Thus, it is highly questionable whether AT&T has made the requisite showing of standing to intervene under the Commission's rules.⁵

C. Certificate of Service Authority and Tariffs. Grand River seeks to provide service in two separate and distinct service areas under two separate and distinct fictitious names. Grand River does not, at this time, purport to serve the entire state of Missouri as its service area is limited by its tariff to discrete service areas. AT&T, on the other hand, currently has a certificate of service authority and tariffs which purport to provide interexchange service throughout the

⁴ Moreover, Missouri law requires that AT&T show *by clear and convincing* evidence that deaveraged rates are reasonably necessary to promote the public interest and the purposes and policies of Chapter 392 of Missouri's Revised Statutes.

⁵ See 4 CSR 240-2.075(4)

state of Missouri (limited only by the phrase "where facilities are available"). In fact, AT&T is the dominant interexchange carrier ("IXC") in the state of Missouri, having Carrier of Last Resort ("COLR") responsibility under Missouri statutes⁶ and, until recently, it was honoring this statewide role.⁷

D. Improper Procedure. Grand River seeks to provide service in two distinct areas pursuant to appropriate statutes and rules and consistent with prior Commission precedent. On the other hand, AT&T has a certificate of service authority and tariffs in place to provide service throughout the entire state of Missouri, yet it seeks to offer service only in certain areas of the state through its intraLATA toll overlay plan. AT&T has followed a different and improper procedure to accomplish its objective. As noted previously, AT&T already has statewide authority pursuant to its certificate and tariffs. It also has COLR for interLATA interexchange service. AT&T now seeks to provide certain interexchange services on less than a statewide basis. Thus, the procedure (and standard of proof) which AT&T must follow to restrict its certificate of service and/or deaverage rates is entirely different from that which applies to a new entrant such as Grand River.

Grand River is a new interexchange carrier seeking to provide service in two separate areas and fill a void created by the elimination of the PTC plan and, now, the apparent abandonment by AT&T of the small companies' rural markets. Grand River's certificates and

⁶ AT&T was authorized by the Commission to provide interexchange telecommunications service within the state of Missouri on January 1, 1984. Thus, AT&T has COLR responsibility under § 392.460 RSMo 1994. On June 25, 1999, AT&T filed a request to terminate its COLR responsibility.

tariffs are entirely different from AT&T's certificate of service authority and AT&T's statewide tariffs. Therefore, it would make no sense to suspend Grand River's tariffs pending the resolution of the case examining AT&T's intraLATA toll overlay plan. In fact, suspending Grand River's tariffs will jeopardize its ability to be able to provide interexchange service at the time the PTC Plan is eliminated (now scheduled to occur on October 20, 1999 for both GRMTC and LTC). If the Commission requires additional information regarding this matter, it should, at the very least, grant temporary authority to Grand River to permit it to provide interexchange services to customers upon the elimination of the PTC Plan.

WHEREFORE, because Grand River has complied with the established and proper procedure in filing its applications for certificates of service authority and tariffs and because Grand River's tariff filings are clearly distinguishable from AT&T's proposed intraLATA toll overlay plan, Grand River respectfully requests that the Commission issue an Order: (1) denying AT&T's application to intervene; (2) approving Grand River's tariffs and applications for certificates of service authority; and (3) for such other orders as are reasonable under the circumstances.

Respectfully submitted,

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d/b/a Grand River Long Distance and d/b/a Lathrop
Long Distance

Certificate of Service

I hereby certify that a true and correct copy of the above and foregoing document was mailed or hand-delivered, this 16th day of August, 1999, to:

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