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January 25, 2000

**FILED**<sup>3</sup>

JAN 26 2000

Mr. Dale Hardy Roberts, Secretary  
Missouri Public Service Commission  
P.O. Box 360  
Jefferson City, Missouri 65102

Missouri Public  
Service Commission

*Re: Computer Business Sciences, Inc., Case No. T<sup>A</sup>0-2000-32*

Dear Mr. Roberts:

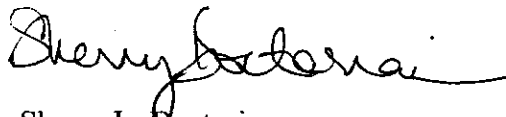
Enclosed for filing in the above-referenced case, please find an original and fourteen copies of a Stipulation and Agreement. I would appreciate it if you would file stamp the receipt copy and return it to me.

A copy of this Stipulation and Agreement will be hand-delivered this date to the Office of the Public Counsel.

Thank you very much for your attention to and cooperation in this matter.

Very truly yours,

ARMSTRONG TEASDALE LLP



Sherry L. Doctorian

SLD/nh  
Enclosure

cc: Office of the Public Counsel  
Mr. Marc Poston  
Mr. Leo J. Bub

**RECEIVED**

JAN 25 2000

Records  
Public Service Commission

BEFORE THE PUBLIC SERVICE COMMISSION  
STATE OF MISSOURI

FILED<sup>3</sup>

JAN 26 2000

In the matter of the Application of )  
Computer Business Sciences, Inc., for )  
Certificate of Service Authority to Provide )  
Basic Local and Interexchange )  
Telecommunications Service in Portions )  
of the State of Missouri and to Classify )  
Said Services as Competitive. )

Case No. T~~0~~<sup>0</sup>-2000-32  
Tariff File 0000059

Missouri Public  
Service Commission

**STIPULATION AND AGREEMENT**

Computer Business Sciences, Inc. (Applicant or CBS, Inc.) initiated this proceeding on July 15, 1999 by filing an Application requesting certificate of service authority to provide basic local and local exchange telecommunications services in those portions of Missouri that are currently served by Southwestern Bell Telephone Company (SWBT) and GTE Midwest, Incorporated (GTE), and other relief.

The Missouri Public Service Commission (Commission) has granted the timely application to intervene of Southwestern Bell Telephone Company (SWBT).

**A. Standards and Criteria**

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

2. In determining whether CBS, Inc.'s application for certificate of service authority

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<sup>1</sup> Large LECs are defined as LECs who serve 100,000 or more access lines §386.020 RSMo, Supp. 1998. In Missouri, the current large LECs are SWBT, GTE and Sprint.

JAN 25 2000

should be granted, the Commission should consider CBS, Inc.'s technical, financial and managerial resources and abilities to provide basic local telecommunications service. CBS, Inc. 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 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 telecommunications companies (ILECs) with which applicant seeks to compete. Further, CBS, Inc. 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 applicant seeks to compete. Notwithstanding the provisions of §392.500 RSMo (1994), as a condition of certification and competitive classification, CBS, Inc. agrees that, unless otherwise ordered by the Commission, CBS, Inc.'s originating and terminating access rates will be no greater than the lowest Commission approved corresponding access rates in effect for the large ILEC(s) within whose service areas CBS, Inc. seeks authority to provide service. Further, CBS, Inc. agrees to offer basic local telecommunications service as a separate and distinct service and has sufficiently identified the geographic service area in which it proposes to offer basic local service. Such area follows exchange boundaries of the ILECs in the same area and is no smaller than an exchange. Finally, CBS, Inc. 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. 1998.

3. The parties acknowledge that the Commission is currently examining the extent to which competitive LEC (CLEC) switched access rates should be regulated in Case No. TO-99-596. CBS, Inc. will comply with any applicable Commission order regarding intrastate CLEC switched

access rates, and the parties acknowledge that CBS, Inc. can comply with any such order notwithstanding any contrary terms contained in this Stipulation.

4. CBS, Inc. has submitted its application without tariffs and seeks a temporary waiver of 4 CSR 240-2.060(4)(H). CBS, Inc. 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. Copies of the tariffs can be provided by Applicant to such parties immediately upon request. 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, CBS, Inc. shall also 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 incumbent local exchange carrier, and its explanation of why such a resale and/or interconnection agreement is unnecessary for such areas.

5. CBS, Inc. has, pursuant to §392.420 RSMo, 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 CBS, Inc.'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. Due to an oversight, the request for waiver of application of statutes and regulations as they relate to Applicant's interexchange services was omitted from the original Application for Certificate of Service Authority and for Competitive Classification.

7. Applicant requests, pursuant to Section 392.420 RSMo 1994 that the Commission waive the application of any or all of the following statutory provisions and rules as it relates to the regulation of Applicant's interexchange services and all parties agree that the Commission should grant such request:

STATUTORY PROVISIONS

§392.240(1)  
§392.270  
§392.280  
§392.290  
§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 (1-3)  
4 CSR 240-30.040(5)(6)  
4 CSR 240-32.030(1)(B)  
4 CSR 240-32.030(1)(C)  
4 CSR 240-32.030(2)  
4 CSR 240-32.050(3-6)  
4 CSR 240-32.070(4)  
4 CSR 240-321.030  
4 CSR 240-33.040(5)

8. In negotiating the remaining provisions of this 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 basic local telecommunications service.

### **B. CBS, Inc.'s Certification**

9. CBS, Inc. hereby agrees that its application should be deemed amended to include by reference the terms and provisions described in paragraphs 2-5 above.

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

- 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 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 service as a separate and distinct service;
- e) has agreed 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 where they live or their income; and
- f) has sought authority which will serve the public interest.

11. CBS, Inc. asserts, and no party opposes, that CBS, Inc.'s application and request for authority to provide basic local telecommunications 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 CBS, Inc. shall remain classified as a competitive telecommunications company. CBS, Inc. 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 CBS, Inc.'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 CBS, Inc.'s switched exchange 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 access service rates above the maximum switched access service rates as set forth in paragraph 2 herein shall be cost justified and shall be made pursuant to §§392.220 and 392.230 RSMo and not §§392.500 and 392.510 RSMo. 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 cost justified and shall be made pursuant to §§392.220 and 392.230 RSMo and not §§293.500 and 392.510 RSMo.

12. Applicant'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 filings its Application, Applicant does not yet have approved a resale or interconnection agreement with any incumbent LEC. Applicant agrees that at such time as all facts necessary for the development of tariffs become known, it will submit tariffs in this docket, with a minimum 45-day proposed effective date, to the Commission for its approval, together with the written disclosure as stipulated above. Applicant 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 Applicant's proposed tariff(s). The Commission's order should state these obligations to the temporary waiver of 4 CSR 240-2.060(4)(H), substantially as follows:

Applicant's request for temporary waiver of 4 CSR 240-2.060(4)(H) is hereby granted for good cause in that Applicant did 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 tariffs in this docket to the Commission such tariffs 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 tariffs to such parties immediately upon request. When filing its initial basic local service tariff in this docket, the Applicant shall also 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 incumbent local exchange carrier; and its explanation of why such a resale or interconnection agreement is unnecessary for any such areas.

13. CBS, Inc.'s request for waiver of the application of the following rules and statutory provisions as they relate to the regulation of CBS, Inc.'s 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  
§392.240

COMMISSION RULES

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

14. 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.

15. In the event the Commission accepts the specific terms of this Stipulation and Agreement, the parties and participants waive, with respect to the issues resolved herein; their respective rights pursuant to §536.070(2) and §536.080.1 RSMo 1994, to present testimony, to cross examine witnesses, and to present oral argument or written briefs; their respective rights to the reading of the transcript by the Commission pursuant to §536.080.2 RSMo 1994; and their respective rights to seek rehearing pursuant to §386.500 RSMo 1994 and to seek judicial review

pursuant to §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 CBS, Inc. application made herein.

16. 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 or in this proceeding whether or not the Commission approves this Stipulation and Agreement. The contents of any memorandum provided by any party are its own and are not acquiesced in or otherwise adopted by the other signatories to the Stipulation and Agreement, whether or not the Commission approves and adopts this Stipulation and Agreement.

The Staff shall also have the right to provide, at any agenda meeting at which this Stipulation and Agreement is noticed to be considered by the Commission, whatever oral explanation the Commission requests, provided that the Staff shall, to the extent reasonably practicable, provide the other parties and participants with advance notice of when the Staff shall respond to the

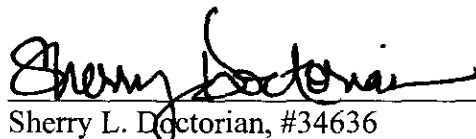
Commission's request for such explanation once such explanation is requested from Staff. Staff's oral explanation shall be subject to public disclosure.

17. The Office of the Public Counsel, while not a signatory to this Stipulation and Agreement, has been contacted with regard to its filing and has offered no objection.

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

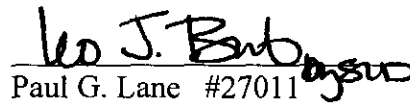
WHEREFORE, the signatories respectfully request the Commission to issue its Order approving the terms of this Stipulation and Agreement and issue its Order granting authority and classification as requested by CBS, Inc., subject to the conditions described above, at its earliest convenience.

RESPECTFULLY SUBMITTED,



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