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March 28, 2000

FILED²

MAR 28 2000

Missouri Public
Service Commission

Mr. Dale Hardy Roberts
Executive Secretary-Chief Regulatory Law Judge
Missouri Public Service Commission
P. O. Box 360
Jefferson City, MO 65102-0360

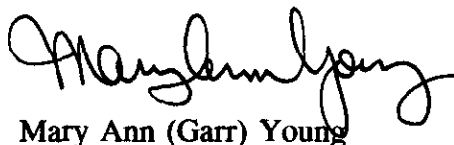
RE: Case No. TA-2000-410
Application of AccuTel of Texas, Inc., for a Certificate of Service Authority to Provide
Basic Local Telecommunications Services

Dear Mr. Roberts:

Enclosed please find an original and fourteen copies of a Stipulation and Agreement for filing with the Commission in the above-referenced case. The Stipulation is being filed in lieu of a procedural schedule.

Thank you for your assistance in processing this filing. Copies are being served on the Office of Public Counsel, General Counsel and Southwestern Bell Telephone Company. If there are any questions, please call me at 634-8109.

Sincerely,



Mary Ann (Garr) Young

Enclosure

cc: Mr. Michael Dandino, Office of Public Counsel
Mr. Bruce Bates, General Counsel's Office
Ms. Mimi McDonald, SWBT
Mr. Mark Foster, Foster & Malish

BEFORE THE PUBLIC SERVICE COMMISSION
STATE OF MISSOURI

FILED²

MAR 28 2000

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

Missouri Public
Service Commission

Case No. TA-2000-410

STIPULATION AND AGREEMENT

AccuTel of Texas, Inc. (Applicant or AccuTel) initiated this proceeding on January 10, 2000, by filing an Application requesting certificate of service authority to provide basic local telecommunications services in those portions of Missouri that are currently served by Southwestern Bell Telephone Company (SWBT), GTE Midwest, Incorporated (GTE) and Sprint Missouri, Inc. d/b/a Sprint (Sprint).

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)¹ should be processed in a manner similar to that in which applications for interexchange authority are currently handled.

2. In determining whether AccuTel's application for certificate of service authority should be granted, the Commission should consider AccuTel's technical, financial and managerial resources and abilities to provide basic local telecommunications service. AccuTel must demonstrate

¹Large 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.

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, AccuTel 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, AccuTel agrees that, unless otherwise ordered by the Commission, AccuTel'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 AccuTel seeks authority to provide service. Further, AccuTel 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, AccuTel 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. AccuTel will comply with any applicable Commission order regarding intrastate CLEC switched access rates, and the parties acknowledge that AccuTel can comply with any such order notwithstanding any contrary terms contained in this Stipulation.

4. AccuTel submitted its application without a tariff and seeks a temporary waiver of 4 CSR 240-2.060(4)(H). AccuTel agrees to file its initial tariff in this certification docket and serve all parties thereto with written notice at the time the initial tariff is submitted to afford them an opportunity to participate in the tariff approval process. Copies of the tariff will 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 a tariff for service has become effective. When filing its initial basic local tariff, AccuTel 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. AccuTel 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 AccuTel'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. 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. AccuTel Certification

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

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

- A. possesses sufficient technical, financial and managerial resources and abilities to provide basic local telecommunications service 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.

9. AccuTel asserts, and no party opposes, that AccuTel'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 AccuTel shall remain classified as a competitive telecommunications company. AccuTel 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 AccuTel'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 AccuTel'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 §392.500 and 392.510 RSMo.

10. AccuTel'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 AccuTel does not yet have approved resale and/or interconnection agreements with the large ILECs. AccuTel 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. AccuTel 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 does not yet have approved any resale and/or interconnection agreement with the incumbent local exchange carrier 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 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 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 any such areas.

11. AccuTel's request for waiver of the application of the following rules and statutory provisions as they relate to the regulation of AccuTel'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
§392.340

COMMISSION RULES

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

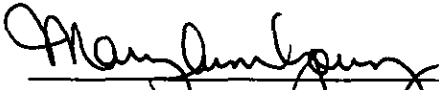
12. This Stipulation and Agreement has resulted from extensive negotiations among the signatories and the terms hereof are interdependent. In the event the Commission does not adopt this Stipulation in total, then this Stipulation and Agreement shall be void and no signatory shall be bound by any of 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.

13. 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 AccuTel application made herein.

16. Finally, AccuTel 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 AccuTel, subject to the conditions described above, at its earliest convenience.

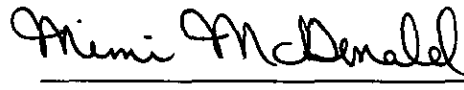
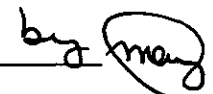
Respectfully submitted,


Mary Ann (Garr) Young #27951

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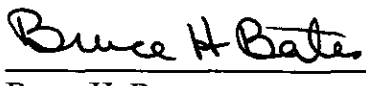
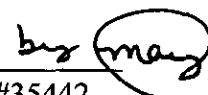
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FOR: AccuTel of Texas, Inc.

 by 

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FOR: Southwestern Bell
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 by 

Bruce H. Bates #35442
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Jefferson City, MO 65102
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FOR: Staff of the Missouri
Public Service Commission

Dated: March 28, 2000

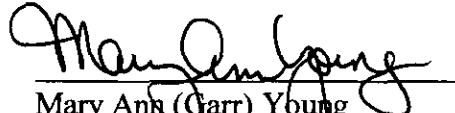
14. The Staff may submit a Staff Recommendation concerning matters not addressed in this Stipulation. In addition, if requested by the Commission, the Staff shall have the right to submit to the Commission a memorandum explaining its rationale for entering into this Stipulation and Agreement. Each party 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.

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

CERTIFICATE OF SERVICE

I hereby certify that a copy of this document has been hand delivered or mailed by first class mail, postage prepaid, to the parties of record listed below, on this 28th day of March 2000.


Mary Ann (Garr) Young

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