

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

Staff of the Missouri Public Service )  
Commission, )

Complainant, )

v. )

M.L.M. Telecommunications, Inc., )

Respondent. )

Case No. TC-2003-0251

**STIPULATION AND SETTLEMENT AGREEMENT**

COMES NOW the Staff of the Missouri Public Service Commission; M.L.M. Telecommunications, Inc., d/b/a Ameritel, Your Phone Company ("Ameritel"); and the Office of the Public Counsel; pursuant to Commission Rule 4 CSR 240-2.115, and stipulate and agree as follows in settlement of this complaint case:

1. Staff, Ameritel, and the Office of the Public Counsel desire to settle the Complaint in this proceeding filed by Staff against Ameritel on January 24, 2003, by entering into this Stipulation and Settlement Agreement ("Agreement"). This Agreement will eliminate the need for evidentiary hearings and results from a resolution of issues leading to Staff's Complaint.

2. Staff's Complaint alleged that Ameritel offered and provided telecommunications service within the State of Missouri without a Commission-approved tariff on file with the Commission, and that Ameritel also offered and provided telecommunications service within the

State of Missouri under a fictitious name that had not been submitted to the Commission under the Commission's pertinent rules.

3. As part of its requested relief, Staff requested that Southwestern Bell Telephone, d/b/a SBC Missouri ("SBC Missouri") be joined as a party to this case to permit the Commission to direct SBC Missouri to cease processing service orders submitted by Ameritel. Subsequently, the Commission joined SBC Missouri. As the relief Staff sought that pertained to SBC Missouri's presence in this case becomes moot if the Commission approves this Agreement, then, if the Commission approves this Agreement, SBC Missouri has no responsibility to take any action as a result of the allegations pled in Staff's Complaint. For this reason, SBC Missouri is not a party to this Stipulation and Settlement Agreement. However, SBC Missouri has no objection to this Stipulation and Agreement.

4. On February 27, 2003, Ameritel filed a *Notification of Satisfaction of Complaint* indicating that Ameritel had filed its initial basic local service tariff and had submitted a request for approval of a name change to use the fictitious name "Ameritel, Your Phone Company." The Commission docketed both requests in Case No. CN-2003-0266. The Commission recognized the name change and approved the tariff in its Order of March 13, 2003, in that case.

5. Ameritel acknowledges that it did erroneously commence providing service to customers in Missouri prior to the filing and approval of its basic local service tariff and prior to the filing and approval of a name change with the Commission. Within a week of Staff's complaint, Ameritel submitted a request for approval of name change with the Commission to use the fictitious name Ameritel, Your Phone Company, and filed its initial basic local service tariff. As noted above, the Commission has approved both the name change and initial tariff.

6. During the course of settlement discussions, it was discovered that Ameritel also was providing long distance service as a reseller to its basic local customers without certification and a tariff as well. Immediately upon discovering its erroneous provision of long distance service, Ameritel further blocked all long distance services and is providing customers with access to long distance via calling cards of the underlying carriers so the customers received the promised service.

7. Ameritel agrees to abide by all Missouri Public Service Commission statutes and regulations pertaining to the provision of telecommunications service in the future.

8. The Commission has the authority to direct the Office of the General Counsel to seek penalties in circuit court for violation of the Public Service Commission rules under Sections 386.570 and 386.600 RSMo. (2000). If the Commission found Ameritel committed the violations asserted by the Staff, it could authorize the General Counsel to seek penalties up to a maximum of \$5,000 for each offense, with each day of a continuing violation deemed a separate offense and each customer served a separate offense as well. Alternatively, the Commission could authorize the General Counsel to seek penalties of up to three times the revenues received as a result of the violation.

9. Ameritel agrees to remit a payment in the amount of \$3,000 to the public school fund of the state pursuant to Section 166.011 for the sole purpose of settlement of the complaint. The payment is to be made upon Commission approval of this Agreement by check payable to the Treasurer of the State of Missouri and remitted to the Department of Elementary and Secondary Education, 205 Jefferson Street, Jefferson City, MO 65102 (Attention: Andrea Beck, C.F.O.). Ameritel shall file a copy of the check and a return receipt in the Commission's case file to demonstrate compliance with this provision.

### **Other Provisions**

10. This Stipulation and Agreement has resulted from extensive negotiations among the signatory parties and their counsel, and the terms hereof are interdependent. In the event the Commission does not approve this Agreement in total, then this Agreement shall be void and no signatory shall be bound by any of the agreements or provisions hereof.

11. In the event the Commission accepts the specific terms of this Agreement, the Parties waive, with respect to the issues resolved herein: their respective rights pursuant to Section 536.080.1 to present testimony, to cross-examine witnesses, and to present oral argument and written briefs; their respective rights to the reading of the transcript by the Commission pursuant to Section 536.080.2; and their respective rights to seek rehearing pursuant to Section 386.500, and judicial review of the Commission's Report and Order in this case pursuant to Section 386.510. The parties agree to cooperate with the Staff and with each other in presenting this Agreement for approval to the Commission and shall take no action, direct or indirect, in opposition to the request for approval of this Agreement. If the Commission accepts the specific terms of this Agreement, and upon compliance of the parties with the terms thereof, the Complaint shall be dismissed.

12. The Staff shall file suggestions or a memorandum in support of this Agreement and all other Parties shall have the right to file responsive suggestions within five (5) business days of receipt of Staff's memorandum, a responsive memorandum that shall also be served on all Parties.

13. The Staff shall also have the right to provide, at any agenda meeting at which this Agreement is noticed to be considered by the Commission, whatever oral explanation the Commission requests, provided that Staff shall, to the extent reasonably practicable, provide the other Parties 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, except to the extent it refers to matters that are privileged or protected from disclosure pursuant to any protective order issued in this case.

WHEREFORE, for the foregoing reasons, the undersigned Parties respectfully request that the Commission issue its Order approving all of the specific terms and conditions of this Stipulation and Settlement Agreement.

Respectfully submitted,

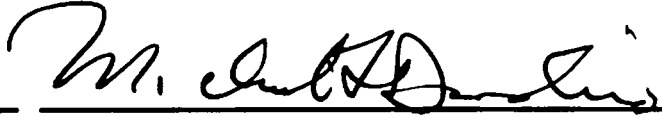
DANA K. JOYCE

General Counsel



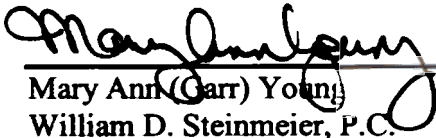
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**ATTORNEY FOR M.L.M.  
TELECOMMUNICATIONS, INC. d/b/a  
AMERITEL, YOUR PHONE COMPANY**

### **Certificate of Service**

I hereby certify that copies of the foregoing have been mailed, hand-delivered, transmitted by facsimile or e-mailed to all counsel of record this 28<sup>th</sup> day of April 2003.

/s/ David A. Meyer