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In the Matter of the Application of Local Fone )  
Service, Inc., for a Certificate of Service )  
Authority to Provide Basic Local Telecommunications ) Case No. TA-97-411  
Service, Local Exchange Telecommunications Service, )  
and for Designation as a Competitive Carrier. )  
)

The Commission issued an Order and Notice on March 27 directing parties wishing to intervene in the case to do so by May 1. The Commission granted permission to intervene to the following entities on May 13:

<sup>1</sup> All statutory references are to Revised Statutes of Missouri 1994, or Revised Statutes of Missouri Supplement 1996.

The Small Telephone Company Group;<sup>2</sup>  
Bourbeuse Telephone Company and Fidelity Telephone Company; and  
Southwestern Bell Telephone Company.

The parties were directed to file a proposed procedural schedule no later than May 26. The parties requested a three-day extension of time which was granted and filed a Stipulation and Agreement (SA) on May 29 which is attached to this Order as Attachment A. The parties specifically waived their rights to present testimony and cross-examine witnesses. Staff of the Commission (Staff) filed Suggestions in Support of the Stipulation and Agreement on June 11.

### **Background**

Local Fone wishes certification to provide basic local and local exchange telecommunications services. Local exchange services are considered competitive services and are subject to different rules and statutory requirements than are basic local services. Therefore, they will be considered separately in the discussion below.

Local Fone wants to provide basic local services in portions of Missouri that are currently served by Southwestern Bell Telephone Company (SWBT), GTE Midwest Incorporated (GTE) and United Telephone Company of Missouri d/b/a Sprint (Sprint-United). Local Fone is not asking for

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<sup>2</sup> For purposes of this proceeding, the Small Telephone Company Group consists of: BPS Telephone Company, Cass County Telephone Company, Citizens Telephone Company of Higginsville, Missouri, Inc., Craw-Kan Telephone Cooperative, Inc., Ellington Telephone Company, Farber Telephone Company, Goodman Telephone Company, Inc., Granby Telephone Company, Grand River Mutual Telephone Corporation, Green Hills Telephone Corporation, Holway Telephone Company, KLM Telephone Company, Kingdom Telephone Company, Lathrop Telephone Company, Le-Ru Telephone Company, Mark Twain Rural Telephone Company, McDonald County Telephone Company, Miller Telephone Company, New Florence Telephone Company, New London Telephone Company, Orchard Farm Telephone Company, Oregon Farmers Mutual Telephone Company, Ozark Telephone Company, Rock Port Telephone Company, Seneca Telephone Company, Steelville Telephone Exchange, Inc., and Stoutland Telephone Company.

certification in any area that is served by a small incumbent local exchange provider. The specific exchanges in which Local Fone proposes to operate are described in Exhibit 1 to the application. Local Fone is requesting that its basic local exchange services be classified as competitive and that certain statutes and regulatory rules be waived for Local Fone.

## **Discussion**

### **A. Requirements of 4 CSR 240-2.060(4)**

Commission rule 4 CSR 240-2.060(4) requires a foreign corporation applying for certification to provide telecommunications services to include in its application a certificate from the Secretary of State showing it is authorized to do business in Missouri, a description of the types of service it intends to provide, a description of the exchanges where it will offer service, and a proposed tariff with a 45-day effective date. Local Fone has provided all the required documentation except for the proposed tariff. The company filed an illustrative tariff and has requested a temporary waiver of 4 CSR 240-2.060(4)(H) because, at the time the application was filed, Local Fone had not executed interconnection agreements with the ILECs (incumbent local exchange companies) involved. Local Fone could not price its resold services until it reached price agreements with the ILECs from which it will purchase those services. The company has agreed that, once it is possible to do so, it will submit to the Commission for approval a proposed tariff with a minimum 30-day effective date. Local Fone will file the tariff in Case No. TA-97-411 and give notice of the tariff filing to all the parties and participants. Along with that filing Local Fone has agreed to provide a written disclosure of all interconnection or resale agreements it has entered into

which affect its Missouri service areas. The company will also advise the parties and the Commission of all portions of its Missouri service areas for which it does not have an interconnection agreement with the incumbent LEC and explain why such an agreement is unnecessary for those areas. See SA at 7, ¶ 11.

## **B. Local Exchange Certification**

The Commission finds that Local Fone's entry into competition in the local exchange telecommunications market is in the public interest and the company should be granted a certificate of service authority. The Commission finds that the local exchange services which Local Fone proposes to offer are competitive and that the company should be classified as a competitive company. The Commission is of the opinion that waiving the statutes and Commission rules set out in Ordered Paragraph 4 is reasonable and not detrimental to the public interest.

The Commission determines, by authority of Section 392.470, that Applicant should comply with the following regulatory requirements as reasonable and necessary conditions of certification:

- (1) Applicant must comply with reasonable requests by Staff for financial and operating data to allow Staff to monitor the intraLATA toll market. § 386.320.3.
- (2) Applicant must file tariffs containing rules and regulations applicable to customers, a description of the services provided, and a list of rates associated with those services in accordance with 4 CSR 240-30.010 and § 392.220.
- (3) Applicant may not unjustly discriminate between its customers. §§ 392.200, 392.400.
- (4) Applicant must comply with all applicable rules of the Commission except those specifically waived by this order. §§ 386.570, 392.360.
- (5) Applicant must file a Missouri-specific annual report. §§ 392.210, 392.390.1.

- (6) Applicant must comply with jurisdictional reporting requirements as set out in each local exchange company's access services tariffs. § 392.390.3.
- (7) Applicant must submit to the staff, on a confidential basis, a copy of the jurisdictional report it submits to local exchange companies. The report must be submitted within ten (10) days of the date on which it is submitted to the local exchange company.

### **C. Basic Local Service Certification**

Section 392.455 sets out the requirements for granting certificates to provide basic local telecommunications service to new entrants. A new entrant must: (1) possess sufficient technical, financial and managerial resources and abilities to provide basic local telecommunications service; (2) demonstrate that the services it proposes to offer satisfy the minimum standards established by the Commission; (3) set forth the geographic area in which it proposes to offer service, and demonstrate that such area follows exchange boundaries of the incumbent local exchange telecommunications company and is no smaller than an exchange; and (4) offer basic local telecommunications service as a separate and distinct service. In addition, the Commission must give due consideration to equitable access for all Missourians to affordable telecommunications services, regardless of where they live or their income.

#### **1. Technical, financial and managerial resources and abilities.**

Local Fone set out in its application the names and qualifications of its management team. Local Fone also submitted a pro forma chart showing the company's projected cash flow. The parties agreed that Local Fone possesses sufficient technical, financial and managerial resources and abilities to provide basic local telecommunications service. See SA at 5, ¶ 9(A).

2. **The entrant's proposed services satisfy the minimum standards established by the Commission.** Local Fone stated in its application that the company will meet all the Commission's relevant basic local service standards, including quality of service and billing standards. The parties agreed that Local Fone proposes to offer basic local services that satisfy the minimum standards established by the Commission. See SA at 5, ¶ 9(B).

3. **The geographic area in which the company proposes to offer service.** Local Fone set out in Exhibit 1 to its application all the exchanges in which it proposes to offer services. Local Fone has defined its service area by means of the tariffed exchange areas of the ILECs presently providing basic local service in those exchanges. Exhibit 1 consists of Commission-approved tariff sheets filed by SWBT, GTE and Sprint-United which describe local exchanges. The company has agreed that its service area must follow ILEC exchange boundaries and be no smaller than an exchange. The parties agreed that Local Fone has sufficiently identified the geographic area in which it proposes to offer basic local service and that the area follows ILEC exchange boundaries and is no smaller than an exchange. See SA at 5, ¶ 9(C).

4. **The offering of basic local telecommunications service as a separate and distinct service.** Local Fone has agreed to offer basic local telecommunications service as a separate and distinct service. See SA at 5, ¶ 9(D).

5. **Equitable access for all Missourians to affordable telecommunications services.** Local Fone has agreed to provide equitable access, as determined by the Commission, for all Missourians within the geographic area in which it will offer basic local services in compliance with § 392.455(5). See SA at 5, ¶ 9(E).

#### **D. Competitive Classification**

The Commission may classify a telecommunications provider as a competitive company if the Commission determines it is subject to sufficient competition to justify a lesser degree of regulation. § 392.361.2. In making that determination the Commission may consider such factors as market share, financial resources and name recognition, among others. In re Investigation for the Purpose of Determining the Classification of the Services Provided by Interexchange Telecommunication Companies Within the State of Missouri, 30 Mo. P.S.C. (N.S.) 16 (1989); In re Southwestern Bell Telephone Company's Application for Classification of Certain Services as Transitionally Competitive, 1 Mo. P.S.C. 3d 479, 484 (1992). In addition, all the services a competitive company provides must be classified as competitive. § 392.361.3. The Commission has found that whether a service is competitive is a subject for case-by-case examination and that different criteria may be given greater weight depending upon the service being considered. *Id.* at 487.

The parties have agreed that Local Fone should be classified as a competitive telecommunications company. See SA at 5, ¶ 10. The parties have also agreed that Local Fone's switched exchange access services may be classified as a competitive service, conditioned upon certain limitations on Local Fone's ability to charge for its access services. Local Fone has agreed that, unless otherwise ordered by the Commission, its originating and terminating access rates will be no greater than the lowest Commission-approved corresponding access rates in effect at the date of certification for the large incumbent LECs within those service areas in which Local Fone seeks to operate. The parties have agreed that the grant of service authority and competitive classification to Local Fone should

be expressly conditioned on the continued applicability of Section 392.200 and on the requirement that any increases in switched access services rates above the maximum switched access service rates set forth in the agreement must be cost-justified pursuant to Sections 392.220 and 392.230, rather than Sections 392.500 and 392.510.

The parties agreed that waiver of the following statutes is appropriate: Sections 392.210.2, 392.270, 392.280, 392.290.1, 392.300.2, 392.310, 392.320, 392.330 and 392.340. The parties also agreed that application of these Commission rules could be waived: 4 CSR 240-10.020, 4 CSR 240-30.040, and 4 CSR 240-35.

### **Findings of Fact**

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

1. The Commission finds that competition in the local exchange and basic local exchange telecommunications markets is in the public interest.
2. The Commission finds that Local Fone has met the requirements of 4 CSR 240-2.060(4) for applicants for certificates of service authority to provide telecommunications services with the exception of the filing of a tariff with a 45-day effective date.
3. The Commission finds that Local Fone has demonstrated good cause to support a temporary waiver of the tariff filing requirement and the waiver shall be granted.
4. The Commission finds that the local exchange services market is competitive and that granting Local Fone a certificate of



service authority to provide local exchange telecommunications services is in the public interest. Local Fone's certificate should become effective when its tariff becomes effective.

5. The Commission finds that Local Fone meets the statutory requirements for provision of basic local telecommunications services and has agreed to abide by those requirements in the future. The Commission determines that granting Local Fone a certificate of service authority to provide basic local exchange telecommunications services is in the public interest. Local Fone's certificate should become effective when its tariff becomes effective.
6. The Commission finds that Local Fone is a competitive company and should be granted waiver of the statutes and rules set out in Ordered Paragraph 4.
7. The Commission finds that Local Fone's certification and competitive status are expressly conditioned upon the continued applicability of Section 392.200 and on the requirement that any increases in switched access services rates above the maximum switched access service rates set forth in the agreement must be cost-justified pursuant to Sections 392.220 and 392.230, rather than Sections 392.500 and 392.510.
8. The Commission finds that the Stipulation and Agreement is a reasonable resolution of the issues in this case.

## Conclusions of Law

The Missouri Public Service Commission has reached the following conclusions of law:

The Commission has the authority to grant certificates of service authority to provide telecommunications service within the State of Missouri. Local Fone has requested certification under Sections 392.410 - .450. Those statutes permit the Commission to grant a certificate of service authority where the grant of authority is in the public interest.

The federal Telecommunications Act of 1996, 47 U.S.C. Section 251, *et seq.*, and Missouri Senate Bill 507 were designed to institute competition in the basic local exchange telecommunications market in order to benefit all telecommunications consumers. Section 392.185, enacted as part of S.B. 507, states that "the provisions of this chapter shall be construed to: (1) Promote universally available and widely affordable telecommunications services; . . . (3) Promote diversity in the supply of telecommunications services and products throughout the state of Missouri; . . . (6) Allow full and fair competition to function as a substitute for regulation when consistent with the protection of ratepayers and otherwise consistent with the public interest. . . ."

Because the parties filed a Stipulation and waived their right to hearing, the Commission determines that no hearing is necessary and it may grant the authority requested based on the verified petition. State ex rel. Rex Deffenderfer Enterprises, Inc. v. Public Service Comm'n, 776 S.W.2d 494, 496 (Mo. App. 1989).

The Commission has the legal authority to accept a Stipulation and Agreement as offered by the parties as a resolution of the issues raised

in this case, pursuant to Section 536.060. Based upon the information contained within the Stipulation and Agreement of the parties and the Staff's recommendation, and on its findings of fact, the Commission concludes that the Stipulation and Agreement should be approved.

**IT IS THEREFORE ORDERED:**

1. That the Stipulation and Agreement filed by the parties on May 29, 1997, and attached as Attachment A, is approved.

2. That Local Fone Service, Inc. is granted a certificate of service authority to provide local exchange telecommunications services in the State of Missouri, subject to the conditions of certification set out above, to become effective when the company's tariff becomes effective.

3. That Local Fone Service, Inc. is granted a certificate of service authority to provide basic local telecommunications services in the State of Missouri, subject to the conditions of certification set out above, to become effective when the company's tariff becomes effective.

4. That Local Fone Service, Inc. is classified as a competitive telecommunications company. The following statutes and regulatory rules shall be waived:

**Statutes**

- 392.210.2 - uniform system of accounts
- 392.270 - valuation of property (ratemaking)
- 392.280 - depreciation accounts
- 392.290.1 - issuance of securities
- 392.300.2 - acquisition of stock
- 392.310 - stock and debt issuance
- 392.320 - stock dividend payment
- 392.330 - issuance of securities, debts and notes
- 392.340 - reorganization(s)

Commission Rules

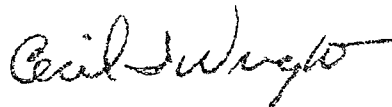
- 4 CSR 240-10.020 - depreciation fund income
- 4 CSR 240-30.040 - uniform system of accounts
- 4 CSR 240-35 - reporting of bypass and customer-specific arrangements

5. That the filing of a 45-day tariff as required by 4 CSR 240-2.060(4)(H) is waived until Local Fone Service, Inc. has entered into the necessary interconnection and/or resale agreements or until otherwise ordered by the Commission.

6. That Local Fone Service, Inc. shall file tariff sheets for approval reflecting the rates, rule, regulations and the services it will offer no later than 30 days after the Commission approves the required interconnection and/or resale agreement. The tariff sheets shall be filed in Case No. TO-97-411 with a minimum thirty-day effective date, and shall include a listing of the statutes and Commission rules waived under Ordered Paragraph 4. The company shall provide the notice and disclosures required by the Stipulation and Agreement.

7. That this Order shall become effective on July 18, 1997.

BY THE COMMISSION



**Cecil I. Wright**  
**Executive Secretary**

( S E A L )

Zobrist, Chm., Crumpton,  
Drainer, Murray and Lumpe,  
CC., concur.

ALJ: Wickliffe

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

**FILED**

**MAY 29 1997**

**MISSOURI  
PUBLIC SERVICE COMMISSION**

In the Matter of the Application of )  
Local Fone Service, Inc., for a )  
Certificate of Service Authority to ) **Case No. TA-97-411**  
Provide Basic Local Telecommunications )  
Service, Local Exchange Telecommunica- )  
tions Service, and for Designation as )  
a Competitive Carrier. )

**STIPULATION AND AGREEMENT**

1. Local Fone Service, Inc. ("Local Fone" or "Applicant") initiated this proceeding on March 25, 1997, by filing an Application requesting a certificate of service authority to provide basic local telecommunications and local exchange telecommunications services on a resale basis in exchanges currently served by Southwestern Bell Telephone Company ("SWB"), GTE Midwest Inc. ("GTE"), and United Telephone Company of Missouri ("United").

2. The Commission has granted the timely applications to intervene of SWB, the "Small Telephone Company Group,"<sup>1</sup> Bourbeuse Telephone Company, and Fidelity Telephone Company ("Fidelity"); GTE and United did not seek and have not been granted intervention in this proceeding.

3. For purposes of this Stipulation and Agreement, the parties agree that applications

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<sup>1</sup> The following companies comprise the "Small Telephone Company Group": BPS Telephone Company, Cass County Telephone Company, Citizens Telephone Company of Higginsville, Missouri, Inc., Craw-Kan Telephone Cooperative, Inc., Ellington Telephone Company, Farber Telephone Company, Goodman Telephone Company, Inc., Granby Telephone Company, Grand River mutual Telephone Corporation, Green Hills Telephone Corporation, Holway Telephone Company, KLM Telephone Company, Kingdom Telephone Company, Lathrop Telephone Company, Le-Ru Telephone Company, Mark Twain Rural Telephone Company, McDonald County Telephone Company, Miller Telephone Company, New Florence Telephone Company, New London Telephone Company, Orchard Farm Telephone Company, Oregon Farmers Mutual Telephone Company, Ozark Telephone Company, Rock Port Telephone Company, Seneca Telephone Company, Steelville Telephone Exchange, Inc., and Stoutland Telephone Company.

for basic local exchange authority in exchanges served by "large" local exchange companies (LECs)<sup>2</sup> should be processed in a manner similar to that in which applications for interexchange and local exchange authority are currently handled.

4. In determining whether Local Fone's application for a certificate of service authority should be granted, the Commission should consider Local Fone's technical, financial and managerial resources and abilities to provide basic local telecommunications and local exchange telecommunications services. Local Fone 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 Applicant agreeing to file and maintain basic local service tariff(s) with the Commission in the same manner and form as the Commission requires of incumbent local exchange telecommunications companies with which the Applicant seeks to compete. Further, Local Fone agrees to meet the minimum basic local service standards, including quality of service and billing standards, as the Commission requires of the incumbent local exchange telecommunications companies with which the Applicant seeks to compete. Notwithstanding the provisions of 392.500 RSMo., as a condition of certification and competitive classification, Local Fone agrees that, unless otherwise ordered by the Commission, its originating and terminating access rates will be no greater than the lowest Commission-approved corresponding access rates in effect at the date of certification for the large incumbent LEC(s) within those service area(s) Local Fone seeks authority to provide service. Local Fone agrees to offer basic local telecommunications services as a separate and distinct service and must sufficiently identify the geographic service area in which it proposes to offer basic local service. Such area must follow

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<sup>2</sup> Large LECs are defined as LECs who serve 100,000 or more access lines. Section 386.020 RSMo. Supp. 1996. In Missouri, the current large LECs are SWBT, GTE and United.

exchange boundaries of the incumbent local exchange telecommunications companies in the same area and must be no smaller than an exchange. Finally, Local Fone 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 Section 392.455 RSMo.

5. Local Fone has submitted its application with an illustrative tariff and seeks a temporary waiver of 4 CSR 240-2.060(4)(H).<sup>3</sup> Local Fone agrees to file its initial tariff(s) in the certification docket and to serve all parties thereto with written notice at the time the initial tariff(s) are submitted to afford them an opportunity to participate in the tariff approval process. Copies of the tariff(s) will be provided by Local Fone to such parties immediately upon request. Any service authority shall be regarded as conditional and shall not be exercised until such time as tariff(s) for services have become effective. When filing its initial basic local tariff(s), Local Fone shall also file and serve 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 an interconnection agreement with the incumbent local exchange carrier, and its explanation of why such an interconnection agreement is unnecessary for such areas.

6. Pursuant to Section 392.420, RSMo., Local Fone has requested that the Commission waive the application of any or all of the following statutory provisions and rules for basic local telecommunications services, and the parties agree that the Commission should grant such request provided that Section 392.200, RSMo., should continue to apply to all of Local Fone's services:

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<sup>3</sup> Good cause for failure to file proposed tariffs with the Application must be shown. The lack of an approved interconnection agreement (47 USC 252) constitutes good cause.

## STATUTORY PROVISIONS

Section 392.210.2  
Section 392.270  
Section 392.280  
Section 392.290.1  
Section 392.300.2  
Section 392.310  
Section 392.320  
Section 392.330  
Section 392.340

## COMMISSION RULES

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

7. In negotiating the remaining provisions of this Stipulation and Agreement the parties have employed the foregoing standards and criteria which are intended to meet the requirements of existing law and Sections 392.450 and 392.455, RSMo., of SB 507 regarding applications for certificates of service authority to provide basic local telecommunications service.

## **LOCAL FONE'S CERTIFICATION**

8. Local Fone has submitted as Exhibit 1 to its Application a listing of the specific exchanges in which it seeks authority to provide service. The exchanges identified are those currently served by SWB, GTE and United. Local Fone hereby agrees that its original Application should be deemed further amended as required to include by reference the terms and provisions described in paragraphs 4-6 hereinabove and paragraph 11 below to the extent that its original Application might be inconsistent therewith.

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



- A. possesses sufficient technical, financial and managerial resources and abilities to provide basic local telecommunications service and local exchange telecommunications services;
- B. proposes and agrees to offer basic local services that will 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 services 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.

10. Local Fone asserts, and no party opposes, that Local Fone's application and request for authority to provide basic local telecommunications service and local exchange telecommunications service should be granted. All services authorized herein should be classified as competitive telecommunications services, provided that the requirements of Section 392.200, RSMo., continue to apply, and Local Fone shall be classified as a competitive telecommunications company. Local Fone asserts, and no party opposes, that such services will be subject to

sufficient competition by the services of the incumbent LECs to justify a lesser degree of regulation for Local Fone'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 Section 392.200 and are conditional and shall not be exercised until such time as tariffs for services have become effective.

The parties agree that Applicant's switched exchange access service may be classified as competitive services. The parties further agree that the Applicant's switched exchange access services are subject to Section 392.200, RSMo. Any increases in switched access service rates above the maximum switched access service rates as set forth in paragraph 4 herein shall be cost-justified and be made pursuant to 392.220 and 392.230 and not 392.500 and 392.510. The Commission's order should state the foregoing conditions substantially as follows:

The service authority and service classification for switched exchange access is expressly conditioned on the continued applicability of Section 392.200 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 be made pursuant to Sections 392.220 and 392.230 and not Sections 392.500 and 392.510.

11. Local Fone'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 Local Fone does not yet have approved resale or interconnection agreements with the large incumbent LECs. Local Fone 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 30-day proposed effective date, to the Commission for its approval, together with the written disclosure as stipulated above. Local Fone 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 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 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 does 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 30-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 interconnection agreements which affect its Missouri service area, all portions of its Missouri service areas for which it does not have an interconnection agreement with the incumbent local exchange carrier, and its explanation of why such interconnection agreement is unnecessary for any such areas.

12. Local Fone's request for waiver of the application of the following rules and statutory provisions as they relate to the regulation of Local Fone's new services should be granted:

## STATUTORY PROVISIONS

Section 392.210.2  
Section 392.270  
Section 392.280  
Section 392.290.1  
Section 392.300.2  
Section 392.310  
Section 392.320  
Section 392.330  
Section 392.340

## COMMISSION RULES

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

13. 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.

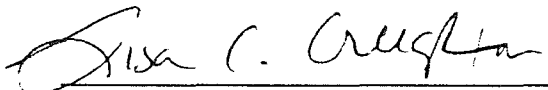
14. In the event the Commission accepts the specific terms of this Stipulation and Agreement, the parties and participants waive, with respect to the issues resolved herein: their respective rights pursuant to Section 536.080.1, RSMo., to present testimony, to cross-examine witnesses, and to present oral argument or written briefs; their respective rights to the reading of the transcript by the Commission pursuant to Section 536.080.2, RSMo.; and their respective rights to seek rehearing pursuant to Section 386.500, RSMo.; and to seek judicial review pursuant to Section 386.510, RSMo. 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 Local Fone's application made herein.

15. 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 such 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.

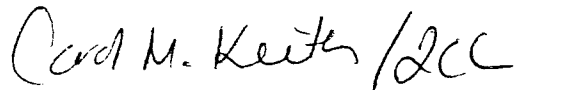
WHEREFORE, the signatories respectfully request the Commission to issue its Order approving the terms of this Stipulation and Agreement and issue its Order granting authority and classification as requested by Local Fone Service, Inc., subject to the conditions described above, as expeditiously as possible.

Respectfully submitted,



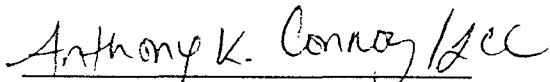
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FOR: Local Fone Service, Inc.



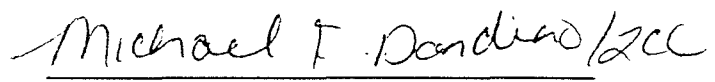
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