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BEFORE THE PUBLIC SERVICE COMMISSION  
OF THE STATE OF MISSOURI

In the matter of the Joint Application           )  
of GTE Midwest Incorporated and Cass           )  
County Telephone Company for authority           )  
to transfer and acquire part of GTE           )  
Midwest Incorporated's Missouri franchise,           )  
facilities or system located in the State           )  
of Missouri.   )

**CASE NO. TM-95-163**

**ORDER GRANTING PROTECTIVE ORDER**

On November 14, 1994, GTE Midwest Incorporated (GTE) and Cass County Telephone Company (Cass County) (collectively "Joint Applicants") filed a motion requesting that the Commission issue a protective order containing a "Highly Confidential" classification. In support of the joint motion, GTE and Cass County state that the Asset Purchase Agreement which contains the precise business terms upon which the Joint Applicants will consummate the sale and purchase of the assets described in the application -- and which was separately filed with the Commission in a sealed envelope as Exhibit 2 -- includes information of extensive commercial value, the disclosure of which would be detrimental to the Joint Applicants.

The Asset Purchase Agreement contains substantial business terms, including the price to be paid by Cass County, the liabilities to be assumed, the terms upon which employees are to be transferred, the continuing obligations of each party, the indemnification and responsibilities of each party, and the representations and warranties upon which the parties rely. The Joint Applicants stress that they have treated the Asset Purchase Agreement in the same vein as other confidential corporate matters, limiting distribution of the information contained therein to those with a need to know, and that disclosure would provide competitors with an unfair advantage with regard to future bargaining power and negotiations.

The Commission, after reviewing the motion of the Joint Applicants and the reasons in support thereof set forth therein, determines that the motion is reasonable and should be granted. The Commission will grant a protective order as set forth in Attachment A, incorporated herein by reference, and will accept Exhibit 2 of the joint application under seal, and withhold Exhibit 2 from public inspection.

**IT IS THEREFORE ORDERED:**

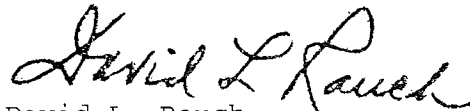
1. That the Motion for Protective Order filed by GTE Midwest Incorporated and Cass County Telephone Company be and is hereby granted.

2. That the protective order set forth in Attachment A to this order be and is hereby adopted for use in this case, and is incorporated herein by reference.

3. That Exhibit 2 of the joint application filed by GTE Midwest Incorporated and Cass County Telephone Company be and is hereby accepted under seal, and shall be withheld from public inspection.

4. That this order shall become effective on the date hereof.

BY THE COMMISSION



David L. Rauch  
Executive Secretary

(S E A L)

Elaine E. Bensavage, Hearing Examiner,  
by delegation of authority under Commission  
Directive of August 16, 1994, pursuant to  
Section 386.240, RSMo 1986.

Dated at Jefferson City, Missouri,  
on this 7th day of December, 1994.

### PROTECTIVE ORDER

- A. The following definitions shall apply to information which a participant claims should not be made public.

HIGHLY CONFIDENTIAL: Information concerning (1) material or documents that contain information relating directly to specific customers; (2) employee-sensitive information; (3) marketing analyses or other market-specific information relating to services offered in competition with others; (4) reports, work papers or other documentation related to work produced by internal or external auditors or consultants; (5) strategies employed, to be employed, or under consideration in contract negotiations.

PROPRIETARY: Information concerning trade secrets, as well as confidential or private technical, financial and business information.

- B. During the course of discovery a participant may designate information as HIGHLY CONFIDENTIAL or PROPRIETARY (hereinafter, "designated information") and shall make such designated information available to the participant seeking discovery, if such information is not objectionable on any other ground, under the restrictions set out in paragraphs C and D. The participant designating the information as HIGHLY CONFIDENTIAL or PROPRIETARY shall provide to counsel for the requesting participant, at the time the designation is made, the ground or grounds for the designation. The requesting participant may then file a motion challenging the designation. The participant designating the information confidential shall have five (5) days after the filing of the challenge to file a response. No other filings are authorized.
- C. Materials or information designated as HIGHLY CONFIDENTIAL may at the option of the furnishing participant, be made available only on the furnishing participant's premises and may be reviewed only by attorneys or outside experts who have been retained for the purpose of this case, unless

good cause can be shown for disclosure of the information off-premises and the designated information is delivered to the custody of the requesting participant's attorney. Outside expert witnesses shall not be employees, officers or directors of any of the parties in this proceeding. No copies of such material or information shall be made and only limited notes may be taken, and such notes shall be treated as the HIGHLY CONFIDENTIAL information from which notes were taken.

D. Disclosure of PROPRIETARY information shall be made only to attorneys, and to such employees who are working as consultants to such attorney or intend to file testimony in these proceedings, or to persons designated by a participant as outside experts. Employees to whom such disclosure is to be made must be identified to the other participant by name, title and job classification prior to disclosure. Information designated as PROPRIETARY shall be served on the attorney(s) for the requesting participant. On-premises inspection shall not be required for PROPRIETARY information, except in the case of voluminous documents (see paragraph K). Any employees of the participant who wish to review such PROPRIETARY materials shall first read this order and certify in writing that (s)he has reviewed same and consented to its terms. The acknowledgement so executed shall contain the signatory's full name, permanent address, title or position, date signed, and an affirmation that the signer is acting on behalf of his/her employer. Such acknowledgement shall be delivered to counsel for the participant furnishing the information or documents before disclosure is made.

E. Attorneys, in-house experts or outside experts who have been provided access to material or information designated HIGHLY CONFIDENTIAL or PROPRIETARY shall be subject to the nondisclosure requirements set forth in paragraphs C or D, whichever is applicable, and S.

- F. If material or information to be disclosed in response to a data request contains material or information concerning another participant which the other participant has indicated is confidential, the furnishing participant shall notify the other participant of the intent to disclose the information. The other participant may then choose to designate the material or information as HIGHLY CONFIDENTIAL or PROPRIETARY under the provisions of this Protective Order.
- G. Any participant may use material or information designated as HIGHLY CONFIDENTIAL or PROPRIETARY in prefiled or oral testimony at hearing provided that the same level of confidentiality assigned by the furnishing participant is maintained, unless otherwise classified by the Commission. In filing testimony all parties shall designate as HIGHLY CONFIDENTIAL or PROPRIETARY only those portions of their testimony which contain information so designated by the furnishing participant. If any participant plans to use information and testimony which has been obtained outside this proceeding, it must ascertain from the furnishing participant if any of such information is claimed to be HIGHLY CONFIDENTIAL or PROPRIETARY prior to filing.
- H. A participant may designate prefiled or live testimony, or portions thereof, submitted in this case as HIGHLY CONFIDENTIAL or PROPRIETARY (hereinafter, "designated testimony"). Prefiled testimony designated as HIGHLY CONFIDENTIAL or PROPRIETARY shall be filed under seal and served upon all attorneys of record. Only those portions of the prefiled testimony designated as HIGHLY CONFIDENTIAL or PROPRIETARY should be filed under seal, and should be marked in a manner which clearly indicates which materials are considered HIGHLY CONFIDENTIAL and which are considered PROPRIETARY.

- I. Within five (5) days of the filing of designated testimony, the participant asserting the claim shall file with the Commission the specific ground or grounds for each claim. Such filing shall show the nature of the information sought to be protected and specifically state the alleged harm of disclosure. Such filing shall be filed under seal only if it contains either PROPRIETARY or HIGHLY CONFIDENTIAL information and shall be served upon all attorneys of record.
- J. Attorneys upon whom prefiled testimony designated HIGHLY CONFIDENTIAL or PROPRIETARY has been served shall make such testimony available only to those persons authorized to review such testimony under the restrictions in Paragraphs C or D, whichever is applicable.
- K. If a response to a discovery request requires the duplication of voluminous material or material not easily copied because of its binding or size, the furnishing participant may require the voluminous material be reviewed on its own premises. Voluminous material shall mean a single document, book or paper which consists of more than 150 pages.
- L. Attorneys of record in this case shall require that the in-house or outside expert read this Protective Order and certify in a written nondisclosure agreement that the person has reviewed the Protective Order and consented to be bound by its terms. The nondisclosure agreement shall contain the signatory's full name, permanent address, employer and the name of the participant with whom the signatory is associated. Such agreement shall be filed with the Commission. Attached hereto as Appendix "A" and incorporated by reference herein is a form for use in complying with the terms of this paragraph.
- M. In the event a witness discloses the contents of designated prefiled testimony in his or her own prefiled testimony, such testimony shall also

be designated in the same manner as the designated prefiled testimony and handled in accordance with this order.

- N. Unless good cause is shown, challenges to the confidential nature of prefiled designated testimony shall be filed with the Commission no later than ten (10) days after the grounds supporting the designations are filed or at the hearing, whichever occurs first. The participant making the designation shall have five (5) days to respond to the challenge or may respond at the hearing, whichever occurs first.
- O. The Commission or hearing examiner may rule on the challenge to the designations prior to the hearing, or at the hearings.
- P. In the event no participant challenges prefiled designated testimony, or in the event the Commission or its hearing examiner rules that testimony was properly designated, then such testimony shall be received into evidence, subject to any other objections being made and ruled upon, and kept under seal.
- Q. In addition, all live testimony, including cross-examination and oral argument which reveals the content of prefiled designated testimony or which is otherwise held to be confidential, including any argument as to whether certain testimony is properly designated, shall be made only after the hearing room is cleared of all persons besides the Commission, its hearing examiners, court reporters, attorneys of record and witnesses to whom the designated information is available pursuant to the terms of this Protective Order. The transcript of such live testimony or oral argument shall be kept under seal and copies shall only be provided to the Commission, its hearing examiners, and attorneys of record. Such attorneys shall not disclose the contents of such transcripts to anyone other than those who may have access to the designated information under the terms of this Protective Order. Persons who have access to the designated

information under the terms of this Protective Order shall treat the contents of such transcript as any other designated information under the terms of this Protective Order.

- R. References to designated testimony, whether prefiled or live and transcribed, in any pleadings before the Commission, shall be by citation only and not by quotation. Subject to the jurisdiction of any reviewing court, references to designated testimony in pleadings or oral arguments made to such reviewing court shall also be by citation only.
- S. All persons who are afforded access to information under the terms of this Protective Order shall neither use nor disclose such information for purposes of business or competition or any other purpose other than the purpose of preparation for and conduct of this proceeding and then solely as contemplated herein, and shall keep the information secure and in accordance with the purposes and intent of this order.
- T. Subject to the jurisdiction of any reviewing court, designated testimony constituting part of the record before the Commission shall be delivered to any reviewing court under seal upon service of the appropriate writ of review.
- U. The Commission may modify this order on motion of a participant or on its own motion upon reasonable notice to the parties and opportunity for hearing.
- V. Within ninety (90) days after the completion of this proceeding, including judicial review thereof, all designated information, testimony, exhibits, transcripts or briefs in the possession of any participant other than Staff or the Public Counsel shall be returned to the participant claiming a confidential interest in such information and any notes pertaining to such information shall be destroyed.



- W. The provisions of paragraph C, D, J and L of this Protective Order do not apply to Staff or Public Counsel. Staff and Public Counsel are subject to the nondisclosure provisions of Section 386.480, R.S.Mo. 1986. Staff and Public Counsel shall provide a list of the names of their employees who will have access to the designated information.
- X. Outside experts of Staff or Public Counsel who have been contracted to be witnesses in this proceeding shall have access to designated information and testimony on the same basis as Staff and Public Counsel except the outside expert shall read this order and sign the nondisclosure agreement attached as Appendix "A" hereto.
- Y. Outside experts of Staff and Public Counsel who have not been contracted to be witnesses in this proceeding are subject to the provisions of this Protective Order.
- Z. Prefiled testimony and exhibits, whether filed or offered at the hearing, shall be prepared in the manner described in Appendix "B".

STATE OF MISSOURI  
PUBLIC SERVICE COMMISSION

NONDISCLOSURE AGREEMENT

I, \_\_\_\_\_, have  
been presented a copy of this Protective Order issued in Case No. \_\_\_\_\_ on the  
\_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_.

I have requested review of the confidential information produced in Case  
No. \_\_\_\_\_ on behalf of \_\_\_\_\_  
\_\_\_\_\_.

I hereby certify that I have read the above-mentioned Protective Order and  
agree to abide by its terms and conditions.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_.

\_\_\_\_\_  
Signature and Title

\_\_\_\_\_  
Employer

\_\_\_\_\_  
Participant

\_\_\_\_\_  
Address

\_\_\_\_\_  
Telephone

1. If prefiled testimony contains parts which are classified as Proprietary or Highly Confidential, it shall be filed with the Commission's Executive Secretary's Office as follows:
  - A. An original plus eight (8) copies of prefiled testimony with the Proprietary or Highly Confidential portions obliterated or removed shall be filed.
  - B. One (1) copy of those pages which contain information which has been designated as Proprietary, with any Highly Confidential portions obliterated or removed, shall be filed in a separate envelope. The portions which are Proprietary shall be indicated as described in D, below.
  - C. One (1) copy of those pages which have been designated as Highly Confidential shall be filed in a separate envelope. The portions which are Highly Confidential shall be indicated as described in D, below.
  - D. Six (6) copies of the complete prefiled testimony to be filed under seal for the Hearing Examiner and Commissioners. The Proprietary pages shall be stamped "P" and the Proprietary information indicated by two asterisks before and after the information, **\*\*Proprietary\*\***. The Highly Confidential pages shall be stamped "HC" with the Highly Confidential information indicated by two asterisks and underlining before and after the Highly Confidential information, **\*\*Highly Confidential\*\***.

Any deviations from this format must be approved by the Hearing Examiner.

2. Three (3) copies of exhibits, whether testimony or other, shall be filed at the hearing with the information separated as described in 1.A, 1.B and 1.C above with each copy of the Proprietary and Highly Confidential portions placed into separate envelopes to be marked as Exhibit \_\_, Exhibit \_\_P and Exhibit \_\_HC.