

BEFORE THE PUBLIC UTILITIES COMMISSION  
OF THE STATE OF COLORADO

IN THE MATTER OF THE APPLICATION OF )  
T3 COMMUNICATIONS LLC FOR A )  
CERTIFICATE OF PUBLIC CONVENIENCE ) DOCKET NO. 03A-105T  
AND NECESSITY TO PROVIDE LOCAL )  
EXCHANGE TELECOMMUNICATIONS )  
SERVICES AND FOR A LETTER OF )  
REGISTRATION TO PROVIDE EMERGING )  
COMPETITIVE TELECOMMUNICATIONS )  
SERVICES. )

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**STIPULATION AND SETTLEMENT AGREEMENT**

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This Stipulation and Settlement Agreement (“Stipulation” or “Agreement”) is entered into by and between T3 Communications, LLC (“T3” or “Applicant”) and the Colorado Office of Consumer Counsel (“OCC”). The Applicant and the OCC are referred to herein collectively as the “Parties” and individually as a “Party.” This Stipulation sets forth the terms and conditions by which the Parties have agreed to resolve all issues that have or could have been contested among the Parties in Docket No. 03A-105T. Each Party to this Stipulation pledges its support of this Stipulation and states that each will defend the settlement reached by the Parties as reflected herein.

**I. INTRODUCTION**

This docket commenced when the Applicant filed its Application for a Certificate of Public Convenience and Necessity to Provide Local Exchange Telecommunications Services and Letter of Registration to Provide Emerging

## Competitive Telecommunications Services with the Colorado Public Utilities

Commission (“Commission”) on March 17, 2003.

The OCC intervened in this docket on April 14, 2003, principally expressing concerns regarding Applicant’s financial viability required by Rule 723-25-4.1.10(a) and requesting that the application be suspended to allow further investigation into the management, operational and technical expertise, and financial resources for T3. In light of the principal concern, further concerns were raised regarding the public interest in the application and the provision for continuity of service and avoidance of financial harm to residential, small business and agricultural exchange users in the event of business failure.

On or about May 7, 2003, Staff of the Public Utilities Commission intervened in the docket and then withdrew its intervention on June 10, 2003. Thus, all parties to the docket are entering this Stipulation and Staff is no longer a party the docket, nor to this Stipulation.

T3 filed “T3 Communications, LLC Testimony for the Application of a Certificate of Public Convenience and Necessity” presenting unverified testimony including additional information to demonstrate that it has the necessary managerial, technical, and financial ability to provide telecommunications services in Colorado and to seek approval of the application.

The discussions and sharing of information undertaken by the Parties in this proceeding ultimately resulted in the Parties reaching a settlement of all of the issues that were or could have been contested in this docket.

## II. TERMS AND CONDITIONS OF SETTLEMENT

The Parties are mindful of the express public policy of the State of Colorado to promote a competitive telecommunications marketplace while protecting and maintaining the wide availability of high quality telecommunications service. 40-15-101 C.R.S. T3 believes it possesses the requisite financial, managerial and technical ability to enter and effectively compete in the Colorado telecommunications marketplace. Further, T3 believes it has access to additional financial resources, if necessary, to further its efforts in Colorado. The OCC has remaining concerns regarding the financial viability of T3, particularly as to its resources apart from those of its affiliates and ownership.

In order to address the OCC's concerns, Applicant has agreed to the following conditions to the granting of the Application, providing further financial assurance and protections benefiting Colorado consumers:

1. Within 90 days following the granting of the Application, T3 will post a bond (or letter of credit) (either a bond or letter of credit, whichever chosen by T3, will be referred to herein as "financial assurance") with the Commission which shall remain in place until the second annual anniversary of the date upon which T3 first serves a revenue-producing single line (or equivalent) to a customer in Colorado. After completing the second year of service, no further financial assurance will be required by this Stipulation and all financial assurance instruments shall be surrendered and/or cancelled unless otherwise required by applicable Colorado law or Commission rule at that time.

2. Initially, the financial assurance shall be in the amount of \$25,000. If at any time during the term of T3's obligation to maintain financial assurance it provides more than a total of 1,000 revenue-producing single lines (or equivalent), then the amount of required financial assurance shall increase by \$25,000 (totaling \$50,000). Further, if at any time during the term of T3's obligation to maintain financial assurance T3 provides more than a total of 2,500 revenue-producing single lines (or equivalent), then the amount of required financial assurance shall increase by a second additional \$25,000 (totaling \$75,000).
3. The purpose of the financial assurance will be to ensure compliance with this Stipulation, Commission rules, Colorado and federal law as well as payment of statutory funds (i.e. 911, High Cost Fund, and Low Income Telephone Assistance Plan), customer deposits, payments in advance for service, and transition costs in the event of business failure. Any draw upon instruments of financial assurance shall be made with Commission approval as directed by Commission Order.
4. T3 explicitly acknowledges that it cannot sell, assign or otherwise transfer its assets (including without limitation, Billing Account Numbers, Interconnection Agreements and a Certificate of Public Convenience and Necessity), without first having Commission approval pursuant to C.R.S. 40-15-105.

5. Within 90 days after T3 begins serving telecommunications customers in Colorado, T3 will provide the OCC and Commission Staff, a copy of an actual customer bill for a customer subscribing to basic local service as well as one subscribing to a bundled service (with redaction of personal information).
6. For so long as T3 is obligated to provide financial assurances described herein, it will file with the Commission, and serve a copy upon the OCC, all notices received from any carrier of the termination/disconnection of goods and/or services necessary to provide basic local service to T3's customers. Within the applicable cure period in the notice for resolution (and in any event prior to the effective date of termination/disconnection), T3 will certify resolution of the matter to the Commission, with a copy to the OCC, or alternatively, provide the number of business and residential lines affected by such termination notice, the type of underlying services provided to such customers (e.g., resale, UNE-P, backbone transport), and the identity of all underlying providers supporting the goods and/or services affected by such notice.

### **III. ADDITIONAL MISCELLANEOUS SETTLEMENT TERMS**

This Agreement is made for settlement purposes only. No Party concedes the validity or correctness of any regulatory principle or methodology directly or indirectly incorporated in this Agreement. Furthermore, this Agreement does not constitute agreement, by any Party, that any principle or methodology contained within this Agreement may be applied to any situation other than the above-captioned cases. No

precedential effect or other significance, except as may be necessary to enforce this Agreement or a Commission order concerning the Agreement, shall attach to any principle or methodology contained in the Agreement.

This Agreement shall not become effective until the issuance of a final Commission order approving the Agreement, which order does not contain any modification of the terms and conditions of this Agreement that is unacceptable to the Parties hereto. In the event the Commission modifies this Agreement in a manner unacceptable to any Party hereto, that Party shall have the right to withdraw from this Agreement and proceed to hearing on some or all of the issues that may be appropriately raised by that Party in this docket under a new procedural schedule. The withdrawing Party shall notify the Commission, and the other Parties to this Agreement, in writing within thirty (30) days of the date of the Commission order that the Party is withdrawing from the Agreement (such notice being referred to as the "Notice"). A Party who properly serves a Notice shall have and be entitled to exercise all rights the Party would have had in the absence of the Party's agreeing to this Agreement. Hearing shall be scheduled on an expedited basis, as soon as practicable.

In the event that this Agreement is not approved, or is approved with conditions that are unacceptable to any Party who subsequently withdraws, the negotiations or discussions undertaken in conjunction with the Agreement shall not be admissible into evidence in this or any other proceeding. Moreover, in such an event, except as may be specifically provided for herein, neither anything said, admitted or acknowledged in the negotiations leading up to the execution of this Stipulation, nor the settlement terms and

conditions contained herein, nor the Stipulation itself may be used in this or any other administrative or court proceeding by any of the Parties hereto, or otherwise.

The parties state that they have reached this Stipulation by means of a negotiated process that is in the public interest, and that the results reflected in this Stipulation are just, reasonable and in the public interest. Approval by the Commission of this Stipulation shall constitute a determination that the Stipulation represents a just, equitable and reasonable resolution of all issues that were or could have been contested among the Parties in this proceeding, except as otherwise specifically noted in this Agreement. Each Party hereto pledges its support of this Agreement and urges the Commission to approve same, without modification.

Except as otherwise specifically agreed upon in this Agreement, nothing contained herein shall be deemed as constituting a settled practice or of precedential value for the purposes of any other proceeding, and by entering into this Agreement, no Party shall be deemed to have agreed to any specific principles of ratemaking. The Parties expressly reserve the right to advocate positions different from those stated in this Agreement in any proceeding other than one necessary to obtain approval of, or to implement, this Agreement or its terms and conditions. Nothing in this Agreement shall constitute a waiver by any Party with respect to any matter not specifically addressed in this Agreement.

This Stipulation may be executed in separate counterparts, including facsimile. The counterparts taken together shall constitute the Stipulation and Settlement

Agreement. The parties represent that the signatories to the Stipulation have full authority to bind their respective parties to the terms of the Stipulation.

The Parties agree to a waiver of compliance with any requirement of the Commission's Rules and Regulations to the extent necessary to permit all provisions of this Agreement to be carried out and effectuated.

The Commission shall retain jurisdiction for the purpose of enabling any of the parties to this Stipulation to apply to the Commission for such further orders and directions that may be necessary and appropriate for the enforcement of or compliance

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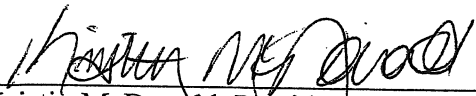


with this Stipulation.

Dated this 9<sup>th</sup> day of July 2003.


APPROVED:

T3 COMMUNICATIONS, LLC *pro se*

By:   
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Kristin McDonald, President  
3333 S. Bannock Street  
Englewood, CO 80110  
(303) 762-6844


APPROVED:

COLORADO OFFICE OF CONSUMER  
COUNSEL

By:   
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Rate/Financial Analyst  
1580 Logan St., Suite 740  
Denver, CO 80203  
(303) 894-2121

APPROVED AS TO FORM:

KENNETH L. SALAZAR  
Attorney General

By:   
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G. Harris Adams, #19668  
Assistant Attorney General  
1525 Sherman St., 5<sup>th</sup> Floor  
Denver, CO 80203  
(303) 866-5441

ATTORNEY FOR THE COLORADO  
OFFICE OF CONSUMER COUNSEL

CERTIFICATE OF SERVICE

I hereby certify that on this 10th day of July, 2003, the original and 15 copies of the foregoing MOTION TO APPROVE STIPULATION AND SETTLEMENT AGREEMENT IN RESOLUTION OF APPLICATION PROCEEDING AND REQUEST FOR WAIVER OF RESPONSE TIME was hand-delivered to:


Bruce Smith, Director  
Colorado Public Utilities Commission  
1580 Logan, OL2  
Denver, CO 80203

and a copy was faxed, hand-delivered or placed in the United States mail, postage prepaid, and addressed to:

George Coon  
T3 Communications, LLC  
7580 Conifer Dr.  
Colorado Springs, CO 80920

T3 Communications, LLC  
3333 S. Bannock St., Suite 790  
Englewood, CO 80110

Pat Parker  
Rate/Financial Analyst  
Office of Consumer Counsel  
1580 Logan Street, Suite 740  
Denver, CO 80203

  
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