BEFORE THE PUBLIC SERVICE COMMISSION

OF THE STATE OF MISSOURI

In the Matter of the Application of GTE Midwest Incorporated and GTE Arkansas Incorporated for Approval of Interconnection Agreement with Ciera Network Systems, Inc. Pursuant to Section 252(e) of the Telecommunications Act of 1996	))))))	Case No. TO-2000-534

ORDER APPROVING INTERCONNECTION AGREEMENT

Procedural History

GTE Midwest Incorporated and GTE Arkansas Incorporated (Applicant) filed an Application with the Missouri Public Service Commission (Commission) on March 2, 2000, for approval of an interconnection and resale agreement with Ciera Network Systems, Inc. (Ciera) under the provisions of the federal Telecommunications Act of 1996 (the Act). Applicant stated that there were no unresolved issues and that the agreement complied with Section 252(e) of the Act in that it was not discriminatory to nonparty carriers and was consistent with the public interest.

The Commission issued its order directing notice on March 7, 2000, which, *inter alia*, directed any party wishing to request a hearing or participate without intervention to do so no later than March 27, 2000. That order also directed the Staff of the Commission (Staff) to file a memorandum advising either approval or rejection of this agreement and

giving the reasons therefor no later than May 9, 2000, and made Ciera a party to this case.

No applications to participate or requests for hearing were filed. The requirement for a hearing is met when the opportunity for hearing has been provided and no proper party has requested the opportunity to present evidence. State ex rel. Rex Deffenderfer Enterprises, Inc. v. Public Service Commission, 776 S.W.2d 494, 496 (Mo. App. 1989). Since no one has requested a hearing in this case, the Commission may grant the relief requested based on the application.

Discussion

The Commission, under the provisions of Section 252(e) of the Act, has the authority to approve an interconnection and resale agreement negotiated between an incumbent local exchange carrier and a new provider of basic local exchange service. The Commission may reject an interconnection and resale agreement only if the agreement is discriminatory or is inconsistent with the public interest, convenience and necessity.

On March 30, 2000, Staff filed a Memorandum that recommended that Applicant be granted approval of the interconnection and resale agreement (i.e., the Agreement). Staff stated that the Agreement meets the limited requirements of the Act. Specifically, Staff stated that the Agreement does not appear to discriminate against telecommunications carriers not party to the Agreement, and the Agreement does not appear to be against the public interest, convenience or necessity. Staff further recommended

that the Commission direct Applicant to submit any modifications or amendments to the Agreement to the Commission for approval. This condition has been applied in prior cases where the Commission has approved similar agreements.

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.

The Commission has considered the application and the supporting documentation, including Staff's recommendation. Based upon that review, the Commission finds that the Agreement meets the requirements of the Act in that it does not unduly discriminate against a nonparty carrier and also finds that implementation of the Agreement is not inconsistent with the public interest, convenience and necessity. The Commission finds that approval of the Agreement should be conditioned upon the parties submitting any modifications or amendments to the Commission for approval pursuant to the procedure set out below.

Modification Procedure

The Commission has a duty to review all resale and interconnection and resale agreements, whether arrived at through negotiation or arbitration, as mandated by the Act. 47 U.S.C. 252. In order for the Commission's review and approval to be effective, the Commission must also review and approve modifications to these agreements. The Commission has a further duty to make a copy of every interconnection and

resale agreement available for public inspection. 47 U.S.C. 252(h). This duty is in keeping with the Commission's practice under its own rules of requiring telecommunications companies to keep their rate schedules on file with the Commission pursuant to Commission Rule 4 CSR 240-30.010.

The parties to each interconnection and resale agreement must maintain a complete and current copy of the agreement, together with all modifications, in the Commission's offices. Any proposed modification must be submitted for Commission approval, whether the modification arises through negotiation, arbitration, or by means of alternative dispute resolution procedures.

Unless one has already been provided, Applicant shall provide the Staff with a final copy of the interconnection and resale agreement with all pages, including the appendices, numbered seriatim in the lower right-hand corner. Simultaneously therewith, the parties shall file a pleading notifying the Commission that such copy has been provided. Modifications to an agreement must be submitted to the Staff for review. When approved, the modified pages will be substituted in the agreement, which should contain the number of the page being replaced in the lower right-hand corner. The official record of the original Agreement and all the modifications made will be maintained by the Staff in the Commission's tariff room.

The Commission does not intend to conduct a full proceeding each time the parties agree to a modification. Where a proposed modification is identical to a provision that has been approved by the Commission in another agreement, the modification will be approved once Staff has

verified that the provision is an approved provision, and prepared a recommendation advising approval. Where a proposed modification is not contained in another approved agreement, Staff will review the modification and its effects and prepare a recommendation advising the Commission whether the modification should be approved. The Commission may approve the modification based on the Staff recommendation. If the Commission chooses not to approve the modification, the Commission will establish a case, give notice to interested parties and permit responses. The Commission may conduct a hearing if it is deemed necessary.

Conclusions of Law

The Missouri Public Service Commission has arrived at the following conclusions of law.

The Commission, under the provisions of Section 252(e)(1) of the federal Telecommunications Act of 1996 (47 U.S.C. 252(e)(1)), is required to review negotiated interconnection and resale agreements. It may only reject a negotiated agreement upon a finding that its implementation would be discriminatory to a nonparty or inconsistent with the public interest, convenience and necessity under Section 252(e)(2)(A). Based upon its review of the interconnection and resale agreement between Applicant and its findings of fact, the Commission concludes that the Agreement is neither discriminatory nor inconsistent with the public interest and should be approved.

IT IS THEREFORE ORDERED:

1. That the Interconnection and Resale Agreement between GTE Midwest Incorporated and GTE Arkansas Incorporated and Ciera Network Systems, Inc., filed on March 2, 2000, is approved.

2. That any changes or modifications to the Interconnection and Resale Agreement between GTE Midwest Incorporated and GTE Arkansas Incorporated and Ciera Network Systems, Inc., filed on March 2, 2000, shall be filed with the Commission for approval pursuant to the procedure outlined in this order.

3. That this order shall become effective on April 17, 2000.

4. That this case may be closed on April 18, 2000.

BY THE COMMISSION

Dale Hardy Roberts

Dale Hardy Roberts
Secretary/Chief Regulatory Law Judge

(S E A L)

Bill Hopkins, Senior Regulatory Law Judge,
by delegation of authority pursuant to
4 CSR 240-2.120(1) (November 30, 1995)
and Section 386.240, RSMo 1994.

Dated at Jefferson City, Missouri,
on this 5th day of April, 2000.