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BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI

In the Matter of the Application of Gabriel)
Communications of Missouri, Inc. for Approval)
of an Interconnection Agreement with) Case No. TO-99-400
Southwestern Bell Telephone Company under the)
Telecommunications Act of 1996.)

ORDER DIRECTING NOTICE AND
MAKING SOUTHWESTERN BELL TELEPHONE COMPANY A PARTY

Gabriel Communications of Missouri, Inc. (Gabriel) filed an application with the Commission on March 22, 1999 for approval of an interconnection agreement with Southwestern Bell Telephone Company (SWBT) under the provisions of the federal Telecommunications Act of 1996 (the Act).

Gabriel states that the agreement complies with Section 252 of the Act in that it does not discriminate against any other telecommunications carrier. Gabriel states that the implementation of the agreement will be consistent with the public interest, convenience and necessity in that it will enable Gabriel to bring competitive telecommunications alternatives to the public. Gabriel states that the Commission has essentially already approved the agreement, as Gabriel and SWBT have only made minor conforming and non-substantive changes to the previously arbitrated and approved interconnection agreement between SWBT and AT&T. Gabriel states that these changes are the same as those approved by the Commission in Case No. TO-98-518. Hence, Gabriel states,

the Commission has already found that the submitted agreement meets the requirements of Sections 251 and 252(d) of the act.

Gabriel requests expeditious approval of the agreement. Gabriel states that because the adopted SWBT/AT&T interconnection agreement and the changes thereto have already been arbitrated and approved, it would be appropriate to process the SWBT/Gabriel interconnection agreement pursuant to the 30-day procedure contemplated under section 252(e)(4) of the Act. This section states that "If the state commission does not act to approve or reject the [interconnection] agreement within . . . 30 days after the submission of an [interconnection] agreement adopted by arbitration under [section 252,] subsection (b) [of the Act], the agreement shall be deemed approved." Section 252(b) of the Act contemplates compulsory arbitration which has not happened here. Section 252(e)(4) of the Act does not apply since Gabriel was not a party to the prior arbitrated interconnection agreement between SWBT and AT&T.

Section 252(e) of the Act provides that an interconnection agreement must be approved unless the state commission finds that the agreement discriminates against a telecommunications carrier not a party to the agreement, or that implementation of the agreement is not consistent with the public interest, convenience, and necessity.

Although SWBT is a party to the agreement, it did not join in the application. The Commission will make SWBT a party to this case.

The Commission finds that proper persons should be allowed 20 days from the issuance of this order to file a motion for hearing or an application to participate without intervention. Participation may

be permitted for the limited purpose of filing comments addressing whether this agreement meets the federal standards for approval of interconnection agreements. The requirement of a hearing is met when an opportunity to be heard 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).

Section 252(e)(4) of the Act provides that if the Commission has not approved an agreement within 90 days after submission, the agreement shall be deemed approved. Therefore, the Commission will proceed with this case expeditiously and, if there are no requests for a hearing, relief may be granted based on the verified petition. The Commission finds that notice of this application should be sent to all interexchange and local exchange telecommunications companies.

IT IS THEREFORE ORDERED:

1. That the Records Department of the Commission shall send notice to all interexchange and local exchange telecommunications companies.
2. That Southwestern Bell Telephone Company is made a party to this case.
3. That any party wishing to request a hearing or to participate without intervention in this matter shall file an application no later than April 19, 1999, with:

Dale Hardy Roberts, Secretary
Missouri Public Service Commission
Post Office Box 360
Jefferson City, Missouri 65102

and send copies to:

Carl J. Lumley
Leland B. Curtis
Curtis, Oetting, Heinz, Garrett & Soule, PC
130 S. Bemiston, Suite 200
Clayton, Missouri 63105

Legal Department
Southwestern Bell Telephone
One Bell Center, Room 3536
Saint Louis, Missouri 63101

and

Office of the Public Counsel
Post Office Box 7800
Jefferson City, Missouri 65102

4. That the Staff of the Commission shall file a memorandum advising either approval or rejection of this agreement and giving the reasons therefor no later than June 1, 1999.

5. That this order shall become effective on March 30, 1999.

BY THE COMMISSION

A handwritten signature in black ink, appearing to read "Dale H. Roberts". The signature is written in a cursive, slightly slanted style.

Dale H. Roberts
Chief Regulatory Law Judge/Secretary

(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 30th day of March, 1999.

RECEIVED

MAR 31 1999

COMMISSION COUNSEL
PUBLIC SERVICE COMMISSION