# BEFORE THE PUBLIC SERVICE COMMISSION

## OF THE STATE OF MISSOURI

In the Matter of the Application of	)	
Ernest Communications Inc. for Approval	)	Case No. TO-99-301
of Interconnection Agreement Under the	)	
Telecommunications Act of 1996.	)	

### ORDER DIRECTING NOTICE

## AND MAKING SOUTHWESTERN BELL TELEPHONE COMPANY A PARTY

On January 12, 1999, Ernest Communications, Inc. (Ernest) filed an application with the Commission for approval of an interconnection agreement with Southwestern Bell Telephone Company (Southwestern Bell) executed pursuant to Section 252(i) of the Federal Telecommunications Act of 1996 (the Act). The applicant states that there are no unresolved issues and that the agreement complies with Section 252(e) of the Act in that it is not discriminatory to non-party carriers and is consistent with the public interest. The applicant requests expeditious approval of the agreement.

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. 47 U.S.C. Section 252(e).

Although Southwestern Bell is a party to the agreement, it did not join in the application. The Commission will make Southwestern Bell 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 federal meets the standards for approval 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 ninety 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 any party wishing to request a hearing or to participate without intervention in this matter shall file an application no later than February 10, 1999 with:

Secretary of the Missouri Public Service Commission Post Office Box 360 Jefferson City, Missouri 65102

#### and send copies to:

Charles Brent Stewart
Attorney for Ernest Communications, Inc.
Stewart & Keevil, L.L.C.
1001 Cherry Street, Suite 302
Columbia, Missouri 65201-7931

Paul G. Lane
Leo J. Bub
Anthony K. Conroy
Katherine C. Swaller
Attorneys for Southwestern Bell Telephone Company
One Bell Center, Room 3536
St. Louis, Missouri 63101-1976

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

- 3. That Southwestern Bell Telephone Company is made a party to this case.
- 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 March 23, 1999.

5. That this order shall become effective on February 1, 1999.

BY THE COMMISSION

Hole Hred Roberts

Dale Hardy Roberts

Secretary/Chief Regulatory Law Judge

(SEAL)

Morris L. Woodruff, 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 21st day of January, 1999.

MECEIVED JAN 21 1999

COMMISSION COUNSELL FUBLIC SERVICE COMMISSION