

At a session of the Public Service Commission held at its office in Jefferson City on the 26th day of February, 1998.

ORDER APPROVING INTERCONNECTION AGREEMENT

2 The following companies comprise the Small Telephone Company Group: BPS Telephone Company, Cass County Telephone Company, Citizens Telephone Company of Higginsville, Missouri, Inc., Craw-Kan Telephone Cooperative, Inc., Ellington Telephone Company, Grand River Mutual Telephone Corporation, Green Hills Telephone Corporation, Holway Telephone Company, Iamo

Company and Bourbeuse Telephone Company (collectively Fidelity) applied for participation without intervention. On January 13, the Commission issued an Order Granting Participation to the STCG and Fidelity (collectively Participants).

Although none of the Participants filed comments in the case, Bell Wireless filed comments on February 3. The Staff of the Commission (Staff) filed a Memorandum on February 4 recommending approval of the Agreement as amended.

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 requested a hearing in this case, the Commission may grant the relief requested based on the verified application. However, the Commission will consider the comments filed by Bell Wireless, along with Staff's recommendation.

Discussion

The Commission, under the provisions of Section 252 (e) of the Act, has authority to approve an interconnection agreement negotiated between an incumbent local exchange company (ILEC) and other telecommunications carriers. The Commission may reject an interconnection agreement only if the agreement is discriminatory to a nonparty or is inconsistent with the public interest, convenience, and necessity.

Telephone Company, Kingdom Telephone Company, KLM Telephone Company, Lathrop Telephone Company, Mark Twain Rural Telephone Company, McDonald County Telephone Company, Miller Telephone Company, New Florence Telephone Company, New London Telephone Company, Orchard Farm Telephone Company, Oregon Farmers Mutual Telephone Company, Steelville Telephone Exchange, Inc., and Stoutland Telephone Company.

The initial term of the Agreement between Sprint and Bell Wireless is two years from the effective date of the Agreement; thereafter, the Agreement shall continue in effect until one of the parties gives a 180-day written notice of termination. However, the determination of the effective date under the terms of the Agreement is problematic. The Agreement states that it shall be deemed effective upon approval by the Commission or thirty days from the date of its execution, whichever is sooner. As the parties executed the Agreement on June 23, 1997, the ostensible effective date would be July 23, 1997, nearly four and one-half months prior to the parties' filing their joint application for approval of the Agreement. However, a July 23, 1997 effective date would conflict with the Act's requirement for approval of the Agreement by the Commission and therefore this provision of the Agreement cannot be approved. The earliest possible effective date for the Agreement will be March 5, 1998.

The Agreement states that Bell Wireless may interconnect with Sprint's network at any technically feasible point. The Agreement also describes the network architectures which the parties may use to interconnect their networks and provides for collocation of facilities. The parties agreed to provide each other with intercompany trunk quantity forecast information on a semiannual basis to ensure adequate facilities are available for traffic between the parties.

The Agreement provides that the parties shall reciprocally terminate local traffic and intraLATA/interLATA toll calls originating on each others' network. The Agreement further provides for the transmission and routing of telephone exchange service, exchange access service, and other types of traffic (including 800/888, E911/911 and Directory Assistance traffic).

Exhibit 1, Pricing, contains rates for interconnection, tandem switching, transit, transport, directory assistance and operator services. The Agreement states that these rates shall be used as initial rates and are subject to future action by the Commission and the "true-up" provisions of the Agreement. The method of reciprocal compensation is set forth in Exhibit 3. Reciprocal compensation will occur at rates and structures established in the contract effective between Company and Carrier. The identification of specific minutes of use applicable for terminating compensation will be through the use of traffic studies completed by each party until such time when actual minutes of use can be captured and exchanged for billing purposes. Initially, the relationship of traffic will be established as 65 percent mobile to land traffic and 35 percent land to mobile traffic. These factors will be used for ninety days while formal traffic studies are being completed. The parties agree to work cooperatively to identify all terminating minutes of use between each other, including any minutes which transit through a third party's network before terminating to one of the parties.

Further, the Parties will work cooperatively to install and maintain a reliable network. Each Party will provide 24-hour contact numbers for network traffic management issues to the other's surveillance management center. Quality of Service language requires Sprint to provide Bell Wireless with at least the same intervals and level of service provided by Sprint to its own end-users or other carriers at any given time.

Although the STCG, Fidelity and Bourbeuse were granted participation, they failed to file any comments. The Participants' joint application to participate, however, reflects concerns over the termination

of traffic to a third-party LEC through Sprint's tandem switch under the interconnection agreement. The Participants claim that traffic from wireless carriers is indistinguishable from other traffic which Sprint terminates to third-party LECs through its common trunk group. Thus, the third-party LEC has no way of knowing which wireless carrier is responsible for what portion of terminating minutes.

Bell Wireless notes in its Comments that traffic originating from or terminating to third-party LECs is specifically addressed by the Agreement and such traffic will be exchanged by the parties. Since no traffic to or from any LEC will be blocked, Bell Wireless argues, the Agreement is not discriminatory. Additionally, Bell Wireless states the Agreement is in the public interest because it promotes competition and provides greater choice for the consumer.

In its Memorandum, Staff states that it has reviewed the proposed interconnection agreement and believes the Agreement between Sprint and Bell Wireless meets the limited requirements of the Telecommunications Act of 1996. Specifically, Staff states the Agreement does not appear to discriminate against telecommunications carriers not a party to the interconnection agreement and does not appear to be against the public interest. Therefore, Staff recommends that the Commission approve the interconnection agreement.

Under the provisions of Section 252(e)(1) of the federal Telecommunications Act of 1996, 47 U.S.C. § 252(e)(1), the Commission is required to review negotiated interconnection 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 agreement between Sprint and Bell Wireless, the comments filed by Bell Wireless, and Staff's recommendation, the Commission concludes that the interconnection agreement filed on December 5 is neither discriminatory to nonparties nor inconsistent with the public interest and should be approved as amended.

Modification Procedure

This Commission's first duty is to review all resale and interconnection agreements, whether arrived at through negotiation or arbitration, as mandated by the Act. 47 U.S.C. § 252. In order for the Commission's role of 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 resale and interconnection 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. 4 CSR 240-30.010.

The parties to each resale or interconnection 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.

The parties shall provide the Telecommunications Staff with a copy of the resale or interconnection agreement with the pages numbered consecutively in the lower right-hand corner. 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. Staff will date-stamp the pages when they are inserted into the Agreement. The official record of the original agreement and all the modifications made will be maintained by the Telecommunications 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.

IT IS THEREFORE ORDERED:

1. That the interconnection agreement filed on December 5, 1997, between United Telephone Company of Missouri d/b/a Sprint and Southwestern Bell Wireless Inc. is approved.

2. That United Telephone Company of Missouri d/b/a Sprint and Southwestern Bell Wireless Inc. shall file a copy of the interconnection agreement with the Staff of the Missouri Public Service Commission with the pages numbered seriatim in the lower right-hand corner no later than March 9, 1998.

3. That any further changes or modifications to this agreement shall be filed with the Commission for approval pursuant to the procedure outlined in this order.

4. That this order shall become effective on March 5, 1998.

BY THE COMMISSION

A handwritten signature in black ink, reading "Dale Hardy Roberts". The signature is written in a cursive, slightly slanted style.

Dale Hardy Roberts
Secretary/Chief Regulatory Law Judge

(S E A L)

Lumpe, Ch., Drainer and Murray,
CC., concur.
Crumpton, C., absent.

Hennessey, Regulatory Law Judge