

**STATE OF MISSOURI  
PUBLIC SERVICE COMMISSION  
JEFFERSON CITY  
February 25, 2000**

**CASE NO: TO-2000-407**

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**Enclosed find certified copy of an ORDER in the above-numbered case(s).**

**Sincerely,**



**Dale Hardy Roberts  
Secretary/Chief Regulatory Law Judge**

**BEFORE THE PUBLIC SERVICE COMMISSION**  
**OF THE STATE OF MISSOURI**

Application of Southwestern Bell Wireless,     )  
Inc. and TDS Telecom, Inc. for approval of     )  
an Interconnection Agreement under the         ) Case No. TO-2000-407  
Telecommunications Act of 1996                     )

**ORDER APPROVING INTERCONNECTION AGREEMENT**

**Procedural History**

Southwestern Bell Wireless, Inc. (SWBW) and TDS Telecom, Inc. (TDS) (collectively, Applicants) filed their Application with the Missouri Public Service Commission (Commission) on January 6, 2000, for approval of an interconnection agreement (Agreement) between SWBW and TDS under the Federal Telecommunications Act of 1996 (the Act).

Because Applicants filed an Application which was unclear, the Commission entered its Order Directing Filing on January 13, 2000. The Applicants were ordered to file suggestions in support of their Application, explaining the relief that they requested, and the authority that they believe the Commission has to grant that relief.

On January 21, 2000, the Applicants filed their suggestions in support of their Application. This pleading satisfied the Commission's order directing filing. The Applicants stated that they were requesting the Commission to issue an order approving the voluntarily negotiated interconnection agreement between SWBW and TDS. The Applicants stated that the Commission has the authority to approve interconnection

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agreements under the Act, specifically Section 251(a)(1). The Applicants stated that Section 251(c) of the Act also lists additional obligations of incumbent local exchange carriers (ILECs), including interconnection duties. The Applicants stated that Section 251(f)(1) of the Act exempts certain rural telephone companies from the additional interconnection requirements contained in Section 251(c) of the Act, e.g., duty to provide for access to unbundled network elements, physical collocation, and resale of services at wholesale prices. The Applicants stated that, although all ILECs, as telecommunications carriers, have the duty to interconnect, not all ILECs have to meet the additional interconnection requirements of Section 251(c). The Applicants restated what they had asserted in their Application, i.e., that the Agreement was not an interconnection agreement under Section 251(c) of the Act and thus TDS has not waived the rural exemption found in Section 251(f)(1). Applicant also restated that the Agreement complies with Section 252(e) of the Act in that it is not discriminatory to nonparty carriers and is consistent with the public interest.

The Commission issued its Order Directing Notice on January 26, 2000, directing any party wishing to request a hearing or participate without intervention to do so no later than February 15, 2000. Participation may be permitted for the limited purpose of filing comments addressing whether this agreement meets the federal standards for approval of interconnection agreements.

On February 3, 2000, the Missouri Independent Telephone Group, consisting of MoKan Dial, Inc., Choctaw Telephone, Alma Telephone Co.,

NE Missouri Rural Telephone Company, Modern Telecommunications, Chariton Valley Telephone Corp., and Mid-Missouri Telephone companies (MITG), filed its application to participate without intervention and suggestions in support of the interconnection agreement. MITG's application will be granted and its suggestions in support of the interconnection agreement will be considered. No other 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 verified application.

### Discussion

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

On January 26, 2000, the Staff of the Commission (Staff) filed a Memorandum that recommended that Applicants be granted approval of the facilities-based and wireless interconnection 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 Applicants 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 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 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 pursuant to Commission Rule 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.

Unless one has already been provided, Applicants shall provide the Staff with a final copy of the interconnection 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.

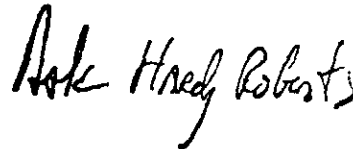
The Commission, under the provisions of Section 252(e)(1) of the federal Telecommunications Act of 1996 (47 U.S.C. 252(e)(1)), is required to review negotiated interconnection agreements. It may only reject a negotiated agreement upon a finding that its implementation would be discriminatory to a nonparty or inconsistent with the public interest, convenience and necessity under Section 252(e)(2)(A). Based upon its review of the interconnection agreement between Applicants 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 Agreement between Southwestern Bell Wireless, Inc. and TDS Telecom, Inc., filed on January 6, 2000, is approved.
2. That the application to participate without intervention filed by the Missouri Independent Telephone Group is granted.
3. That any changes or modifications to the Interconnection Agreement between Southwestern Bell Wireless, Inc. and TDS Telecom, Inc., filed on January 6, 2000, 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 6, 2000.
5. That this case may be closed on March 7, 2000.

**BY THE COMMISSION**



**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 25th day of February, 2000.



64 FYI: To Be Issued By Delegation  
ALJ/Sec'y: Hopkins/Boyce

2-24 2-29  
Date Circulated Return by 3 p.m.  
/2000

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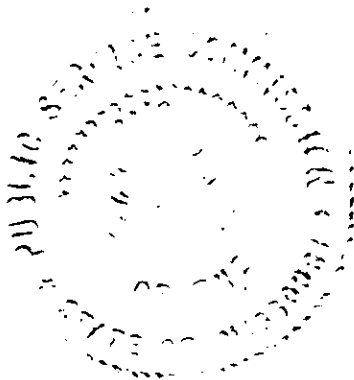
JS pl  
Lumpe, Chair  
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Crumpton, Commissioner  
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Murray, Commissioner  
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Schemenauer, Commissioner  
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Drainer, Vice-Chair

**STATE OF MISSOURI  
OFFICE OF THE PUBLIC SERVICE COMMISSION**

I have compared the preceding copy with the original on file in this office and

I do hereby certify the same to be a true copy therefrom and the whole thereof.

WITNESS my hand and seal of the Public Service Commission, at Jefferson City,  
Missouri, this 25<sup>th</sup> day of FEBRUARY 2000.



Dale Hardy Roberts

**Dale Hardy Roberts  
Secretary/Chief Regulatory Law Judge**