

**STATE OF MISSOURI  
PUBLIC SERVICE COMMISSION  
JEFFERSON CITY  
November 30, 1999**

**CASE NO: TO-2000-273**

**Office of the Public Counsel**  
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Jefferson City, MO 65102

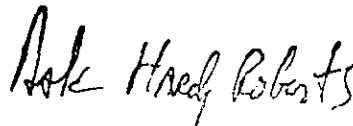
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**Enclosed find certified copy of an ORDER in the above-numbered case(s).**

**Sincerely,**

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

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

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

In the Matter of the Joint Application of	)	
Southwestern Bell Telephone Company and	)	
Delta Phones, Inc., for Approval of a	)	<u>Case No. TO-2000-273</u>
Resale Agreement under the Telecommuni-	)	
cations Act of 1996	)	

**ORDER APPROVING INTERCONNECTION AGREEMENT**

Delta Phones, Inc. (Delta) filed an application with the Commission on October 12, 1999, for approval of an interconnection agreement under the provisions of the Telecommunications Act of 1996 (the Act). The proposed interconnection agreement is between Delta and Southwestern Bell Telephone Company (SWBT). Although the application of Delta was captioned as a "joint application," it was unclear from the body of the pleading whether SWBT had joined in the application. Therefore, the Commission joined SWBT as a party by order on October 22, 1999.

In its October 22, 1999 order, the Commission also directed any party wishing to request a hearing or participate without intervention to do so no later than November 12, 1999. 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 asked permission to participate or 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 authority to approve an interconnection agreement negotiated between an incumbent local exchange company (LEC) and a new provider of basic local exchange service. The Commission may reject an interconnection agreement only if the agreement discriminates against nonparties or is inconsistent with the public interest, convenience and necessity.

On November 19, 1999, the Staff of the Public Service Commission (Staff) filed a Memorandum recommending that the Commission approve the submitted interconnection agreement as amended. Staff stated in its recommendation that the Agreement meets the limited requirements of the Act in that it does not appear to discriminate against nonparties, and does not appear to be against the public interest.

The Commission has considered the application and the supporting documentation, including Staff's recommendation. Based upon that review, the Commission has concluded that the interconnection agreement meets the requirements of the Act in that it does not unduly discriminate against a nonparty carrier, and 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. 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 have provided 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.

### Conclusion

The Commission, under the provisions of Section 252(e)(1) of the Act (47 U.S.C. § 252(e)(1)), is required to review negotiated resale agreements. It may only reject an 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 Delta and SWBT 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 Delta Communications, Inc., and Southwestern Bell Telephone Company filed on October 12, 1999 is approved.

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

3. That this order shall become effective on December 10, 1999.

4. That this case may close on December 13, 1999.

**BY THE COMMISSION**



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

( S E A L )

Nancy Dippell, 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 November, 1999.

FYI: To Be Issued By Delegation

Alt/Sec'y:

*Dippell / Pope*

Date Circulated

*11-23*

Return by 3 p.m.  
*12 a.m.*

*11-30*

CASE NO.

*TD-2000-273*

*[Signature]*  
Lumpkin, Chair

*[Signature]*  
Crisp, Commissioner

*[Signature]*  
Murray, Commissioner

*[Signature]*  
Schmenauer, Commissioner

*[Signature]*  
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 30th day of November 1999.

*Dale Hardy Roberts*

Dale Hardy Roberts  
Secretary/Chief Regulatory Law Judge

