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STATE OF MISSOURI
PUBLIC SERVICE COMMISSION

At a session of the Public Service Commission held at its office in Jefferson City on the 4th day of February, 1999.

In the Matter of the Master Resale Agreement of Sprint Missouri, Inc. d/b/a Sprint and Preferred Carrier Services, Inc.	)))	**Case No. TO-99-242**

ORDER APPROVING INTERCONNECTION AGREEMENT

Sprint Missouri, Inc. d/b/a Sprint (Sprint) and Preferred Carrier Services, Inc. (Preferred) filed a joint application with the Commission on December 1, 1998, for approval of an interconnection agreement (the Agreement). The Agreement was filed pursuant to Section 252(e)(1) of the Telecommunications Act of 1996 (the Act). See 47 U.S.C. § 251, *et seq.* The Agreement would permit Preferred to resell local telecommunications services. The applicants requested expeditious treatment of the Agreement.

The Commission issued an Order and Notice on December 11 setting deadlines for parties wishing to participate without intervention to file applications to do so, or to file comments. No applications to participate or comments were filed.

The Staff of the Commission (Staff) filed a Memorandum on January 11, 1999, recommending that the Agreement be approved. 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, 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 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.

Effective June 14, 1996, Preferred received an Interexchange Certificate of Service Authority in Case No. TA-96-364 to provide interexchange telecommunications services in Missouri. A Resale Agreement between Preferred and Southwestern Bell Telephone Company (SWBT) was approved by the Commission on April 18, 1997, in Case No. TO-97-295. On February 24, 1997, Preferred submitted an Application for a Certificate of Authority to Provide Local Telecommunications Services and to Classify Such Services as Competitive (CLEC application), in Case No. TA-97-347. On September 18, 1997, the Commission issued a Report and Order granting Preferred a certificate of service authority to provide local exchange telecommunications services and a certificate of service authority to provide basic local telecommunications services.

The Staff Memorandum recommends that the Agreement be approved. Staff indicates that the Agreement is similar to one previously concluded between Sprint and Buy-Tel Telecommunications, Inc. and approved by the Commission in Case No. TO-98-586, with the exception that this Agreement includes a section addressing post-termination service continuity. Staff also notes that the Agreement meets the limited requirements of the Act in that it does not appear to be discriminatory toward nonparties, and does not appear to be against the public interest. Staff recommended that the Commission direct Sprint and Preferred to submit a copy of the executed Interconnection Agreement with the pages numbered seriatim, and to submit any further modifications or amendments to the Commission for approval.

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, the supporting documentation, and Staff's recommendation. Based upon that review, the Commission has reached the conclusion that the interconnection agreement meets the requirements of the Act in that it does not unduly discriminate against a nonparty carrier, and 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

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.

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 resale 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 Preferred 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 Sprint Missouri, Inc. d/b/a Sprint and Preferred Carrier Services, Inc., filed on December 1, 1998, is approved.

2. That the parties shall file an executed copy of this Agreement with the Staff of the Missouri Public Service Commission, with the pages numbered seriatim at the bottom of the pages, no later than February 16, 1999. The parties shall file on the same date a notice in the official case file advising the Commission that the agreement has been submitted to staff as required.

3. That any 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 February 17, 1999.

BY THE COMMISSION

Dale Hardy Roberts

Dale Hardy Roberts
Secretary/Chief Regulatory Law Judge

(S E A L)

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

Ruth, Regulatory Law Judge