

**STATE OF MISSOURI
PUBLIC SERVICE COMMISSION
JEFFERSON CITY
October 18, 2000**

CASE NO: TO-2000-261

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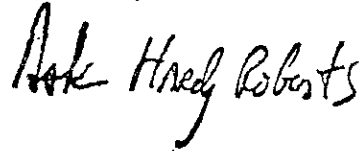
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Enclosed find certified copy of an ORDER in the above-numbered case(s).

Sincerely,



Dale Hardy Roberts
Secretary/Chief Regulatory Law Judge

OF THE STATE OF MISSOURI

In the Matter of the Application of SBC
Advanced Solutions, Inc. for Approval of an
Interconnection Agreement with Southwestern
Bell Telephone Company

**SECOND ORDER APPROVING AMENDMENT
TO INTERCONNECTION AGREEMENT**

On September 30, 1999, SBC Advanced Solutions, Inc. (ASI) filed with the Missouri Public Service Commission (Commission) an application for approval of an interconnection agreement between it and Southwestern Bell Telephone Company (SWBT). The Commission approved the agreement in an order issued December 1, 1999.

On March 2, 2000, ASI filed Amendment No. 1 to the interconnection agreement.

On May 2, 2000, ALLTEL Communications, Inc. (ALLTEL) filed an application to intervene, alleging that the proposed Amendment No. 1 would be discriminatory in that it would offer terms to ASI that would not be available to any other carrier¹. On May 9, 2000, the Staff of the Commission (Staff) filed a recommendation in which it recommended that the Commission not approve Amendment No. 1, concluding that it would be discriminatory.

On May 9, 2000, ASI filed Amendment No. 2. On May 19, 2000, ASI filed a pleading expressing its disagreement with Staff's analysis of

¹ On October 18, 2000, ALLTEL informed the Commission that it had no interest in the instant modification.

Amendment No. 1 yet agreeing to withdraw Amendment No. 1 if Amendment No. 2 was approved by May 29, 2000.

On May 24, 2000, Staff filed a recommendation that the Commission approve Amendment No. 2 on the condition that ASI withdraw Amendment No. 1. Also on May 24, ALLTEL filed a letter in which it stated that it agreed with Staff's position, thus rendering moot the question of ALLTEL's application to intervene. On May 25, 2000, the Commission approved Amendment No. 2 on the condition that Amendment No. 1 was withdrawn. On the same day, by letter, ASI withdrew Amendment No. 1 and the Commission issued its order approving Amendment No. 2.

Instead of sending letters to the Commission, ALLTEL should have filed a motion withdrawing its application to intervene and ASI should have filed a motion withdrawing its first proposed amendment. Both parties are reminded of Commission Rule 4 CSR 240-2.080(9) which states that "[e]ach pleading may be accompanied by a cover letter which states the subject matter. This cover letter shall contain no matter for commission decision."

On July 20, 2000, ASI filed Amendment No. 3 to the interconnection agreement (modification). The Commission entered its order on September 7, 2000, that the Staff should file a report on the status of this case.

On the same day, Staff filed its recommendation and memorandum in which it advocated that the Commission reject the modification on the grounds that it is discriminatory and would not be consistent with the public interest, convenience and necessity.

However, on October 18, 2000, at an on-the-record presentation before the Commission, Staff, SWBT and ASI filed a joint stipulation and agreement (agreement). The Office of the Public Counsel was also a signatory to the agreement but stated that it had signed the agreement for the sole purpose of stating that it has no objection to the modification.

Commission Rule 4 CSR 240-2.115(1) states, in part, that if no party requests a hearing on a proposed agreement, the Commission may treat the agreement as a unanimous agreement. No party requested a hearing, thus the Commission will treat the agreement as being unanimous.

Staff, SWBT, and ASI proposed that the following language, arrived at through negotiation, be included in the Commission's order in this case to resolve Staff's objection:

In the event the Missouri Public Service Commission (Commission) approves either (1) a tariff concerning the rates, terms and conditions by which Southwestern Bell Telephone Company (SWBT) offers any and all forms of collocation pursuant to such tariff or (2) SWBT's Missouri 271 Agreement (M2A) including appendices for any and all forms of collocation provided for thereunder, then SBC-ASI will order new collocation arrangements under either the tariff or the M2A. Upon the effective date of the tariff, or within 30 days of the Commission's approval of the M2A containing collocation provisions, SBC-ASI shall begin requesting collocation under the tariff (if the Commission approves a tariff), or SBC-ASI and SWBT shall amend their interconnection agreement to adopt the M2A collocation appendices, together with all legitimately related terms and conditions as outlined in Attachment 26 of the M2A (if the Commission approves the M2A and its collocation appendices). SBC-ASI agrees to continue requesting collocation pursuant to either tariff or an amended interconnection agreement as described above so long as the Commission's order adopting or approving the M2A is not stayed pending any reconsideration or appeal, or in the case of a tariff, so long as the Commission's order approving the tariff is not stayed pending any reconsideration or appeal, and the tariff remains in effect. SBC-ASI agrees to request collocation pursuant to either tariff or an amended interconnection agreement as described above regardless of whether such rates, terms and conditions have been deemed permanent or interim by the MoPSC.

The Commission will thus approve the agreement and include the proposed language in this order.

The Missouri Public Service Commission has arrived at the following conclusions of law.

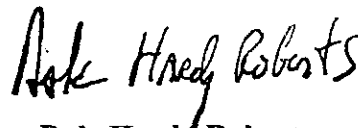
The Commission, under the provisions of Section 252(e)(1) of the federal Telecommunications Act of 1996, 47 U.S.C. 252(e)(1), is required to review the modifications of negotiated interconnection agreements. It may only reject a modification of negotiated agreement upon a finding that its

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 modification of the negotiated interconnection agreement between ASI and SWBT and its findings of fact, the Commission concludes that the modification of the negotiated interconnection agreement is neither discriminatory nor inconsistent with the public interest and should be approved, as amended by the language set forth above.

IT IS THEREFORE ORDERED:

1. That Amendment No. 3 to the Interconnection Agreement between Southwestern Bell Telephone Company and SBC Advanced Solutions, Inc. filed on July 20, 2000, and assigned number IA20010004, is approved.
2. That the joint stipulation and agreement filed by the parties on October 18, 2000, is approved and the approval granted in Paragraph 1 expressly includes the proposed language as set forth above in the body of this order.
3. That this order shall become effective on October 18, 2000.
4. That this case may be closed on October 19, 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 Section 386.240, RSMo 1994.

Dated at Jefferson City, Missouri,
on this 18th day of October, 2000.

FYI: To Be Issued By Delegation

AL/Sec'y:

Hopkins/Boyce

Date Circulated

10-18

Return by 3:00pm

10-18 MISH
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TD-2000-261
CASE NO.

JS
Lumpe, Chair

MD
Draher, Vice Chair

CM
Murray, Commissioner

OS
Schemenauer, Commissioner

KS
Simmons, Commissioner

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 18th day of Oct. 2000.

Dale Hardy Roberts

Dale Hardy Roberts

Secretary/Chief Regulatory Law Judge

