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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 25th
day of November, 1998.

In the Matter of Sprint Communications Company)
L.P.'s Petition for Arbitration of Interconnec-) Case No. TO-97-124
tion Rates, Terms, Conditions and Related)
Arrangements with GTE Midwest Incorporated.)

ORDER APPROVING INTERCONNECTION AND RESALE AGREEMENT

Sprint Communications Company L.P. (Sprint) filed a pleading entitled "Sprint Communications Company L.P.'s Application for Election of Interconnection Agreement" (Application) on September 1, 1998, for approval of an interconnection agreement under the provisions of the federal Telecommunications Act of 1996 (the Act).¹ Sprint's Application states that Sprint hereby notifies the Commission of its intention to adopt the final interconnection agreement approved by the Commission between GTE Midwest Incorporated (GTE) and AT&T Communications of the Southwest, Inc. (AT&T) in Case No. TO-97-63 (hereafter referred to as the GTE/AT&T agreement). Sprint attached to its motion a copy of a document which appears to be the GTE/AT&T agreement.

In its Application, Sprint notes that it had obtained an electronic version of the GTE/AT&T interconnection agreement from AT&T.

¹ On July 20, the Commission issued an Order Granting Extension of Time to File Interconnection Agreement. This order directed Sprint to either file an interconnection agreement as directed by the Arbitration Order

However, upon review of the version provided by AT&T, Sprint concluded that it may not have been the final approved version of the agreement because it contains disputed language which is distinguished by double-underlined and italic text. Sprint stated that GTE never responded to its requests to determine whether this electronic version was the final agreement approved by the Commission. Sprint further notes that counsel for GTE has indicated that GTE will not voluntarily sign any interconnection agreement, and that GTE has refused to provide Sprint with an electronic copy of the GTE/AT&T agreement so that Sprint could substitute its name for that of AT&T where appropriate. Sprint requests that the Commission order GTE to provide Sprint with the final electronic version of the agreement so that Sprint may perform the appropriate edits.

Sprint is a Delaware limited partnership duly authorized to conduct business in Missouri. Sprint is an authorized provider of intrastate interexchange telecommunications services in Missouri, as well as an authorized provider of interstate interexchange telecommunications services. Sprint has also been granted a certificate of service authority to provide local exchange telecommunications service in the state of Missouri as a competitive local exchange carrier. GTE is an incumbent local exchange carrier as defined in Sections 252(j) and 251(h) of the Act within its Missouri service areas.

issued January 15, 1997, or file a motion to elect an interconnection agreement which has been approved by the Commission.

The Commission, by its Order and Notice issued October 30, established a deadline of November 19 for proper parties to request permission to participate without intervention or to request a hearing. On November 19, GTE filed a Motion for Hearing. GTE's motion states that there are several statements of fact and law presented in Sprint's Application which are incorrect. However, GTE does not state with specificity what those incorrect statements are. GTE further states that the Commission's October 30 order raises "a number of legal issues related to the proper application of the law, as well as the legal significance and consequences of the action requested in Sprint's filing." GTE also indicates that there are "significant legal issues surrounding the underlying legal basis for Sprint's Application and the nature of the process the Commission has invoked." Once again, GTE does not state with any specificity the nature and basis of these alleged legal issues.

On November 23, the Staff of the Commission (Staff) filed a memorandum recommending that the Commission approve the adoption by Sprint of the interconnection agreement between AT&T and GTE. Staff stated that it believes that by adopting an interconnection agreement which has been previously approved by the Commission, Sprint is in compliance with the Telecommunications Act of 1996. Staff further indicates that by adopting this agreement in its entirety, Sprint is in compliance with a recent decision by the Eighth Circuit of the U.S. Court of Appeals which held that such adoptions must be made in whole, rather than by picking and choosing various parts of agreements.

Staff suggests that the Commission order GTE to provide Sprint with an electronic copy of the final version of the GTE/AT&T agreement, per Sprint's request. Staff recommends further that the Commission order GTE to sign the agreement with Sprint and submit it jointly with Sprint. Staff indicates that it has examined the submitted agreement and finds it in conformance with the Act and the Court's decision. In addition, Staff recommends the Commission direct GTE and Sprint to submit any modifications or amendments to the Commission for approval.

Discussion

The Commission, under the provisions of Section 252(e) and (i) of the federal Telecommunications Act of 1996, has authority to approve an interconnection or resale agreement between an incumbent local exchange company (ILEC) and a new provider of basic local exchange service, regardless of whether the agreement is arrived at through adoption of a previously negotiated agreement or through new negotiations. The Commission may reject an interconnection agreement only if the agreement is discriminatory or is inconsistent with the public interest, convenience and necessity.

Upon review of Sprint's Application for Interconnection Agreement, all the supporting documentation from this case, including the Staff memorandum, the Commission had determined that GTE's Motion for Hearing fails to offer sufficient reason for hearing and that the motion for hearing should be denied. The Commission agrees with the statement in Staff's memorandum that by adopting an interconnection agreement which

has been previously approved by the Commission, Sprint is in compliance with the Telecommunications Act of 1996. The Commission also determines that by this adoption, Sprint has complied with the Commission's July 20, 1998, Order Granting Extension of Time to File Interconnection Agreement, which directed Sprint to either file an interconnection agreement as directed by the Arbitration Order issued January 15, 1997, or file a motion to adopt an interconnection agreement which has been approved by the Commission.

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, all the motions, and Staff's recommendation. Based upon that review the Commission has reached the conclusion that the interconnection and resale agreement meets the requirements of the Act in that it does not unduly discriminate against a nonparty carrier, and the implementation of the agreement is not inconsistent with the public interest, convenience and necessity. Approval is conditioned upon the parties submitting any further 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 C.S.R. 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 interconnection and 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 and resale agreement between GTE

and AT&T, which was filed by Sprint, 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 adoption by Sprint Communications Company L.P. of the interconnection and resale agreement between GTE Midwest Incorporated and AT&T Communications of the Southwest, Inc. filed on September 1, 1998, is approved.

2. That GTE Midwest Incorporated is ordered to provide, by December 7, 1998, Sprint Communications Company L.P. with an electronic copy of the final version of the interconnection agreement between GTE Midwest Incorporated and AT&T Communications of the Southwest, Inc., which was previously approved by the Commission in Case No. TO-97-63.

3. That Sprint Communications Company L.P. is ordered to prepare a final version of the interconnection agreement in which it performs the appropriate edits, substituting the name of Sprint Communications Company L.P. for that of AT&T Communications of the Southwest, Inc., by December 14, 1998.

4. That GTE Midwest Incorporated is ordered to sign the agreement with Sprint Communications Company L.P. and submit it to the Commission jointly with Sprint Communications Company L.P., by December 31, 1998.

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

6. That the Motion for Hearing of GTE Midwest Incorporated, filed November 19, 1998, is denied.

7. That this Order shall become effective on November 30, 1998.

BY THE COMMISSION

A handwritten signature in cursive script that reads "Dale Hardy Roberts".

Dale Hardy Roberts
Secretary/Chief Regulatory Law Judge

(S E A L)

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

Ruth, Regulatory Law Judge

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COMMISSION COUNSEL
PUBLIC SERVICE COMMISSION