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 February, 1998.

In the Matter of the Amended Application of Southwestern Bell Telephone Company for Approval of Interconnection Agreement With Dobson Cellular Systems, Inc. Under the Telecommunications Act of 1996.	))))))	**Case No. TO-98-235**

ORDER APPROVING INTERCONNECTION AGREEMENT

Southwestern Bell Telephone Company (SWBT) filed an Application with the Commission on December 9, 1997, for approval of an interconnection agreement under the provisions of the Federal Telecommunications Act of 1996 (the Act). SWBT filed an amended application on December 12 identifying the second party to the agreement as Dobson Cellular Systems, Inc. (Dobson). The Commission issued an order and notice on December 16 directing parties wishing to participate or to request a hearing to do so no later than January 5, 1998. The Commission established a deadline of February 9 for the filing of comments regarding whether the agreement meets the requirements of the Act. No applications for participation without intervention were filed with the Commission. In addition, no comments or requests for participation or for hearing were filed. The Staff of the Commission (Staff) filed a memorandum on February 17, 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 in this case, the Commission may grant the relief requested based upon 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 (ILEC) and other telecommunications carriers. The Commission may reject an interconnection agreement only if the agreement is discriminatory to a nonparty or is inconsistent with the public interest, convenience and necessity.

The initial term of the agreement between SWBT and Dobson is two years from the effective date of the agreement; thereafter, the agreement shall continue in effect until one of the parties gives a 60-day written notice of termination.

The agreement contains terms and rates for the transport and termination of traffic exchanged between SWBT and Dobson for Local Traffic and Transiting Traffic at rates specified in the Pricing Index. The parties agreed on a factor which represents the percentage of land to mobile minutes that will constitute transiting traffic minutes. The Commission has approved the use of a transiting traffic factor in a previous interconnection case involving a wireless carrier. *See* Case No. TO-98-156 involving an agreement between SWBT and ALLTEL Mobile Communications of Missouri, Inc. Dobson will pay SWBT switched access charges, included in the Pricing Appendix as interMTA rates, for traffic which crosses a Major Trading Area.

The agreement provides for multiple means of interconnection, and for virtual or physical collocation at tariffed rates. SWBT agrees to provide interconnection with its network at any technically feasible point. The parties have agreed that the technically feasible points for Dobson to pass traffic to SWBT for transport and termination by SWBT or a third-party provider are those identified in Appendix DCO.

The agreement includes terms for the transmission and routing of 800/888 number calls, 911 and E911 traffic, and directory assistance. The parties agree to continue to work together to meet all regulatory requirements regarding 911 and E911 services, including Federal Communications Commission requirements. The agreement includes provisions for negotiation and arbitration of disputes between the parties.

The Staff of the Commission (Staff) filed a memorandum on February 17, recommending that the agreement be approved. Staff stated that the terms of this agreement are similar to those in previously approved wireless interconnection agreements in Case No. TO-98-156 (between SWBT and ALLTEL Mobile Communications), Case No. TO-98-96 (between SWBT and CMT Partners), and Case No. TO-97-523 (between SWBT and Ameritech Mobile Communications, Inc.). According to Staff, this agreement meets the limited requirements of the Act in that it does not appear to discriminate against telecommunications carriers not party to the agreement, and does not appear to be against the public interest, convenience, and necessity.

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 interconnection agreement, and Staff's recommendation and finds that the interconnection agreement filed on December 9, 1997 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.

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 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 SWBT and Dobson, and its findings of fact, the Commission concludes that the interconnection agreement filed on December 9, 1997 is neither discriminatory nor inconsistent with the public interest, and should be approved. The Commission notes that the agreement as filed is executed and numbered seriatim.

IT IS THEREFORE ORDERED:

1. That the interconnection agreement between Southwestern Bell Telephone Company and Dobson Mobile Communications, Inc. filed on December 9, 1997, is approved.

2. That the agreement approved in this order shall be made available for public inspection no later than March 9, 1998, as required by 47 U.S.C. 252(h).

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 March 9, 1998.

5. That this case shall be closed on March 19, 1998.

BY THE COMMISSION

Dale Hardy Roberts

Dale Hardy Roberts
Secretary/Chief Regulatory Law Judge

(S E A L)

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

Wickliffe, Deputy Chief Regulatory Law Judge