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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 15th
day of September, 1998.

In the Matter of the Application of Sprint)
Communications Company L.P. for Approval of an)
Interconnection Agreement with Southwestern) Case No. TO-99-1
Bell Telephone Company Pursuant to Section 252)
of the Telecommunications Act of 1996.)
)

ORDER APPROVING INTERCONNECTION AND RESALE AGREEMENT

Sprint Communications Company L.P. (Sprint) filed an Application for Approval of Interconnection Agreement (Application) on July 1, 1998. Sprint attached to its Application an interconnection and resale agreement (Agreement) that Sprint and Southwestern Bell Telephone Company (SWBT) had executed. Sprint alleged that the attached Agreement was identical in most respects to the agreement between SWBT and AT&T Communications of the Southwest, Inc. (AT&T) that was approved by the Commission on March 19 in Case No. TO-98-115. Sprint listed the differences between its Agreement with SWBT and AT&T's agreement with SWBT in Exhibit B to the Application.

Sprint is certificated to provide interexchange and local exchange telecommunications services in Missouri. The Agreement provides a means for Sprint to resell SWBT services and for the provision by SWBT of interconnection, unbundled network elements, and ancillary functions. Sprint stated that SWBT had no objection to its Application.

The Commission, by its Order and Notice issued July 10, established a deadline of July 30 for proper parties to request

permission to participate without intervention or to request a hearing. No parties requested to intervene or participate, and no parties requested a hearing. The Commission Staff (Staff) filed a Memorandum on August 18 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 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) 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:

§252(e) APPROVAL BY STATE COMMISSION

- (1) **APPROVAL REQUIRED.**--Any interconnection agreement adopted by negotiation or arbitration shall be submitted for approval to the State commission. A State commission to which an agreement is submitted shall approve or reject the agreement, with written findings as to any deficiencies.

(2) GROUNDS FOR REJECTION.--The State commission may only reject --

(A) an agreement (or any portion thereof) adopted by negotiation under subsection (a) if it finds that --

(i) the agreement (or portion thereof) discriminates against a telecommunications carrier not a party to the agreement; or

(ii) the implementation of such agreement or portion is not consistent with the public interest, convenience, and necessity;

Staff stated in its Memorandum that the terms of this Agreement are the same as the terms of the agreement between AT&T and SWBT, except for the changes mentioned by Sprint in Exhibit B. Staff also stated that many of these changes are minor and are necessary to make the Agreement meaningful and applicable to Sprint. Staff noted that many of the modifications are related to provisions which specifically do not require SWBT to combine unbundled network elements. The Agreement between SWBT and Sprint is to become effective upon Commission approval and will expire on November 5, 2000.

The Staff stated that it had reviewed the interconnection agreement and that it did not appear to discriminate against telecommunications carriers that were not party to the agreement and that it was in the public interest. Staff recommended that Sprint be ordered to submit a complete interconnection agreement with the pages numbered sequentially on the bottom right-hand margin, and that any modifications or amendments be submitted to the Commission for approval.

Findings of Fact

The Missouri Public Service Commission, having considered the Application, including the agreement and its appendices, and the Staff's memorandum, 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 concludes that the interconnection and resale 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 the Agreement is substantially similar to the AT&T and SWBT agreement and should be approved. The Commission further 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.

Sprint 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 Sprint and SWBT 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 modifica-

tion, 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 SWBT and 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 interconnection and resale agreement between Southwestern Bell Telephone Company and Sprint Communications Company L.P. filed on July 1, 1998, is approved.

2. That Sprint Communications Company L.P. shall file a copy of this agreement with the Staff of the Missouri Public Service Commission, with the pages numbered seriatim in the lower right-hand corner, no later than September 25, 1998. Sprint shall file on the same date a notice in the Official Case File advising the Commission that the final agreement has been submitted.

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

4. That the Commission, by approving this agreement, makes no finding as to whether Southwestern Bell Telephone Company has fulfilled the requirements of Section 271 of the Telecommunications Act of 1996, including the competitive checklist of any of the fourteen items listed in Section 271(c)(2)(B).

5. That this order shall become effective on September 25, 1998.

BY THE COMMISSION

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

Dale Hardy Roberts
Secretary/Chief Regulatory Law Judge

(S E A L)

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

Dippell, Regulatory Law Judge

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COMMISSION COUNSEL
PUBLIC SERVICE COMMISSION