

BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI

In the Matter of the Adoption of the)	
GTE/MAX-TEL Communications, Inc.)	
Interconnection Agreement by BarTel)	<u>Case No. TO-99-590</u>
Communications, Inc., Pursuant to)	
Section 252(i) of the)	
Telecommunications Act of 1996)	

ORDER APPROVING INTERCONNECTION AGREEMENT

On June 9, 1999, GTE Midwest Incorporated and GTE Arkansas Incorporated (collectively GTE) filed a document entitled Adoption of Interconnection Agreement. That pleading informs the Commission that pursuant to Section 252(i) of the Telecommunications Act of 1996, BarTel Communications, Inc. (BarTel) has notified GTE that it wishes to adopt the terms of the interconnection agreement between GTE and Max-Tel. The agreement between GTE and Max-Tel was approved by the Missouri Public Service Commission in Case No. TO-98-581, under the terms of Section 252(e)(1) of the Telecommunications Act of 1996 (the Act). See 47 U.S.C. 251, et seq. The document filed by GTE informs the Commission that the interconnection agreement has been adopted but does not request that the Commission approve the interconnection agreement.

On June 16, the Commission issued an order directing notice and making BarTel a party. That Order directed any party wishing to request a hearing or participate without intervention to do so no later than July 6. No applications to participate or requests for hearing were filed. 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 on the verified application.

On July 16, the Staff of the Missouri Public Service Commission (Staff) filed a Memorandum, indicating that the submitted agreement does not appear to discriminate against telecommunications carriers not party to the Agreement and does not appear to be against the public interest, convenience or necessity. Staff recommends that the Commission approve the adopted resale agreement.

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 (LEC) 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.

Section 252(i) of the Act requires a local exchange carrier to make its previously executed interconnection agreements available to any other requesting telecommunications carrier upon the same terms and conditions as those provided in the agreement. However, nothing in 252(i) overrides Section 252(e)(1) of the Act, which requires that interconnection agreements be submitted for approval to the state commission. Therefore, GTE and BarTel are required to submit the proposed interconnection agreement to the Commission for approval.

Consistent with the Commission's past practice, (see. Case No. TO-99-93) the Commission will presume that GTE intended to submit the agreement for that review and it will be reviewed by the Commission under Section 252(e) of the Act.

The Commission has considered the application and the supporting documentation. Based upon that review the Commission has concluded that the interconnection 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 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

The Commission has a duty 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 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 are required to provide the Telecommunications Staff with a copy of the resale or interconnection agreement with the pages numbered consecutively in the lower right-hand corner. Such a copy was included as Exhibit 3 to the Adoption of Interconnection Agreement filed by GTE. 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.

Conclusion

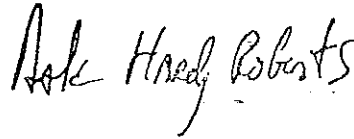
Based upon its review of the resale agreement between GTE and BarTel, the Commission concludes that the agreement is neither discriminatory nor inconsistent with the public interest and should be approved.

IT IS THEREFORE ORDERED:

1. That the Interconnection Resale Agreement between GTE Midwest Incorporated and GTE Arkansas Incorporated and BarTel Communications, Inc. filed on June 9, 1999, is approved.
2. That any changes or modifications to this agreement shall be filed with the Commission for approval pursuant to the procedure outlined in this order.
3. That this order shall become effective on August 6, 1999.

4. That this case may be closed on August 9, 1999.

BY THE COMMISSION



Dale Hardy Roberts
Secretary/Chief Regulatory Law Judge

(S E A L)

Morris L. Woodruff, Regulatory Law
Judge, by delegation of authority
pursuant to 4 CSR 240-2.120(1),
(November 30, 1995) and Section 386.240,
RSMo 1994.

Dated at Jefferson City, Missouri,
on this 27th day of July, 1999.

RECEIVED

JUL 27 1999

COMMISSION COUNSEL
PUBLIC SERVICE COMMISSION