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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 22nd  
day of July, 1998.

In the Matter of AT&T Communications of the South- )  
west, Inc.'s Petition for Arbitration Pursuant to )  
Section 252(b) of the Telecommunications Act of ) Case No. TO-97-63  
1996 to Establish an Interconnection Agreement )  
Between AT&T Communications of the Southwest, Inc. )  
and GTE Midwest Incorporated. )  
)

ORDER APPROVING INTERCONNECTION AGREEMENT

This case was initiated by AT&T Communications of the Southwest, Inc. (AT&T) by a petition for arbitration filed on August 15, 1996, under the provisions of the Telecommunications Act of 1996 (the Act). The Commission issued an Arbitration Order on December 10, 1996, establishing interim rates for unbundled network elements (UNEs) and an interim resale discount rate for the resale of basic local telecommunications services. The Commission issued a further order on July 31, 1997, establishing permanent rates and directing the parties to file an agreement in conformance with all outstanding Commission orders. After numerous extensions of time the parties filed an interconnection agreement (the Agreement) on June 12, 1998. However, the Agreement was not signed by both parties. On June 23 GTE filed its signature page.

The Commission, under the provisions of Section 252(e) of the Act, has authority to approve an interconnection agreement arbitrated 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(e)(4) requires a state Commission to act to approve or reject an agreement adopted by arbitration within 30 days after submission.

#### Discussion

AT&T was granted certificates of service authority to provide basic local and local exchange telecommunications services on February 21, 1997, in Case No. TA-96-322. AT&T does not yet have on file an approved basic local service tariff.

The Staff of the Commission (Staff) filed a memorandum on July 15 recommending that the Commission approve the proposed interconnection Agreement between AT&T and GTE. Staff reviewed the proposed Agreement and believes it meets the limited requirements of the Act in that it does not appear to discriminate against telecommunications carriers who are not parties to the Agreement and it does not appear to be against the public interest.

Staff pointed out that the Agreement contains disputed language relating to the issue of whether GTE should be required to combine certain unbundled network elements for AT&T. The parties note in the text of their Agreement that the issue of whether an incumbent LEC is required to recombine UNEs is currently pending on appeal and will be taken up by the U.S. Supreme Court. The parties jointly requested that this Commission leave the recombination issue unresolved pending the outcome of that appeal. According to Staff, the parties have agreed that GTE will not recombine UNEs in the interim. Staff recommended that the Commission grant this request and direct the parties to file a revised agreement once the issue has been judicially resolved. Staff also

recommended that all modifications be submitted to the Commission for approval.

The Agreement includes 15 attachments containing provisions for Resale, Dialing and Service Parity, E911/911 Services, Directory Assistance, Operator Services, UNES, Collocation, Provisioning and Ordering, Local Number Portability, Pricing, and other matters. The parties have agreed to submit disputes between them to an alternative dispute resolution process that includes negotiation and arbitration before calling upon any agency or court for intervention.

Pursuant to the agreement of the parties, the Agreement will become effective five business days after the parties receive notice of Commission approval and will remain in effect for three years. The Agreement will remain in effect for another year unless either party gives 90 days written notice of termination.

The Agreement permits interconnection at any technically feasible point within GTE's network for a given LATA. GTE agrees that it will provide transit service, i.e., the delivery of traffic between AT&T and third-party LECs, over the local/intraLATA trunks. GTE agrees to deliver local and intraLATA toll traffic originated from AT&T to a third-party LEC, or originated from a third-party LEC and terminated to AT&T. While the parties agree that it is the responsibility of each third-party LEC to enter into arrangements to deliver local traffic between itself and AT&T, such arrangements are not currently in place. As an interim arrangement to ensure traffic completion the parties agree that GTE will terminate third-party traffic until either party has entered into an arrangement with third-party LECs to deliver local traffic via direct trunks.

The parties agree that reciprocal compensation for transport and termination of local traffic will be made on a "bill and keep" basis subject to the right of either party to demand that compensation be calculated based upon actual traffic volumes. See Attachment 14. Standard meet point billing will apply when the completion of a toll call involves both GTE and AT&T facilities.

GTE's local services will be available to AT&T on a resale basis at a wholesale discount rate of 25.40 percent. GTE will charge a non-recurring fee of \$3.92 to switch a customer from GTE to AT&T. Prices for UNES are specified in Appendix 2 to Attachment 14. Certain items have no price indicated or are marked TBD, meaning "to be determined". Before AT&T orders any TBD item, the Parties agree to meet and confer to establish a price. See Attachment 14, Section 6. Collocation will be priced on an individual case basis in accordance with the Commission's prior orders. GTE will charge AT&T the same rates it charges cable television providers for Rights-of-Way, Conduit and Pole Attachments.

#### 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 proposed Agreement, the official case file, and Staff's recommendation. Based upon that review the Commission has reached the conclusion that the interconnection Agreement between AT&T and GTE 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 to the Commission for approval any agreement they reach regarding the recombination of UNEs in the form of a separate revision filed in the official case file. It will not be necessary for the parties to resubmit the entire agreement but only those portions affected by this issue. The Commission further finds that approval of the Agreement is conditioned upon the parties submitting any modifications or amendments, other than the recombination of elements portions, 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.

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 of the Telecommunications Act of 1996, is required to review arbitrated interconnection agreements, and may only reject an agreement upon a finding that its implementation would be discriminatory to a nonparty or inconsistent with the public interest, convenience and necessity. Based upon its review of the interconnection Agreement between AT&T and GTE 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 agreement between AT&T Communications of the Southwest, Inc. and GTE Midwest Incorporated filed on June 12 and executed by GTE on June 23, 1998, is approved.

2. That AT&T Communications of the Southwest, Inc. and GTE Midwest Incorporated 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 August 4, 1998.

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 the request of the parties to defer resolution of the issue of recombination of unbundled network elements until the appeal pending before the U.S. Supreme Court has been decided is granted.

5. That the parties shall submit to the Commission for approval any agreement they reach regarding the recombination of unbundled network elements in the form of a separate revision filed in the official case file at the earliest possible opportunity.

5. That this Order shall become effective on August 4, 1998.

BY THE COMMISSION

A handwritten signature in black ink, reading "Dale Hardy Roberts". The signature is written in a cursive style with a large initial "D".

Dale Hardy Roberts  
Secretary/Chief Regulatory Law Judge

( S E A L )

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

Wickliffe, Deputy Chief Regulatory Law Judge