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At a session of the Public Service Commission held at its office in Jefferson City on the 27th day of August, 1998.

In the Matter of the Joint Application of )  
Southwestern Bell Telephone Company and Frontier )  
Local Services, Inc. for Approval of an Inter- ) Case No. TO-98-541  
connection Agreement Under the Telecommunications )  
Act of 1996. )  
)

## ORDER APPROVING INTERCONNECTION AGREEMENT

Southwestern Bell Telephone Company (SWBT) and Frontier Local Services, Inc. (Frontier) filed a Joint Application on May 29, 1998, for approval of an Interconnection Agreement (the Agreement) between them. The Agreement, which addresses interconnection as well as unbundling of network elements, resale of services, and several other additional services provided by SWBT to Frontier, was filed pursuant to Section 252(e)(1) of the Federal Telecommunications Act of 1996 (the Act). See 47 U.S.C. § 251, *et seq.*

The Commission issued an Order and Notice on June 5, 1998, setting deadlines for parties to request a hearing or wishing to participate without intervention to file applications to do so, or to file comments. Requests for a hearing or to participate without intervention were to be filed no later than June 25. Comments addressing whether this Agreement meets the standards for approval of interconnection agreements were to be filed no later than July 28. No requests for hearing, applications to participate without intervention, or comments were filed. The Commission Staff (Staff) filed a Memorandum on July 29, 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 on 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 (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.

On January 29, 1998, Frontier filed an application for a certificate of authority to resell basic exchange and local exchange intrastate telecommunications services within the State of Missouri in Case No. TA-98-318. A Report and Order issued July 15, 1998, granted Frontier a certificate of service authority to provide basic local and local exchange telecommunications services in the Missouri exchanges currently served by SWBT, GTE Midwest Incorporated, and United Telephone Company of Missouri d/b/a Sprint. Frontier has not yet filed tariffs.

The Agreement describes the interconnection methods, unbundled network elements which SWBT shall provide upon request, the resale telecommunications services which SWBT shall offer to Frontier for resale, the physical colocation agreement, and additional services provided by SWBT to Frontier.

The initial term for this Agreement shall be one (1) year, and thereafter the Agreement shall continue in force and effect unless and until terminated by either party, having delivered a 90-day written notice to the other party of its intention to terminate this Agreement, subject to certain termination conditions. The Agreement originally possessed an effective date of August 27, 1998; Frontier later extended the effective date to September 1, 1998.

The Staff stated in its memorandum, filed July 29, 1998, that Frontier company officials state that this agreement does not include any resale rates as Frontier will be a 100 percent facilities-based CLEC. Consistent with other agreements, this proposed agreement classifies telecommunications traffic between the parties as either local traffic, transit traffic, optional area traffic (OCA), intraLATA interexchange traffic, interLATA interexchange traffic, and wireless traffic for purposes of compensation. The Staff's memorandum also states that the Agreement meets the limited requirements of the Act in that it does not appear to be discriminatory toward nonparties, and does not appear to be against the public interest. Staff recommends approval of the Agreement provided that all modifications to the Agreement be submitted to the Commission for approval. This condition has been applied in prior cases in which the Commission has approved similar agreements.

### **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, and Staff's recommendation. Based upon that review the

Commission has reached the conclusion that the Interconnection 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**

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 Agreement between SWBT and Frontier 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 joint Interconnection Agreement between Southwestern Bell Telephone Company and Frontier Local Services, Inc., filed on May 29, 1998, is approved.

2. That Southwestern Bell Telephone Company and Frontier Local Services, Inc., shall file a complete 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 9, 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 this order shall become effective on September 9, 1998.

5. That this case shall be closed on September 14, 1998.

**BY THE COMMISSION**

*Dale Hardy Roberts*

( S E A L )

**Dale Hardy Roberts**  
**Secretary/Chief Regulatory Law Judge**

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

Ruth, Regulatory Law Judge

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AUG 28 1998

COMMISSION COUNSEL  
PUBLIC SERVICE COMMISSION