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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 3rd
day of September, 1998.

In the Matter of the Joint Application of GTE)
Midwest Incorporated, GTE Arkansas Incorporated)
and Mark Twain Communications Company for) Case No. TO-98-410
Approval of an Interconnection Agreement and)
Unbundling Agreement Under the Telecommunica-)
tions Act of 1996.)

**ORDER APPROVING FIRST AMENDMENT TO THE INTERCONNECTION,
RESALE AND UNBUNDLING AGREEMENT**

GTE Midwest Incorporated, GTE Arkansas Incorporated (collectively GTE), and Mark Twain Communications Company (MTCC) filed a joint application on March 30, 1998 requesting that the Missouri Public Service Commission approve an interconnection and unbundling agreement (Agreement) between them. The Agreement, which addresses interconnection and unbundling of network elements, 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 conditionally approved the Agreement by Order Approving Interconnection, Resale and Unbundling Agreement issued June 16. In its order, the Commission indicated that before the Agreement would be finally approved the parties would need to, among other things, amend the Agreement by interlineation to incorporate customer notice provisions the Commission had determined necessary.

On July 7, GTE and MTCC filed a First Amendment to Interconnection, Resale and Unbundling Agreement (Amendment). The

parties indicated this filing was done to incorporate the customer notice provisions the Commission had ordered inserted.

MTCC filed a Motion to Determine Status of Approval of Interconnection Agreement and For Immediate Consideration on August 4, indicating it had been informed by representatives of GTE that they would not process local service requests allowing MTCC to change customers from GTE to MTCC since the Agreement had not yet been approved by the Commission. MTCC stated it believed the Agreement had been approved and that it had taken all the necessary steps to allow it to provide local services.

On August 20, the Staff of the Commission (Staff) filed its recommendation regarding the Amendment submitted by the parties on July 7. Staff stated it believed the Amendment met the requirements imposed by the Commission's June 16 Order. Staff indicated the language of the Amendment was identical to previous amendments filed pursuant to Commission orders. Staff recommended approval of the Amendment filed by the parties.

Discussion

The Commission, under the provisions of Section 252(e) of the Federal Telecommunications Act of 1996 has authority to approve an interconnection or resale agreement negotiated between an incumbent local exchange company 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.

The Agreement describes the interconnection facilities and methods by which the parties may interconnect their networks, and

contains provisions for the transmission and routing of telephone exchange service, exchange access service, and other types of traffic including E911 traffic. The Agreement also provides for binding arbitration of disputes between the parties.

The Agreement between GTE and MTCC is to become effective ten days after Commission approval. The term of the contract is two years from the effective date; thereafter the Agreement will be automatically renewed for successive one-year terms unless one of the parties gives 90 days notice of termination.

The Agreement permits several methods of interconnection, including mid-span fiber meet, physical and virtual collocation, and Special Access arrangement and/or Switched Transport for originating and terminating calls between the two parties. The parties have agreed to reciprocal compensation for transport and termination of local traffic, optional extended area service (EAS) traffic, intraLATA toll, and jointly provided interexchange traffic originating on each others' networks. The parties agreed that compensation rates for origination and termination of intraLATA toll and interexchange traffic would be based on the parties' intrastate or interstate access service tariffs as applicable. The parties have agreed to exchange traffic associated with third-party incumbents and competitive local exchange carriers, and wireless service providers, if there is an agreement in place between the originating carrier and the tandem and terminating companies.

GTE has agreed to make nondiscriminatory access to 911 service available for MTCC end users. GTE has also agreed to make available number portability and to comply with all federal, state and local statutes, regulations, rules, ordinances, judicial decisions and

administrative rulings applicable to its performance under this Agreement.

GTE will provide access to the following categories of unbundled network elements (UNEs): Network Interface Devices (NIDs), Loop Elements, Digital Cross-Connect Systems, Port and Local Switching Elements, Signaling Elements, and Data Switching.

The Agreement describes disconnection procedures should MTCC fail to pay any undisputed charges due to GTE. It calls for MTCC to notify its end users within five business days that their service may be disconnected for MTCC's failure to pay unpaid charges and that they must select a new provider of basic local exchange services. If MTCC fails to provide such notification, or if any of MTCC's end users fail to select a new provider within the five days, GTE will provide them with local exchange services.

This Agreement originally differed from those filed by other telecommunications companies and approved by the Commission in the past in that GTE was not required to provide end users notice that their service has defaulted to GTE and that they had a right to choose another carrier. The purpose of the Amendment was to correct this discrepancy and allow for customer notice as required by the Commission's June 16 Order.

The Staff stated in its Memorandum that the Amendment incorporated the customer notice the Commission had requested and was identical to the amendment filed, per Commission Order, in Case No. TO-98-388. Staff recommended approval of the Amendment provided that all additional modifications to the Agreement be submitted to the Commission for approval.

Findings of Fact

The Missouri Public Service Commission, having considered the joint application of the parties, 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, the Amendment, and Staff's recommendation. Based upon that review the Commission has reached the conclusion that the interconnection and unbundling 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 now that the Agreement contains notice obligations similar to those present in other Commission approved agreements.

The Commission finds that the Agreement still does not specifically address the parties' handling of traffic involving third parties. The issue of identification and compensation for the termination of wireless traffic has been addressed in other cases involving GTE, and the Commission will follow a similar approach here.

In Case No. TO-97-533, the Commission approved an interconnection agreement between GTE and Sprint Spectrum L.P. even though GTE had not yet developed a method for tracking such traffic. Small incumbent local exchange carriers had complained that they needed this information so that they could properly bill for calls once compensation arrangements had been made with wireless carriers. The Commission approved the interconnection agreement in Case No. TO-97-533, after which GTE

developed a report similar to the Cellular Usage Summary Report that SWBT generates pursuant to the Commission's order in Case No. TT-97-524.

The Commission finds that the proposed amended Agreement between GTE and MTCC should be approved and that details concerning reporting of wireless carrier traffic should be worked out following approval, as the Commission ordered in Case No. TO-97-533. Finally, 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 amended interconnection and unbundling agreement between GTE and MTCC, and its findings of fact, the Commission concludes that the amended Agreement is neither discriminatory nor inconsistent with the public interest. Therefore, the Commission concludes that it should approve the amended Agreement.

IT IS THEREFORE ORDERED:

1. That the amendment by interlineation to the interconnection and unbundling agreement between GTE Midwest Incorporated, GTE Arkansas Incorporated and Mark Twain Communications Company filed on July 7, 1998 is approved.

2. That the conditional approval granted in the Commission's June 16, 1998 Order Approving Interconnection, Resale and Unbundling Agreement is made absolute conditioned on the parties complying with the filing requirement of Ordered paragraph 3 below.

3. That GTE Midwest Incorporated, GTE Arkansas Incorporated and Mark Twain Communications Company shall file a copy of the Agreement, as finally approved, with the Staff of the Missouri Public Service Commission. The copy shall have the pages numbered seriatim in the lower right-hand corner, and shall be filed no later than 10 days after the effective date of this order.

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

5. That this order shall become effective on September 15, 1998.

BY THE COMMISSION

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

Dale Hardy Roberts
Secretary/Chief Regulatory Law Judge

(S E A L)

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

Harper, Regulatory Law Judge