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In the Matter of the Joint Application)
of Southwestern Bell Telephone Company)
and Navigator Telecommunications, LLC) Case No. TO-98-375
for Approval of an Interconnection)
Agreement Under the Telecommunications)
Act of 1996.)

The Commission issued an Order and Notice on March 6 which established a deadline for applications to participate without intervention and hearing requests, and established a deadline for comments. No applications for participation without intervention were filed with the Commission. In addition, no comments or requests for hearing were filed. The Staff of the Commission (Staff) filed a memorandum containing its recommendations on April 17. 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 Deffenderder 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 upon 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 (ILEC) and other telecommunications carriers. The Commission may reject an interconnection agreement only if the agreement is discriminatory to a nonparty or is inconsistent with the public interest, convenience and necessity.

The initial term of the Agreement between SWBT and Navigator is a one-year period from the date of execution; thereafter, the Agreement shall continue in effect until one of the parties gives a 60-day written notice of termination. If the Agreement continues in effect after the expiration of the term, either party may terminate the Agreement upon a 90-day written notice of termination.

The Agreement provides for the following network interconnection methods to be used by the parties: Mid-Span Fiber Interconnection, Virtual Collocation Interconnection, SONET-Based Interconnection, Physical Collocation Interconnection, the leasing of SWBT facilities, and other methods as may be mutually agreed to by the parties. The Agreement also classifies traffic between the parties for purposes of compensation as either local traffic, transit traffic, optional area traffic (OCA), intra-LATA interexchange traffic, and wireless traffic.

The recurring and nonrecurring resale discounts for residential and business services are found in Appendix Resale. SWBT will charge Navigator a per order conversion charge of \$25 for conversion of an end user

currently receiving noncomplex service from SWBT's network. Complex conversion orders will be charged \$125.

SWBT will provide unbundled network elements (UNEs) to Navigator pursuant to the terms and conditions outlined in Appendix UNE. The prices charged for UNEs are set forth in an attached price schedule at the end of Appendix SS7, Missouri Negotiated Proposed Rates and Charges. If Navigator recombines UNEs to create services identical to SWBT's retail offerings, the prices charged for the rebundled services will be computed as SWBT retail prices less the wholesale discount. Navigator will be responsible for designating each network element being ordered from SWBT and how those network elements are to be combined. Where multiple elements are being combined, Navigator must also designate the order in which the elements are being connected. SWBT proposes to offer the following UNEs: unbundled local loops, local switching, switch ports, tandem switching, interoffice transport, network interface device, signaling networks and call related databases, operations support systems functions (OSS), and cross connects.

In addition, the Agreement provides that SWBT will make available to Navigator the following additional services: 911/E911 (Enhanced 911) service; dialing parity; White pages directory listings and distribution; directory assistance; support systems services such as transfer of service announcements and coordinated repair calls; operator services; line information data base (LIDB) services; clearinghouse services; hosting; recording; calling name delivery (CNAM) and query service; billing, collecting, and remitting (BCR) services; riser space; operational support systems (OSS); and Common Channel Signaling/Signaling System 7 (CCS/SS7) services.

Service order activity between SWBT and Navigator shall be accomplished by telephone call or facsimile until such time as electronic

interface capability is established. Thereafter, Navigator will use SWBT's OSS for preordering, ordering, provisioning, maintenance repair, and billing functions. Monthly charges for OSS functions include \$3,345 for system access, and remote access charges of either \$1,580 for direct connection, or \$316 for dial-up access.

Finally, the Agreement contains disconnection procedures for nonpayment of charges by Navigator to SWBT. On the fortieth day past the due date, Navigator is required to notify its end users that SWBT will assume the end users' accounts at the end of five days unless the end user affirmatively selects a new local service provider within that five-day period. If no selection is made within the five-day period, the end users will be transferred to SWBT. Within five-days of the transfer, SWBT will notify all affected users that it is now providing their service. SWBT will also notify these end users that they have 30 days to select a local service provider. If an end user fails to select a local service provider within 30 days of the change of providers, SWBT may terminate the end user's service.

In the Memorandum filed by Staff, Staff notes that unlike other agreements, Appendix NIM (Network Interconnection Methods) does not include a physical collocation agreement. Staff also notes that on March 10, Navigator filed an application for a certificate of service authority to provide resold basic local exchange telecommunications service throughout the exchanges currently served by SWBT.

Staff states that it believes the Agreement between SWBT and Navigator meets the limited requirements of the Telecommunications Act of 1996. Specifically, Staff states that the Agreement does not appear to discriminate against telecommunications carriers not a party to the Interconnection Agreement and does not appear to be against the public

interest. Staff recommends that the Commission approve the Interconnection Agreement, and direct SWBT and Navigator to submit any modifications or amendments of the Agreement to the Commission for approval. However, Staff also recommends that the Commission order the parties to file a copy of the original Interconnection Agreement for the Commission's records with the following changes: that the Interconnection Agreement contain a table of contents, that the appendices be numbered, that the unbundled element table of rates and charges be printed in a legible font, and that all pages be numbered seriatim on the bottom. Staff adds that it is not aware of any other filings which would affect or would be affected by this case.

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 joint application, the Interconnection Agreement, and Staff's recommendation. Based upon that review, the Commission finds that the Interconnection Agreement filed on March 2 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.

In addition, the Commission finds that Staff has made reasonable recommendations regarding changes which should be made before the Agreement is filed with the Staff of the Commission. The Commission will therefore order the parties to add a table of contents to the Agreement, number the appendices, and print the unbundled element table of rates and charges in a legible font.

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 1997, 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 Interconnection Agreement between SWBT and Navigator, and its findings of fact, the Commission concludes that the Interconnection Agreement filed on March 2 is neither discriminatory nor inconsistent with the public interest, and should be approved.

IT IS THEREFORE ORDERED:

1. That the Interconnection Agreement filed on March 2, 1998 between Southwestern Bell Telephone Company and Navigator Telecommunications, LLC is approved.

2. That Southwestern Bell Telephone Company and Navigator Telecommunications, LLC shall file a copy of the Interconnection Agreement with the Staff of the Missouri Public Service Commission, with the pages numbered seriatim in the lower right-hand corner, no later than June 15, 1998. In addition, the copy which is filed shall contain a table of contents, the appendices shall be numbered, and the unbundled element table of rates and charges shall be printed in legible font.

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 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 14 items listed in Section 271(c)(2)(B).

5. That this Order shall become effective on May 31, 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., Murray and Drainer, CC., concur.
Crompton and Schemenauer, CC., absent.

Bensavage, Regulatory Law Judge

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MAY 23 1998

COMMISSION COUNSEL
PUBLIC SERVICE COMMISSION