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BEFORE THE PUBLIC SERVICE COMMISSION

OF THE STATE OF MISSOURI

In the Matter of the Joint Application
of NOW Communications, Inc. and
Southwestern Bell Telephone Company for
Approval of a Resale Agreement Under the
Telecommunications Act of 1996.

CASE NO. TO-98-387

ORDER AND NOTICE

NOW Communications, Inc. (NOW) and Southwestern Bell Telephone Company (SWBT) filed an Application with the Commission on March 11, 1998, for approval of a resale agreement under the provisions of the Federal Telecommunications Act of 1996 (the Act). The applicants state that there are no unresolved issues and that the agreement complies with Section 252(e) of the Act in that it is not discriminatory to non-party carriers and is consistent with the public interest. The applicants request expeditious approval of the agreement.

The Act provides that an interconnection or resale agreement must be approved unless the state commission finds that the agreement discriminates against a telecommunications carrier not a party to the agreement, or that implementation of the agreement is not consistent with the public interest, convenience, and necessity. 47 U.S.C. § 252(e).

The Commission finds that proper persons should be allowed 20 days from the issuance of this order to file a motion for hearing or an application to participate without intervention. Participation may be permitted for the limited purpose of filing comments addressing whether this agreement meets the federal standards for approval of interconnection agreements. The requirement of a hearing is met when an opportunity to be heard 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).

Section 252(e)(4) of the Act provides that if the Commission has not approved an agreement within ninety days after submission, the agreement shall be deemed approved. Therefore, the Commission will proceed with this case expeditiously and, if there are no requests for a hearing, relief may be granted based on the verified petition. The Commission finds that notice of this application should be sent to all interexchange and local exchange telecommunications companies.

IT IS THEREFORE ORDERED:

- 1. That the Records Department of the Commission shall send notice to all interexchange and local exchange telecommunications companies.
- 2. That any party wishing to request a hearing or to participate without intervention in this matter shall file an application no later than April 7, 1998, with the Executive Secretary of the Missouri Public Service Commission, Post Office Box 360, Jefferson City, Missouri 65102, and send copies to:

Charles Brent Stewart Stewart & Keevil, L.L.C. 1001 Cherry Street Suite 302 Columbia, Missouri 65102 Paul G. Lane
Leo J. Bub
Anthony K. Conroy
Diana J. Harter
Southwestern Bell Telephone
Company
100 N. Tucker, Room 630
St. Louis, MO 63101-1976

- 3. That comments addressing whether this agreement meets the standards for approval of interconnection agreements must be filed no later than May 10, 1998.
- 4. That the Staff of the Commission shall file a memorandum advising either approval or rejection of this agreement and giving the reasons therefore no later than May 20, 1998.

5. That this order shall become effective on March 18, 1998.

BY THE COMMISSION

Hole Hard Roberts

Dale H. Roberts Chief Regulatory Law Judge/Secretary

(S E A L)

Amy E. Randles, 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 18th day of March, 1998.