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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 September, 1998.

In the Matter of the Application of GTE Midwest )  
Incorporated and GTE Arkansas Incorporated for )  
Approval of an Interconnection Agreement With ) Case No. TO-98-582  
Green Hills Communications, Inc. Pursuant to )  
Section 252(e) of the Telecommunications Act )  
of 1996. )

**ORDER APPROVING INTERCONNECTION AGREEMENT**  
**AND ASSIGNMENT OF RIGHTS**

GTE Midwest Incorporated and GTE Arkansas Incorporated  
(collectively GTE) filed an application on June 25, 1998, for approval  
of an interconnection agreement (the Agreement) between GTE and  
Green Hills Communications, Inc. (Green Hills). The Agreement was filed  
pursuant to Section 252(e)(1) of the Telecommunications Act of 1996 (the  
Act). See 47 U.S.C. § 251, *et seq.*

The Commission issued an Order and Notice on July 7, directing  
any party wishing to request a hearing or participate without interven-  
tion to do so no later than July 27. No applications to participate or  
requests for hearing were filed.

Green Hills Area Cellular Telephone Company, Inc., d/b/a  
Green Hills Telecommunications Services (GHTS) filed a Motion to Consider  
Assignment of Rights Under Interconnection Agreement on July 2. GHTS  
stated it and Green Hills were both affiliates of the same parent  
corporation, Green Hills Telephone Corporation. GHTS indicated the  
parent corporation had decided to obtain competitive local exchange

authority for GHTS. To proceed with this plan, the parent corporation filed an application for a certificate to provide basic local exchange telecommunications services and classification as a competitive telecommunications company for GHTS on March 9. This application, filed with the Commission in Case No. TA-98-380, was approved on July 17.

GHTS indicated the Agreement that is the subject of this case had been filed without notifying Green Hills, whose name appears as one of the parties to the agreement. When Green Hills received notice of the filing, it notified GTE of its intent to assign the rights, obligations, liabilities and duties under the Agreement to GHTS. GHTS asked for Commission approval of this assignment during the review of the Agreement.

GHTS filed a Notice of Assignment of Rights Under Interconnection Agreement on July 20. GHTS stated it and Green Hills had executed a formal Assignment and Assumption Agreement on July 17. GHTS again asked for Commission approval of the assignment of rights in the Agreement from Green Hills to GHTS. GTE did not file an objection to the assignment of rights.

The Staff of the Commission (Staff) filed a Memorandum on September 10, recommending that the Agreement be approved. The Staff recommendation did not address the proposed assignment of rights. 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, 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.

The Agreement between GTE and Green Hills and, by assignment GHTS, becomes effective upon final approval by the Commission and the initial term of the Agreement is two years from the effective date. After the first two-year period, the Agreement will remain in effect for consecutive one-year terms until one of the parties gives at least 90 days written notice of termination.

Staff indicated in its recommendation that the Agreement contains provisions for unbundled network elements, 911 and E911 (enhanced 911) service arrangements, collocation, local number portability, service ordering, provisioning and billing. The Agreement states that the parties will meet all applicable quality of service standards and provide a level of service to each other that is in compliance with the nondiscriminatory requirements of the Act. The Agreement also provides for negotiation and binding arbitration of disputes that arise between the signatories.

In its recommendation, Staff pointed out that the Agreement is similar to the Commission-approved interconnection agreement between GTE Midwest, Inc. and Dial US in Case No. TO-97-297. Staff indicated there are two exceptions to this similarity. First, the Agreement does

not contain a resale agreement. Secondly, the Agreement does not contain a "snap-back" provision. A snap-back provision calls for the automatic switching of a customer to the incumbent local exchange company (LEC) if the competitive local exchange company (CLEC) ceases operation. The proposed agreement does contain an arrangement to switch customers from GHTS back to GTE if GHTS fails to pay any undisputed charges. Such an arrangement would include customer notification of the change in providers and would give the customer an opportunity to select a local exchange services provider other than GTE. Staff recommended that the establishment of a "snap-back" provision be addressed in a separate agreement.

Staff stated in its recommendation 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 recommended approval of the Agreement provided that the parties be required to submit a copy of the Agreement with the pages numbered consecutively. Staff also requested that all modifications to the Agreement be submitted to the Commission for approval. This condition has been applied in prior cases where 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 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. Approval is also conditional upon submission of an appropriate "snap-back" provision. This provision should detail who will provide the services covered by the interconnection agreement to the customers of GHTS should GHTS cease operation.

The Commission also finds that GHTS's request for assignment of Green Hills' rights under the Agreement is reasonable. The requested assignment of rights will therefore be granted.

### **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 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 GTE and Green Hills 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 GTE Midwest Incorporated and GTE Arkansas Incorporated and Green Hills Communications, Inc. filed on June 25, 1998, is approved.

2. That the motion for the assignment of the rights of Green Hills Communications, Inc. under the above interconnection agreement made by Green Hills Area Cellular Telephone Company, Inc., d/b/a Green Hills Telecommunications Services on July 2, 1998, is granted.

3. That GTE Midwest Incorporated and GTE Arkansas Incorporated and Green Hills Area Cellular Telephone Company, Inc., d/b/a Green Hills Telecommunications Services 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 October 5, 1998.

4. That the above approval is conditional upon the parties submitting a "snap-back" agreement in compliance with this order no later than October 5, 1998.

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

6. That this order shall become effective on September 23, 1998.

BY THE COMMISSION



Dale Hardy Roberts  
Secretary/Chief Regulatory Law Judge

( S E A L )

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

Harper, Regulatory Law Judge

