

**STATE OF MISSOURI
PUBLIC SERVICE COMMISSION**

At a session of the Public Service
Commission held at its office in
Jefferson City on the 29th day of
November, 2005.

In the Matter of the Application of Neutral)
Tandem-Missouri, LLC for Approval of an)
Interconnection Agreement under the)
Telecommunications Act of 1996)

Case No. TK-2006-0146

ORDER APPROVING INTERCONNECTION AGREEMENT

Issue Date: November 29, 2005

Effective Date: December 8, 2005

This order approves the Interconnection Agreement executed by the parties and filed by Neutral Tandem-Missouri, LLC.

On October 3, 2005, Neutral Tandem filed an application with the Commission for approval of an Interconnection Agreement with Southwestern Bell Telephone, L.P. d/b/a SBC Missouri. The Agreement was filed pursuant to Section 252(e)(1) of the Telecommunications Act of 1996.¹ The Agreement would permit Neutral Tandem to interconnect its facilities with SBC Missouri. Both Neutral Tandem and SBC Missouri hold certificates of service authority to provide basic local exchange telecommunications services in Missouri.

Although SBC Missouri is a party to the Agreement, it did not join in the application. On October 5, 2005, the Commission issued an order making SBC Missouri a

¹ See 47 U.S.C. § 251, *et seq.*

party in this case and directing any party wishing to request a hearing to do so no later than October 25, 2005. No requests for hearing were filed.

On November 9, Neutral Tandem filed its Supplement to Application for Approval of Interconnection Agreement. At Staff's request, Neutral Tandem supplemented its interconnection agreement with its transit traffic agreement with SBC Missouri. The Staff of the Commission filed a memorandum and recommendation on November 15, 2005, recommending that the Agreement be approved. SBC objects, stating that transit traffic agreements are not subject to Commission approval because transit traffic service is not a Section 251 interconnection service.

Discussion

Under Section 252(e) of the Act, any interconnection agreement adopted by negotiation must be submitted to the Commission for approval. The Commission may reject an agreement if it finds that the agreement is discriminatory or that it is not consistent with the public interest, convenience and necessity.

The Staff memorandum recommends that the Agreement, including the transit traffic agreement, be approved and notes that the Agreement meets the limited requirements of the Act in that it is not discriminatory toward nonparties and is not against the public interest. Staff recommends that the Commission direct the parties to submit any further amendments to the Commission for approval. Staff also recommends that the Commission order the parties to submit a sequentially numbered copy of the Agreement.

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 concludes that the Agreement meets the requirements of the Act in that it does not 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 shall be conditioned upon the parties submitting any amendments to the Commission for approval pursuant to the procedure set out below.

Amendment Procedure

The Commission has a duty to review all resale and interconnection agreements, whether arrived at through negotiation or arbitration, as mandated by the Act.² In order for the Commission's role of review and approval to be effective, the Commission must also review and approve or recognize amendments to these agreements. The Commission has a further duty to make a copy of every resale and interconnection agreement available for public inspection.³ 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

The parties to each resale or interconnection agreement must maintain a complete and current copy of the agreement, together with all amendments, in the Commission's offices. Any proposed amendment must be submitted pursuant to Commission rule 4 CSR 240-3.513(6).

² 47 U.S.C. § 252.

³ 47 U.S.C. § 252(h).

⁴ 4 CSR 240-3.545.

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 1996,⁵ 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.⁶ Based upon its review of the Agreement between Neutral Tandem and SBC Missouri, and the Commission's findings of fact, the Commission concludes that the Agreement is neither discriminatory nor inconsistent with the public interest and shall be approved.

The Commission notes that prior to providing telecommunications services in Missouri, a party shall possess the following: (1) an interconnection agreement approved by the Commission; (2) except for wireless providers, a certificate of service authority from the Commission to provide interexchange or basic local telecommunications services; and (3) except for wireless providers, a tariff approved by the Commission.

IT IS THEREFORE ORDERED:

1. That the Interconnection Agreement between Neutral Tandem-Missouri, LLC and Southwestern Bell Telephone, L.P. d/b/a SBC Missouri, filed on October 3, 2005, and supplemented on November 9, 2005, is approved.

⁵ 47 U.S.C. § 252(e)(1).


⁶ 47 U.S.C. § 252(e)(2)(A).

2. That any changes or amendments to this Agreement shall be submitted in compliance with 4 CSR 240-3.513(6).

3. That no later than December 8, 2005, Neutral Tandem-Missouri, LLC, and Southwestern Bell Telephone, L.P. d/b/a SBC Missouri shall submit a copy of the Agreement to the Staff of the Missouri Public Service Commission, with the pages sequentially numbered. On the same date, Neutral Tandem-Missouri, LLC and Southwestern Bell Telephone, L.P. d/b/a SBC Missouri shall file a notice in the official case file advising the Commission that they have complied with this order.

4. That this order shall become effective on December 8, 2005.

BY THE COMMISSION

A handwritten signature in black ink, appearing to read 'Colleen M. Dale', written over a horizontal line.

Colleen M. Dale
Secretary

(S E A L)

Davis, Chm., Murray, Gaw, Clayton and Appling, CC., concur

Pridgin, Regulatory Law Judge