

BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI

In Re: Interconnection Collocation and Resale)	
Agreement by and between Embarq Missouri,)	
Inc. and MCImetro Access Transmission)	<u>Case No. TK-2008-0133</u>
Services LLC Pursuant to Sections 251 and)	
252 of the Telecommunications Act of 1996.)	

ORDER DIRECTING NOTICE AND MAKING
MCIMETRO ACCESS TRANSMISSION SERVICES LLC A PARTY

Issue Date: November 20, 2007

Effective Date: November 20, 2007

This order provides notice of a proposal to adopt an interconnection agreement and joins the other party to the agreement as a party to this proceeding.

On November 15, 2007, Embarq Missouri, Inc. (Embarq) filed a Notice of Adoption of Interconnection Agreement, notifying the Commission of it and MCImetro Access Transmission Services LLC's desire to adopt the terms of the Interconnection Agreement between Embarq and AT&T Communications of the Southwest, Inc. (AT&T), pursuant to Section 252(i) of the federal Telecommunications Act of 1996.¹ The Agreement between Embarq and AT&T was approved by the Commission in Case No. TK-2007-0156.

Although MCImetro is a party to the agreement, it did not join in the notice. Because MCImetro is a necessary party to a full and fair adjudication of this matter, the Commission will add it as a party to this case.

¹ See 47 U.S.C. § 252, et seq.

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.² The Act provides further that a local exchange carrier “shall make available any interconnection, services, or network element provided under an agreement . . . to which it is a party to any other requesting telecommunications carrier upon the same terms and conditions as those provided in the agreement.”³ This provision has been interpreted as permitting any carrier to adopt any interconnection agreement previously entered into by any local exchange carrier with any other carrier. The Federal Communications Commission has adopted 47 C.F.R. Section 51.809 (Rule 809), referred to as the “pick and choose” rule, to implement Section 252(i). Rule 809 requires an incumbent local exchange company to make available to any requesting telecommunications carrier “any individual interconnection, service or network element arrangement contained in any agreement to which it is a party that is approved by a state commission pursuant to section 252 of the Act. . . .”

The Commission finds that proper persons shall be allowed 20 days from the issuance of this order to file a motion for hearing.

Section 252(e)(4) of the Act provides that if the Commission has not approved an agreement within 90 days after submission, the agreement shall be deemed approved. Therefore, the Commission will proceed with this case expeditiously.

² 47 U.S.C. § 252(e).

³ 47 U.S.C. § 252(i).

The Commission finds that notice of this case shall be sent to all interexchange and local exchange telecommunications companies.

IT IS ORDERED THAT:

1. The Commission's Data Center shall send notice to all interexchange and local exchange telecommunications companies.
2. MCImetro Access Transmission Services LLC is made a party to this case.
3. Any party wishing to request a hearing shall do so by filing a pleading no later than December 10, 2007, with:

Colleen M. Dale, Secretary
Missouri Public Service Commission
Post Office Box 360
Jefferson City, Missouri 65102

and send copies to:

Embarq Missouri, Inc.
William F. Watkins
5454 West 110th Street
Mailstop: KSOPKJ0401
Overland Park, KS 66211

MCImetro Access Transmission Services
Carl J. Lumley
Leland B. Curtis
Curtis, Heinz, Garrett & O'Keefe, P.C.
130 S. Bemiston, Suite 200
St. Louis, Missouri 63105

and:

Office of the Public Counsel
Post Office Box 2230
Jefferson City, Missouri 65102

4. The Staff of the Commission shall file a memorandum advising either approval or rejection of the proposed adoption of the Interconnection Agreement, and giving its reasons therefor, no later than December 20, 2007.

5. This order shall become effective on November 20, 2007.

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)

Colleen M. Dale, Chief Regulatory Law Judge,
by delegation of authority pursuant to
Section 386.240, RSMo 2000.

Dated at Jefferson City, Missouri,
on this 20th day of November, 2007.