

BEFORE THE PUBLIC SERVICE COMMISSION

OF THE STATE OF MISSOURI

In the Matter of an Amendment to and Adoption of)
an Agreement for Interconnection and Reciprocal)
Compensation By and Between Verizon Wireless) **Case No. TK-2005-0414**
(VAW) LLC, d/b/a Verizon Wireless, and)
Southwestern Bell Telephone Company.)

ORDER APPROVING AMENDMENT TO INTERCONNECTION AGREEMENT **AND RECOGNIZING ADOPTION OF INTERCONNECTION AGREEMENT**

Issue Date: August 3, 2005

Effective Date: August 10, 2005

This order approves an amendment to the previously approved interconnection agreement between Verizon Wireless (VAW) LLC, d/b/a Verizon Wireless (referred to as VZW), and Southwestern Bell Telephone, L.P., d/b/a SBC Missouri; and recognizes the adoption of the VZW/SBC Missouri interconnection agreement by Cellco Partnership, d/b/a Verizon Wireless, and CyberTel Cellular Telephone Company, d/b/a Verizon Wireless. VZW, Cellco, and CyberTel are collectively referred to as the Applicants.

Procedural History

On May 13, 2005, the Applicants filed a pleading entitled Petition to Approve Amendment to Agreement for Interconnection and Reciprocal Compensation and to Adopt Same. VZW and SBC Missouri currently have an interconnection agreement (the Agreement) between them, which was approved by the Commission in Case No. TO-98-96. Ameritech Mobile Communications, Inc., the predecessor to Cellco and CyberTel, entered into a separate interconnection agreement with SBC Missouri, which was approved by the Commission in Case No. TO-97-523. Cellco and CyberTel now desire to adopt the

Agreement between VZW and SBC Missouri and to terminate their separate interconnection agreement with SBC Missouri.

The Applicants and SBC Missouri have agreed to amend the VZW/SBC Missouri Agreement to include Cellco and CyberTel. The amendment establishes that SBC Missouri does not object to the adoption of this interconnection agreement by either Cellco or CyberTel. The amendment was filed pursuant to Section 252(e)(1) of the Telecommunications Act of 1996,¹ and would allow VZW, Cellco, and CyberTel, which all do business as Verizon Wireless, to operate under the same interconnection agreement with SBC Missouri. SBC Missouri holds a certificate of service authority to provide basic local exchange telecommunications services in Missouri. VZW, Cellco and CyberTel provide wireless telecommunications services in Missouri.

On May 20, 2005, the Commission issued an order directing that notice be sent to all interexchange and local exchange telecommunication companies and making SBC Missouri a party. The order directed that any party wishing to request a hearing should do so no later than June 9, 2005. No requests for hearing were filed.

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.

On June 20, 2005, the Staff of the Missouri Public Service Commission recommended that the Commission take notice of the adoption and approve the amendment to the Agreement.

¹ See 47 U.S.C. § 251, *et seq.*

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 as amended meets the requirements of the Act in that it does not discriminate against a nonparty carrier and implementation of the Agreement as amended is not inconsistent with the public interest, convenience and necessity. The Commission finds that approval of the Agreement as amended should be conditioned upon the parties submitting any further amendments to the Commission for approval pursuant to the procedure set out below.

The Commission further finds that Cellco and CyberTel notified SBC Missouri of their desire to adopt the same terms and conditions of the Agreement between VZW and SBC Missouri, approved by the Commission in Case No. TO-98-96. No objections have been received. Therefore, the Commission will take notice of the adoption.

Amendment Procedure

The Staff recommended that the parties be directed to file any amendments to the interconnection agreement with the Commission for approval. 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

² 47 U.S.C. § 252.

³ 47 U.S.C. § 252(h).

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).

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 amendment to the Agreement between VZW and SBC Missouri and its findings of fact, the Commission concludes that the Agreement as amended is neither discriminatory nor inconsistent with the public interest and should be approved.

The adoption of the terms and conditions of a previously approved interconnection agreement is authorized by Section 252(i) of the federal Telecommunications Act of 1996.⁷ Section 252(i) states:

(i) Availability to Other Telecommunications Carriers. –

A local exchange carrier shall make available any interconnection, services, or network element provided under an agreement approved

⁴ 4 CSR 240-3.545.

⁵ 47 U.S.C. § 252(e)(1).

⁶ 47 U.S.C. § 252(e)(2)(A).

⁷ See 47 U.S.C. § 251, *et seq.*

under this section to which it is a party to any other requesting telecommunications carrier upon the same terms and conditions as those provided in the agreement.

Federal rule 51.809 (Rule 809) was promulgated to implement Section 252(i) of the Act. Rule 809 provides that the incumbent local exchange company must provide the interconnection, network elements, or services to a requesting telecommunications carrier that notifies the ILEC that it wishes to adopt the interconnection, network elements, or services from a Commission-approved interconnection agreement unless stated conditions are proven to the Commission. An ILEC can deny an adoption if it proves that (1) the cost of providing a particular interconnection, service, or element to the requesting telecommunications carriers is greater than the cost of providing it to the telecommunications carrier that originally negotiated the agreement, or (2) the provision of the particular interconnection, service, or element to the requesting carrier is not technically feasible.⁸

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 amendment to the interconnection agreement between Verizon Wireless (VAW) LLC, d/b/a Verizon Wireless, and Southwestern Bell Telephone, L.P., d/b/a SBC Missouri, is approved.

⁸ 47 C.F.R. § 51.809(b).

2. That adoption by Cellco Partnership, d/b/a Verizon Wireless, and Cellco Partnership, d/b/a Verizon Wireless, of the terms and conditions contained in the interconnection agreement between Verizon Wireless (VAW) LLC, d/b/a Verizon Wireless, and Southwestern Bell Telephone, L.P., d/b/a SBC Missouri, pursuant to Section 252(i) of the Telecommunications Act of 1996, is hereby recognized.

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

4. That this order shall become effective on August 10, 2005.

5. That this case may be closed on August 11, 2005.

BY THE COMMISSION



Colleen M. Dale
Secretary

(S E A L)

Vicky Ruth, Senior Regulatory Law
Judge, by delegation of authority pursuant
to Section 386.240, RSMo 2000.

Dated at Jefferson City, Missouri,
on this 3rd day of August, 2005.