

BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI

Application of BPS Telephone Company for)
Approval of a Traffic Termination Agreement) **Case No. TO-2005-0333**
under the Telecommunications Act of 1996.)

ORDER APPROVING INTERCONNECTION AGREEMENT

This order approves the interconnection agreement executed by the parties and filed by BPS Telephone Company.¹

On March 30, 2005, BPS filed an application with the Commission for approval of an interconnection agreement with Sprint Spectrum, L.P., as agent and General Partner for Wireless Co., L.P., d/b/a Sprint PCS. The Agreement was filed pursuant to Section 252(e)(1) of the Telecommunications Act of 1996.² The Agreement provides for the compensation of each carrier for the termination of traffic on their respective networks which is transited by a third party. BPS holds a certificate of service authority to provide local exchange telecommunications services in Missouri. Sprint PCS is a commercial mobile radio service provider.

Although Sprint PCS is a party to the Agreement, it did not join in the application. On April 1, 2005, the Commission issued an order making Sprint PCS a party in this case and directing any party wishing to request a hearing to do so no later than April 21, 2005. No requests for hearing were filed.

¹ Although BPS refers to the agreement as a "traffic termination agreement," the Telecommunications Act of 1996 mentions only interconnection agreements.

² See 47 U.S.C. § 251, et seq.

The Staff of the Commission filed a memorandum and recommendation on April 25, 2005, recommending that the Agreement be approved.

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 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 modifications or amendments to the Commission for approval.

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 should be conditioned upon the parties submitting any modifications or amendments to the Commission for approval pursuant to the procedure set out below.

Modification Procedure

The Commission has a duty to review all interconnection agreements, whether arrived at through negotiation or arbitration, as mandated by the Act.³ In order for the Commission's role of review and approval to be effective, the Commission must also review and approve or recognize modifications to these agreements. The Commission has a further duty to make a copy of every interconnection agreement available for public inspection.⁴ 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.⁵

The parties to each 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 or recognition, whether the modification arises through negotiation, arbitration, or by means of alternative dispute resolution procedures.

Modifications to an agreement must be submitted to the Staff for review. When approved or recognized, 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 in the Commission's Data Center.

³ 47 U.S.C. § 252.

⁴ 47 U.S.C. § 252(h).

⁵ 4 CSR 240-3.545.

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 Commission will take notice of the modification once Staff has verified that the provision is an approved provision and has prepared a recommendation. 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 1996,⁶ 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.⁷ Based upon its review of the Agreement between BPS and Sprint PCS and its findings of fact, the Commission concludes that the Agreement is neither discriminatory nor inconsistent with the public interest and should be approved.

⁶ 47 U.S.C. § 252(e)(1).

⁷ 47 U.S.C. § 252(e)(2)(A).

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 BPS Telephone Company and Sprint Spectrum, L.P., as agent and General Partner for Wireless Co., L.P., d/b/a Sprint PCS, filed on March 30, 2005, is approved.
2. That any changes or modifications to this Agreement shall be filed with the Commission pursuant to the procedure outlined in this order.
3. That this order shall become effective on May 16, 2005.
4. That this case may be closed on May 17, 2005.

BY THE COMMISSION

Dale Hardy Roberts
Secretary/Chief Regulatory Law Judge

(S E A L)

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

Dated at Jefferson City, Missouri,
on this 6th day of May, 2005.