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DEC 14 2004

Missouri Public
Service Commission**STATE OF MISSOURI
PUBLIC SERVICE COMMISSION**

At a session of the Public Service
Commission held at its office in
Jefferson City on the 27th day of
June, 2002.

In the Matter of the Adoption of the GTE/AT&T
Communications of the Southwest, Inc., Interconnection
Agreement by Socket Telecom, LLC, Pursuant to
Section 252(i) of the Telecommunications Act of 1996)

Case No TK-2002-1085

Exhibit No. 4

Case No(s) 10-2005-0066

Date 11-12-04 Rptr tlt

**ORDER RECOGNIZING ADOPTION
OF INTERCONNECTION AGREEMENT**

This order recognizes the adoption by Socket Telecom, LLC, of an interconnection agreement previously approved by the Commission.

On May 20, 2002, Socket Telecom, LLC, filed a pleading entitled Notice of Adoption of Interconnection Agreement. Socket stated that it had notified GTE Midwest Incorporated d/b/a Verizon that it desired to adopt the terms of the interconnection agreement between Verizon and AT&T of the Southwest, Inc. This agreement was approved by the Commission in case number TO-97-63.

On May 23, 2002, the Commission issued an order directing notice of the adoption to all interexchange and local exchange telecommunications companies and making Verizon a party. The notice stated that any party wishing to request a hearing should do so no later than June 3, 2002. No requests were filed.

On June 6, 2002, the Staff of the Missouri Public Service Commission recommended that the Commission take notice of the adoption. Staff also recommended that the Commission direct Staff to file, in the Commission's tariff room, a copy of the executed agreement with the pages numbered in *seriatim*.

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.^[1]

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 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 (ILEC) must provide the interconnection, network elements or services to a requesting telecommunications carrier (referred to also as a competitive local exchange carrier, or CLEC) notifying the ILEC that it wishes to adopt the interconnection, network elements or services from an interconnection agreement approved by the Commission unless stated conditions are proven to the state commission. An ILEC can deny an adoption if it proves to the state commission 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.^[2] The ILEC has the burden of proving that one of the stated exceptions applies.

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. 47 U.S.C. § 252(e).

After reviewing the file, the Commission finds that Socket notified Verizon of its desire to adopt the same terms and conditions of the interconnection agreement between Verizon and AT&T Communications of the Southwest, Inc., approved by the Commission in Case No. TO-97-63 on July 22, 1998. No objections have been received. Therefore, the Commission will take notice of the adoption by Socket of the previously approved interconnection agreement between Verizon and AT&T.

The Commission has a duty to review all resale and interconnection agreements, whether arrived at through negotiation or arbitration, as mandated by the Act.^[3] In order for the Commission's 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.^[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 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 have provided the Telecommunications Staff with a copy of the resale or interconnection agreement. 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 Data Center.

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 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.

The Commission advises the Applicant that the grant of authority contained in this order may not, by itself, be sufficient to permit the Applicant to lawfully provide telecommunications services in Missouri.

IT IS THEREFORE ORDERED:

1. That Socket Telecom, LLC's adoption of the terms and conditions contained in the interconnection agreement between GTE Midwest Incorporated, d/b/a Verizon Midwest, and AT&T Communications of the Southwest, Inc., pursuant to Sections 252(e) and 252(i) of the Telecommunications Act of 1996 is hereby recognized.
2. That any changes or modifications to this agreement shall be filed with the Commission for approval pursuant to the procedure outlined in this order.
3. That this order shall become effective on July 7, 2002.
4. That this case may be closed on July 8, 2002.

BY THE COMMISSION

Dale Hardy Roberts
Secretary/Chief Regulatory Law Judge

(S E A L)

Simmons, Ch., Lumpe, Gaw and Forbis, CC., concur
Murray, C., dissents with dissenting opinion attached

Jones, Regulatory Law Judge

**BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI**

In the Matter of the Adoption of the GTE/AT&T)

Communications of the Southwest, Inc., Interconnection) **Case No TK-2002-1085**
Agreement by Socket Telecom, LLC, Pursuant to)
Section 252(i) of the Telecommunications Act of 1996)

DISSENTING OPINION OF COMMISSIONER CONNIE MURRAY

It is my opinion that an adopted interconnection agreement is a "negotiated" agreement requiring state commission approval. This Commission should expedite the approval process, rather than waive the requirement for approval. It is premature to consider adopted interconnection agreements as exempt from the state commission approval process. Therefore, I respectfully dissent from today's Order that merely recognizes adoption of the interconnection agreement.

Respectfully submitted,

Connie Murray, Commissioner

Dated at Jefferson City, Missouri,
on this 27th day of June, 2002.

[1] See 47 U.S.C. § 251, *et seq.*

[2] 47 C.F.R., § 51.809(b).

[3] 47 U.S.C. § 252.

[4] 47 U.S.C. § 252(h).

[5] 4 CSR 240-30.010.