

# BEFORE THE PUBLIC SERVICE COMMISSION OF THE STATE OF MISSOURI

In the Matter of the Application of Southwestern )  
Bell Telephone Company, d/b/a AT&T Missouri, )  
for Approval of an Amendment to an )  
Interconnection Agreement Under the )  
Telecommunications Act of 1996 )

**File No. IK-2014-0234**

## ORDER DENYING APPLICATION TO INTERVENE AND APPROVING AMENDMENT TO INTERCONNECTION AGREEMENT

Issue Date: March 31, 2014

Effective Date: April 10, 2014

On February 25, 2014, Southwestern Bell Telephone Company, d/b/a AT&T Missouri filed an amended application with the Commission for approval of an amendment to its interconnection agreement with TCG St. Louis. TCG St. Louis was subsequently merged into Teleport Communications America, LLC and Teleport assumed the interconnection agreement with AT&T Missouri. Hereafter, this order will refer the agreement as being between AT&T Missouri and Teleport. AT&T Missouri and Teleport currently have a Commission-approved interconnection agreement between them. In the current application, the parties have agreed to amend the interconnection agreement. The amendments were filed pursuant to Section 252(e)(1) of the Telecommunications Act of 1996.<sup>1</sup> The amendment changes the name on the agreement to Teleport, adds a transit traffic service attachment and replaces the notice provisions in the current agreement.

Although Teleport is a party to the agreement, it did not join in the application. On February 26, 2014 the Commission issued an order making Teleport a party in this case

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<sup>1</sup> See 47 U.S.C. § 251, *et seq.*

and directing that any party wishing to intervene or to request a hearing do so no later than March 13.

On March 13, tw telecom of kansas city llc applied to intervene. That company explained that it is a competitive alternative local exchange telecommunications company. It is concerned that the transit rates included in the proposed amendment to the AT&T Missouri / Teleport interconnection agreement do not appear to be TELRIC (total element long-run incremental cost) rates and may be discriminatory against competing carriers, such as itself.

AT&T Missouri responded to tw telecom's application to intervene on March 19. AT&T Missouri asks the Commission to deny tw telecom's request to intervene as unnecessary. AT&T Missouri contends that as a non-party to the agreement, tw telecom's interests cannot be affected by the agreement and, therefore, it has no basis to intervene.

tw telecom replied to AT&T Missouri on March 27. tw telecom contends it is affected by the rate set in the AT&T Missouri / Teleport interconnection agreement because in the future AT&T Missouri might use the existence of that higher rate as justification for raising the transit rate tw telecom must pay. However, tw telecom indicates it would withdraw its application to intervene and its opposition to the amendment to the interconnection agreement if the Commission explicitly states that its approval of the agreement does not set a precedent for any other company and does not modify any prior decision of the Commission concerning transit traffic service rates.

Later on March 27, the Commission's Staff filed a pleading opposing tw telecom's application to intervene. Staff contends that the application to intervene does not raise any issues that would give the Commission grounds to reject the negotiated amendment to the

interconnection agreement because nothing in the agreement would have any effect on tw telecom. Staff also contends that the Commission should not include any dicta in its order concerning the application of TELRIC costing standards to the rate in question. Staff urges the Commission to wait until it is presented with a request for arbitration before it reaffirms its position that TELRIC rates are required in cases such as this.

The Commission agrees with AT&T Missouri and Staff. There is no basis for tw telecom to intervene in this case. Both tw telecom and Staff urge the Commission to affirm that its decision in this case should not have any impact outside of this case. The Commission will state that its approval of the amendment to this interconnection agreement does not set a precedent for any other company and does not modify any prior decision of the Commission concerning transit traffic rates.

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 March 27, the Staff of the Commission filed a recommendation. Staff recommends that the Commission approve the amendment 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.

### **Findings of Fact**

The Commission has considered the application, the supporting documentation, and Staff's recommendation. Based upon that review, the Commission finds 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 shall be conditioned upon the parties submitting any further amendments to the Commission for approval pursuant to the procedure set out below.

### **Amendment Procedure**

The Commission has a duty to review all interconnection agreements, whether arrived at through negotiation or arbitration, as mandated by the Act.<sup>2</sup> 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 interconnection agreement available for public inspection.<sup>3</sup> 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.<sup>4</sup>

The parties to each 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).

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<sup>2</sup> 47 U.S.C. § 252.

<sup>3</sup> 47 U.S.C. § 252(h).

<sup>4</sup> 4 CSR 240-3.545.

### **Conclusions of Law**

The Commission, under the provisions of Section 252(e)(1) of the federal Telecommunications Act of 1996,<sup>5</sup> 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.<sup>6</sup> Based upon its review of the amendments to the agreement between AT&T Missouri and Teleport and its findings of fact, the Commission concludes that the agreement as amended is neither discriminatory nor inconsistent with the public interest and shall be approved.

With the inclusion of the language sought by tw telecom, it appears that all parties are in agreement on this order, but the Commission will give it a ten-day effective date to allow time for the filing of an application for rehearing.

#### **THE COMMISSION ORDERS THAT:**

1. The application to intervene filed by tw telecom of kansas city llc is denied.
2. The amendment to the interconnection agreement between AT&T Missouri and Teleport Communications America, LLC filed on February 25, 2014, is approved.
3. Any changes or amendments to this agreement shall be submitted in compliance with 4 CSR 240-3.513(6).

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<sup>5</sup> 47 U.S.C. § 252(e)(1).

<sup>6</sup> 47 U.S.C. § 252(e)(2)(A).

4. This order shall become effective on April 10, 2014.
5. This file may be closed on April 11, 2014.



**BY THE COMMISSION**

A handwritten signature in dark ink, reading "Morris L. Woodruff".

Morris L. Woodruff  
Secretary

Morris L. Woodruff, Chief Regulatory  
Law Judge, by delegation of authority  
pursuant to Section 386.240, RSMo 2000.

Dated at Jefferson City, Missouri,  
on this 31st day of March, 2014.