

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

In the Matter of MCImetro Access Transmission	)	
Services, LLC, for Approval of an Amendment to Its	)	
Agreement with CenturyTel of Missouri, LLC, Pursuant	)	<b><u>Case No. LO-2005-0383</u></b>
to Section 252(e) of the Telecommunications Act of	)	
1996.	)	

**ORDER APPROVING AMENDMENT**  
**TO INTERCONNECTION AGREEMENT**

Issue Date: June 2, 2005

Effective Date: June 13, 2005

This order approves an amendment to the interconnection agreement between the parties as filed by MCImetro Access Transmission Services, LLC.

On April 22, 2005, MCImetro filed an application with the Commission for approval of an amendment to its interconnection agreement with CenturyTel of Missouri, LLC. CenturyTel provides services to MCImetro under the terms of two identical interconnection agreements previously approved by the Commission: one between Brooks Fiber Communications of Missouri, Inc., and GTE Midwest Incorporated, d/b/a Verizon Midwest, approved by the Commission on August 5, 2002, in Case No. CK-2002-1146; and the other between Intermedia Communications, Inc., and GTE Midwest Incorporated, d/b/a Verizon Midwest, approved by the Commission on August 5, 2002, in Case No. CK-2002-1145. MCImetro is the successor-in-interest to Brooks and Intermedia.

The amendment was filed pursuant to Section 252(e)(1) of the Telecommunications Act of 1996.<sup>1</sup> The amendment resolves matters that were in dispute between the parties in Case No. LC-2005-0080. Both MCImetro and CenturyTel hold certificates of service authority to provide basic local exchange telecommunications services in Missouri.

CenturyTel filed its entry of appearance on April 22, 2005, stating that it consents to and supports the relief requested by MCImetro's application.

On April 26, 2005, the Commission issued an order making CenturyTel a party to the case and directing any party wishing to request a hearing to do so no later than May 16, 2005. No requests were received.

The Staff of the Commission filed a memorandum and recommendation on May 25, 2005, recommending that the amendment 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 amendment to 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, and direct MCImetro to submit a copy of the

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

amendment with the pages numbered serially to follow the pages of the underlying Agreement and any previous amendments.

### **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 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 modifications or amendments to the Commission for approval pursuant to the procedure set out below. The Commission will also order the parties to submit a sequentially numbered copy of the Agreement as amended.

### **Modification 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 modifications 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

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<sup>2</sup> 47 U.S.C. § 252.

<sup>3</sup> 47 U.S.C. § 252(h).

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 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.

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

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

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,<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 amendment to the Agreement between MCImetro and CenturyTel 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.

### **IT IS THEREFORE ORDERED:**

1. That the amendment to the interconnection agreement between MCImetro Access Transmission Services, LLC, and CenturyTel of Missouri, LLC, filed on April 22, 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 no later than June 13, 2005, MCImetro Access Transmission Services, LLC, shall submit a copy of the Agreement as amended to the Data Center of the Missouri

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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).

Public Service Commission, with the pages sequentially numbered. On the same date, MCImetro Access Transmission Services, LLC, shall file a notice in the official case file advising the Commission that it has complied with this order.

4. That this order shall become effective on June 13, 2005.

**BY THE COMMISSION**

A handwritten signature in black ink, appearing to read 'Colleen M. Dale', is positioned above the printed name and title.

Colleen M. Dale  
Secretary

( 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 2nd day of June, 2005.