

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

**FILED<sup>4</sup>**  
JUL 17 2002

Missouri Public  
Service Commission

Northeast Missouri Rural Telephone Company )  
And Modern Telecommunications Company, et al. )

Petitioners, )

vs. )

Southwestern Bell Telephone Company, )  
Southwestern Bell Wireless (Cingular), )  
Voice Stream Wireless (Western Wireless) )  
Aerial Communications, Inc., CMT Partners, )  
(Verizon Wireless), Sprint Spectrum, LP, )  
United States Cellular Corp., and Ameritech )  
Mobile Communications, Inc., et al. )

Respondents. )

Case No. TC-2002-57

Case No. TC-2002-113

Case No. TC-2002-114

Case No. TC-2002-167

Case No. TC-2002-181

Case No. TC-2002-182

Consolidated

**PETITIONER'S MOTION REQUESTING COMMISSION TAKE OFFICIAL NOTICE  
OF DOCUMENTS**

COMES NOW Petitioners, Mid-Missouri Telephone Company, Alma Telephone Company, Northeast Missouri Rural Telephone Company, Modern Telecommunications Company, MoKan Dial, Inc., Choctaw Telephone Company, and Chariton Valley Telephone Company, ("MITG Companies") and pursuant to § 536.070(6) RSMo, hereby request the Missouri Public Service Commission ("Commission") take official notice of the attached documents. In support of their Motion for Official Notice Petitioners suggest:

1. Several issues in this case are based on whether the disputed traffic terminated the MITG Companies exchanges is inter- or intra-MTA traffic. Information setting forth the FCC established MTA boundaries with the counties of Missouri will be useful in demonstrating the jurisdiction of the traffic contested in this case.

2. The Federal Communications Commission (FCC) has determined that for Commercial Mobile Radio Services (CMRS) “the largest FCC authorized wireless license territory (i.e. MTA) serves as the most appropriate definition for local service area for CMRS traffic for purposes of reciprocal compensation under section 251(b)(5) as it avoids creating artificial distinctions between CMRS providers.” *In the Matter of Implementation of the Local Competition Provisions in the Telecommunications Act of 1996; Interconnection between Local Exchange Carriers and Commercial Mobile Radio Service Providers*; CC Docket No. 96-325 at para. 1036, 11 FCC Rcd 15499 (rel. August 8, 1996); 47 C.F.R. § 51.701(b)(2). The MTA service areas are more specifically defined at 47 C.F.R. § 24.102, which states that MTA boundaries are based on the Rand McNally 1992 Commercial Atlas and Marketing Guide, 123<sup>rd</sup> Edition, at pages 58-39 (MTA map). Attached is the Missouri portion of a table available on the FCC website at <http://wireless.fcc.gov/services/broadbandpcs/data/marketareas.html>, which identifies the Basic Trading Area (BTA), MTA and the corresponding counties contained in those areas, which Petitioners herein request the Commission to take official notice.

WHEREFORE Petitioners request that the Commission take official notice, for purposes of this proceeding, of the attached table, titled “List of Basic Trading Areas with Component Counties and Corresponding Major Trading Areas,” as a list identifying the MTA in which the counties of Missouri are located.

Respectfully Submitted,

**ANDERECK, EVANS, MILNE,  
PEACE & JOHNSON, L.L.C.**

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**ATTORNEYS FOR PETITIONERS**

**CERTIFICATE OF SERVICE**

The undersigned does hereby certify that a true and accurate copy of the foregoing was mailed, via U.S. Mail, postage prepaid, this 17<sup>th</sup> day of July, 2002, to all attorneys of record in this proceeding.

*Lisa Chase*  
Lisa Cole Chase Mo Bar No. 51502

**List of All Basic Trading Areas with Component Counties and Corresponding  
Major Trading Areas**

<b>BTA No.</b>	<b>BTA Name</b>	<b>County Name</b>	<b>State</b>	<b>MTA No.</b>	<b>MTA Name</b>
66	Cape Girardeau-Sikeston, MO	Bollinger	MO	19	St. Louis
66	Cape Girardeau-Sikeston, MO	Cape Girardeau	MO	19	St. Louis
66	Cape Girardeau-Sikeston, MO	Mississippi	MO	19	St. Louis
66	Cape Girardeau-Sikeston, MO	New Madrid	MO	19	St. Louis
66	Cape Girardeau-Sikeston, MO	Perry	MO	19	St. Louis
66	Cape Girardeau-Sikeston, MO	Scott	MO	19	St. Louis
90	Columbia, MO	Audrain	MO	19	St. Louis
90	Columbia, MO	Boone	MO	19	St. Louis
90	Columbia, MO	Chariton	MO	19	St. Louis
90	Columbia, MO	Howard	MO	19	St. Louis
90	Columbia, MO	Montgomery	MO	19	St. Louis
90	Columbia, MO	Randolph	MO	19	St. Louis
217	Jefferson City, MO	Callaway	MO	19	St. Louis
217	Jefferson City, MO	Cole	MO	19	St. Louis
217	Jefferson City, MO	Miller	MO	19	St. Louis
217	Jefferson City, MO	Moniteau	MO	19	St. Louis
217	Jefferson City, MO	Osage	MO	19	St. Louis
230	Kirksville, MO	Adair	MO	19	St. Louis
230	Kirksville, MO	Macon	MO	19	St. Louis
230	Kirksville, MO	Putnam	MO	19	St. Louis
230	Kirksville, MO	Schuyler	MO	19	St. Louis
230	Kirksville, MO	Sullivan	MO	19	St. Louis
355	Poplar Bluff, MO	Butler	MO	19	St. Louis
355	Poplar Bluff, MO	Carter	MO	19	St. Louis
355	Poplar Bluff, MO	Dunklin	MO	19	St. Louis
355	Poplar Bluff, MO	Ripley	MO	19	St. Louis
355	Poplar Bluff, MO	Stoddard	MO	19	St. Louis
355	Poplar Bluff, MO	Wayne	MO	19	St. Louis
367	Quincy, IL-Hannibal, MO	Knox	MO	19	St. Louis
367	Quincy, IL-Hannibal, MO	Lewis	MO	19	St. Louis
367	Quincy, IL-Hannibal, MO	Marion	MO	19	St. Louis
367	Quincy, IL-Hannibal, MO	Monroe	MO	19	St. Louis
367	Quincy, IL-Hannibal, MO	Pike	MO	19	St. Louis
367	Quincy, IL-Hannibal, MO	Ralls	MO	19	St. Louis
367	Quincy, IL-Hannibal, MO	Scotland	MO	19	St. Louis
367	Quincy, IL-Hannibal, MO	Shelby	MO	19	St. Louis
383	Rolla, MO	Dent	MO	19	St. Louis
383	Rolla, MO	Maries	MO	19	St. Louis
383	Rolla, MO	Phelps	MO	19	St. Louis

**List of All Basic Trading Areas with Component Counties and Corresponding  
Major Trading Areas**

<b>BTA</b>				<b>MTA</b>	
<b>No.</b>	<b>BTA Name</b>	<b>County Name</b>	<b>State</b>	<b>No.</b>	<b>MTA Name</b>
383	Rolla, MO	Pulaski	MO	19	St. Louis
394	St. Louis, MO	Crawford	MO	19	St. Louis
394	St. Louis, MO	Franklin	MO	19	St. Louis
394	St. Louis, MO	Gasconade	MO	19	St. Louis
394	St. Louis, MO	Iron	MO	19	St. Louis
394	St. Louis, MO	Jefferson	MO	19	St. Louis
394	St. Louis, MO	Lincoln	MO	19	St. Louis
394	St. Louis, MO	Madison	MO	19	St. Louis
394	St. Louis, MO	Reynolds	MO	19	St. Louis
394	St. Louis, MO	St. Charles	MO	19	St. Louis
394	St. Louis, MO	Ste. Genevieve	MO	19	St. Louis
394	St. Louis, MO	St. Francois	MO	19	St. Louis
394	St. Louis, MO	St. Louis	MO	19	St. Louis
394	St. Louis, MO	Warren	MO	19	St. Louis
394	St. Louis, MO	Washington	MO	19	St. Louis
394	St. Louis, MO	St. Louis City	MO	19	St. Louis
428	Springfield, MO	Barry	MO	19	St. Louis
428	Springfield, MO	Camden	MO	19	St. Louis
428	Springfield, MO	Cedar	MO	19	St. Louis
428	Springfield, MO	Christian	MO	19	St. Louis
428	Springfield, MO	Dade	MO	19	St. Louis
428	Springfield, MO	Dallas	MO	19	St. Louis
428	Springfield, MO	Douglas	MO	19	St. Louis
428	Springfield, MO	Greene	MO	19	St. Louis
428	Springfield, MO	Hickory	MO	19	St. Louis
428	Springfield, MO	Laclede	MO	19	St. Louis
428	Springfield, MO	Lawrence	MO	19	St. Louis
428	Springfield, MO	Polk	MO	19	St. Louis
428	Springfield, MO	Stone	MO	19	St. Louis
428	Springfield, MO	Taney	MO	19	St. Louis
428	Springfield, MO	Texas	MO	19	St. Louis
428	Springfield, MO	Webster	MO	19	St. Louis
428	Springfield, MO	Wright	MO	19	St. Louis
470	West Plains, MO	Howell	MO	19	St. Louis
470	West Plains, MO	Oregon	MO	19	St. Louis
470	West Plains, MO	Ozark	MO	19	St. Louis
470	West Plains, MO	Shannon	MO	19	St. Louis
49	Blytheville, AR	Pemiscot	MO	28	Memphis-Jackson
61	Burlington, IA	Clark	MO	32	Des Moines-Quad Cities
220	Joplin, MO-Miami, OK	Barton	MO	34	Kansas City
220	Joplin, MO-Miami, OK	Jasper	MO	34	Kansas City

**List of All Basic Trading Areas with Component Counties and Corresponding  
Major Trading Areas**

<b>BTA</b>				<b>MTA</b>	
<b>No.</b>	<b>BTA Name</b>	<b>County Name</b>	<b>State</b>	<b>No.</b>	<b>MTA Name</b>
220	Joplin, MO-Miami, OK	McDonald	MO	34	Kansas City
220	Joplin, MO-Miami, OK	Newton	MO	34	Kansas City
226	Kansas City, MO	Bates	MO	34	Kansas City
226	Kansas City, MO	Caldwell	MO	34	Kansas City
226	Kansas City, MO	Carroll	MO	34	Kansas City
226	Kansas City, MO	Cass	MO	34	Kansas City
226	Kansas City, MO	Clay	MO	34	Kansas City
226	Kansas City, MO	Clinton	MO	34	Kansas City
226	Kansas City, MO	Grundy	MO	34	Kansas City
226	Kansas City, MO	Henry	MO	34	Kansas City
226	Kansas City, MO	Jackson	MO	34	Kansas City
226	Kansas City, MO	Johnson	MO	34	Kansas City
226	Kansas City, MO	Lafayette	MO	34	Kansas City
226	Kansas City, MO	Linn	MO	34	Kansas City
226	Kansas City, MO	Livingston	MO	34	Kansas City
226	Kansas City, MO	Platte	MO	34	Kansas City
226	Kansas City, MO	Ray	MO	34	Kansas City
226	Kansas City, MO	St. Clair	MO	34	Kansas City
226	Kansas City, MO	Saline	MO	34	Kansas City
226	Kansas City, MO	Vernon	MO	34	Kansas City
393	St. Joseph, MO	Andrew	MO	34	Kansas City
393	St. Joseph, MO	Atchison	MO	34	Kansas City
393	St. Joseph, MO	Buchanan	MO	34	Kansas City
393	St. Joseph, MO	Daviess	MO	34	Kansas City
393	St. Joseph, MO	DeKalb	MO	34	Kansas City
393	St. Joseph, MO	Gentry	MO	34	Kansas City
393	St. Joseph, MO	Harrison	MO	34	Kansas City
393	St. Joseph, MO	Holt	MO	34	Kansas City
393	St. Joseph, MO	Mercer	MO	34	Kansas City
393	St. Joseph, MO	Nodaway	MO	34	Kansas City
393	St. Joseph, MO	Worth	MO	34	Kansas City
414	Sedalia, MO	Benton	MO	34	Kansas City
414	Sedalia, MO	Cooper	MO	34	Kansas City
414	Sedalia, MO	Morgan	MO	34	Kansas City
414	Sedalia, MO	Pettis	MO	34	Kansas City

**FILED<sup>4</sup>**

JUL 17 2002

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 19th  
day of February, 1998.

In the Matter of the Joint Application of )  
Southwestern Bell Telephone Company and )  
Southwestern Bell Wireless, Inc. for Approval of ) Case No. TO-98-  
219  
Interconnection Agreement Under the )  
Telecommunications Act of 1996. )

**ORDER APPROVING INTERCONNECTION AND RECIPROCAL**  
**COMPENSATION AGREEMENT**

Southwestern Bell Telephone Company (SWBT) and Southwestern Bell Wireless, Inc. (SWB Wireless) filed a joint application on November 25, 1997 requesting that the Missouri Public Service Commission approve an interconnection and reciprocal compensation agreement (Agreement) between SWBT and SWB Wireless. The Agreement was filed pursuant to Section 252 (e) (1) of the Federal Telecommunications Act of 1996 (the Act). See 47 U.S.C. ' 251, et seq. SWB Wireless does not currently hold any certificates of service authority to provide interexchange, basic local exchange or nonswitched private line local exchange telecommunications services in Missouri. Wireless carriers are licensed by the Federal Communications Commission (FCC).

The Commission, by its Order and Notice issued December 10, established a deadline of December 30 for proper parties to request permission to participate without intervention or to request a hearing. No parties requested to participate without intervention or requested a hearing. The Commission's Order and Notice also directed parties wishing to file comments to do so by January 23, 1998 and directed the Commission

Staff (Staff) to file a memorandum advising the Commission of its recommendation by February 3. No comments were filed. Staff filed a Memorandum on February 5, recommending that the Agreement be approved. The requirement for a hearing is met when the opportunity for hearing has been provided and no proper party has requested the opportunity to present evidence. State ex rel. Rex Deffenderfer Enterprises, Inc. v. Public Service Commission, 776 S.W.2d 494, 496 (Mo. App. 1989). Since no one has asked permission to participate or requested a hearing in this case, the Commission may grant the relief requested based on the verified application.

### Discussion

The Commission, under the provisions of Section 252 (e) of the Federal Telecommunications Act of 1996 has authority to approve an interconnection or resale agreement negotiated between an incumbent local exchange company (LEC) and a new provider of basic local exchange service. The Commission may reject an interconnection agreement only if the agreement is discriminatory or is inconsistent with the public interest, convenience and necessity:

#### '252(e) APPROVAL BY STATE COMMISSION

- (1) APPROVAL REQUIRED.-- Any interconnection agreement adopted by negotiation or arbitration shall be submitted for approval to the State commission. A State commission to which an agreement is submitted shall approve or reject the agreement, with written findings as to any deficiencies.
- (2) GROUNDS FOR REJECTION.--The State commission may only reject --
  - (A) an agreement (or any portion thereof) adopted by negotiation under subsection (a) if it finds that --
    - (i) the agreement (or portion thereof) discriminates against a telecommunications carrier



not a party to the agreement;  
or

- (ii) the implementation of such agreement or portion is not consistent with the public interest, convenience, and necessity; . . . .

Staff stated in its memorandum that the agreement appears to be similar to other approved agreements for wireless interconnection. The Agreement describes the interconnection facilities and methods with which the parties may interconnect their networks and contains provisions for the transmission and routing of telephone exchange service, exchange access service, and other types of traffic including 800/888 traffic, E911/911 traffic, Directory Assistance and Operator Services traffic.

The Agreement between SWBT and SWB Wireless is to become effective thirty days after Commission approval. The term of the contract is two years from the effective date; thereafter the Agreement remains in effect until one of the parties gives 60-day notice of termination. Each party agreed to treat the other no less favorably than it treats other similarly situated local service providers with whom it has a Commission-approved interconnection agreement. The Agreement contemplates three ways for SWB Wireless to provide service: as a reseller, as a facilities-based provider, or as a mixed-mode provider combining resold and facilities-based elements.

The Agreement permits several methods of interconnection, including mid-span meet POI, physical and virtual collocation, and SONET-based interconnection for originating and terminating calls between the two parties. The Agreement provides for reciprocal compensation for termination of local traffic, interMTA traffic and Area Wide Calling Plan traffic. The parties agreed that compensation rates for origination and

termination of traffic to or from interexchange carriers would be based on SWB Wireless=s and SWBT=s access service tariffs.

SWBT agreed to work with SWB Wireless to meet all requirements mandated by applicable law for the handling of E911/911 traffic. SWBT also agreed to make available intraLATA toll dialing parity in accordance with Section 251(b)(3) of the Act.

The Agreement also contains provisions which apply a transit traffic element rate to all minutes of use between either SWBT or SWB Wireless and third party networks that transit the other party=s system, if the calls do not originate with or terminate to SWBT=s or SWB Wireless=s (the transit party=s) end user. The originating party is responsible for negotiating appropriate rates with the terminating party. SWBT has agreed not to block SWB Wireless traffic that is destined for the network of a third party even if SWB Wireless and the third party do not have an agreement. SWB Wireless will indemnify SWBT for such traffic if the third party demands compensation from SWBT.

### **Findings of Fact**

The Missouri Public Service Commission, having considered the joint application of the parties, including the agreement and its appendices, and the Staff=s memorandum, 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 has reached the conclusion that the interconnection and resale Agreement meets the requirements of the Act in that it does not unduly 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.

The Commission further finds that the Agreement addresses SWBT=s handling of traffic originating on a wireless carrier=s network and terminating on the networks of third parties in situations where the wireless carrier does not have an agreement with the third parties, as did the tariff in Case No. TT-97-524. The Commission finds that approval of the Agreement should be conditioned upon its decision in Case No. TT-97-524, and that the Agreement must be interpreted in conformity with the Commission=s findings and conclusions in that case.

### **Modification Procedure**

This Commission=s first duty is to review all resale and interconnection agreements, whether arrived at through negotiation or arbitration, as mandated by the Act. 47 U.S.C. ' 252. In order for the Commission=s role of 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. 47 U.S.C. ' 252 (h). 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. 4 CSR 240-30.010.

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 shall provide the Telecommunications Staff with a copy of the resale or interconnection agreement with the pages numbered consecutively in the lower right-hand corner. 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 tariff room.

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 modification will be approved once Staff has verified that the provision is an approved provision, and prepared a recommendation advising approval. 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, 47 U.S.C. 252(e)(1), is required

to review negotiated interconnection and resale 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 under Section 252 (e) (2) (A). Based upon its review of the interconnection and resale Agreement between SWBT and SWB Wireless and its findings of fact, the Commission concludes that the Agreement is neither discriminatory nor inconsistent with the public interest and should be approved.

The Commission also has the authority to determine whether the rules, regulations or practices of any telecommunications company are unjust or unreasonable, and to determine the just, reasonable, adequate, efficient, and proper regulations, practices, and service to be observed and used by a telecommunications company. ' 392.240.2, RSMo 1994. The Commission has previously found in Case No. TT-97-524 that SWBT will be required to make available a Cellular Usage Summary Report that contains \*information sufficient to allow third-party providers to bill wireless carriers for wireless- originating traffic which terminates in the exchanges of those providers. This obligation applies equally to traffic originating on SWB Wireless=s network, which transits SWBT=s network and terminates on the networks of third-party providers.

**IT IS THEREFORE ORDERED:**

1. That the interconnection and reciprocal compensation agreement between Southwestern Bell Telephone Company and Southwestern Bell Wireless, Inc., filed on November 25, 1997, is approved.

2. That Southwestern Bell Telephone Company and Southwestern Bell Wireless, Inc. shall file a copy of this agreement with the Staff of the Missouri Public Service Commission, with the pages numbered seriatim in the lower right-hand corner.

3. That any changes or modifications to this agreement shall be filed with the Commission for approval pursuant to the procedures outlined in this order.

4. That Southwestern Bell Telephone Company is obligated to make available to any requesting third-party carrier its Cellular Usage Summary Report, consistent with the Commission's Report and Order in Case No. TT-97-524.

5. That the Commission, by approving this agreement, makes no finding as to whether Southwestern Bell Telephone Company has fulfilled the requirements of Section 271 of the Telecommunications Act of 1996, including the competitive checklist of any of the fourteen items listed in Section 271(c)(2)(B).

6. That this order shall become effective on February 23, 1998.

7. That this case shall be closed on February 24, 1998.

**BY THE COMMISSION**

( S E A L )

**Dale Hardy Roberts**  
**Secretary/Chief Regulatory Law Judge**

Lumpe, Ch., Crumpton, Drainer  
and Murray, CC:, concur.

Randles, Regulatory Law Judge