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BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI

In the Matter of Missouri RSA No. 7 Limited)
Partnership d/b/a Mid-Missouri Cellular's)
Petition for Arbitration Pursuant to 47 U.S.C.) Case No. TO-99-279
Section 252 to Establish an Interconnection)
Agreement with Southwestern Bell Telephone)
Company.)

ORDER APPROVING INTERCONNECTION AGREEMENT

On April 8, 1999, this Commission issued its Arbitration Order in this case. That order required the parties, Southwestern Bell Telephone Company (SWBT) and Mid-Missouri Cellular (MMC), to file a conforming interconnection agreement by May 4, 1999. The parties filed their agreement on May 6, 1999, and simultaneously moved for leave to file it out-of-time. The Commission granted leave by order issued on May 19, 1999. On May 28, 1999, the parties filed certain appendices to the proposed agreement, which they had neglected to file with the agreement itself.

On May 24, 1999, the Commission issued a Revised Order Directing Notice, setting deadlines for parties wishing to request a hearing, participate without intervention, or to file comments. No requests for hearing, applications to participate or comments were filed.

The Staff of the Commission (Staff) filed a Memorandum on June 1, 1999, recommending that the proposed 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, the Commission may grant the relief requested based on the verified application.

Discussion

The Commission, under the provisions of Section 252(e) of the Act, has authority to approve an interconnection agreement arbitrated between an incumbent local exchange company and a wireless telecommunications company. The Commission may reject an interconnection agreement only if the agreement is discriminatory or is inconsistent with the public interest, convenience and necessity.

The Staff Memorandum recommends that the proposed agreement be approved, and notes that the agreement meets the limited requirements of the Act in that it does not appear to be discriminatory toward nonparties, and does not appear to be against the public interest. Staff states that the proposed agreement "conforms to the Commission's Order, if not by letter then in spirit." Staff recommended that the Commission direct MMC and SWBT to submit a copy of the executed interconnection agreement with the pages numbered seriatim, and 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 proposed agreement and Staff's recommendation. Based upon that review, the Commission has reached the conclusion that the proposed 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.

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 an executed copy of the interconnection agreement with the pages numbered seriatim in the lower right-hand corner. Modifications to the 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 arbitrated interconnection agreements. Under Section 252(e)(2)(B), it may only reject an arbitrated agreement upon a finding that it does not meet the requirements of Section 251 or the standards set forth in Section 252(d). Based upon its review of the proposed agreement between SWBT and MMC and its findings of fact, the Commission concludes that the proposed agreement meets the requirements of Section 251 and the standards set forth in Section 252(d). The Commission further concludes that the proposed agreement is neither discriminatory nor inconsistent with the public interest and should be approved.

IT IS THEREFORE ORDERED:

1. That the interconnection agreement between Southwestern Bell Telephone Company and Missouri RSA No. 7 Limited Partnership, doing

business as Mid-Missouri Cellular, filed on May 6, 1999, and May 28, 1999, is approved.

2. That the parties shall file an executed copy of this agreement with the Staff of the Missouri Public Service Commission, with the pages numbered seriatim at the bottom right hand corner of each page, no later than June 25, 1999. The parties shall file on the same date a notice in the official case file advising the Commission that the agreement has been submitted as required.

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

4. That this Order shall become effective on June 5, 1999.

BY THE COMMISSION



Dale Hardy Roberts
Secretary/Chief Regulatory Law Judge

(S E A L)

Kevin A. Thompson, Deputy Chief
Regulatory Law Judge, by delegation
of authority pursuant to 4 CSR
240-2.120(1), (November 30, 1995)
and Section 386.240, RSMo 1994.

Dated at Jefferson City, Missouri,
on this 3rd day of June, 1999.

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COMMISSION COUNSEL
PUBLIC SERVICE COMMISSION