

BEFORE THE PUBLIC SERVICE COMMISSION

OF THE STATE OF MISSOURI

In the Matter of the Application of)
KMC Telecom III, Inc., for Approval of an) Case No. TO-2000-307
Interconnection Agreement Under the Tele-)
communications Act of 1996.)

ORDER DIRECTING NOTICE AND MAKING
SOUTHWESTERN BELL TELEPHONE COMPANY A PARTY

On October 29, 1999, KMC Telecom III, Inc. (KMC), filed an application with the Commission for approval of an interconnection agreement with Southwestern Bell Telephone Company (SWBT) under the provisions of the federal Telecommunications Act of 1996 (the Act). By this document, KMC informs the Commission that it has adopted the terms of the interconnection agreement between MCI and SWBT approved by the Missouri Public Service Commission in Case No. TO-99-67. The document indicates that the terms of the MCI/SWBT agreement are adopted by KMC and will apply to KMC and SWBT pursuant to Section 252(i) of the federal Telecommunications Act of 1996. The applicant states that there are no unresolved issues and that the agreement complies with Section 252(e) of the Act in that it is not discriminatory to nonparty carriers and is consistent with the public interest. The applicant requests expeditious approval of the agreement.

Although SWBT is a party to the agreement, it did not join in the application. Because SWBT is a necessary party to a full and fair

adjudication of this matter, the Commission will add SWBT as a party to this case.

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).

The Commission finds that proper persons should be allowed 20 days from the issuance of this order to file a motion for hearing or an application to participate without intervention. Participation may be permitted for the limited purpose of filing comments addressing whether this agreement meets the federal standards for approval of interconnection or resale agreements. The requirement of a hearing is met when an opportunity to be heard 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).

Section 252(e)(4) of the Act provides that if the Commission has not approved an agreement within 90 days after submission, the agreement shall be deemed approved. Therefore, the Commission will proceed with this case expeditiously and, if there are no requests for a hearing, relief may be granted based on the verified petition. The Commission finds that notice of this application should be sent to all interexchange and local exchange telecommunications companies.

IT IS THEREFORE ORDERED:

1. That the Records Department of the Commission shall send notice to all interexchange and local exchange telecommunications companies.

2. That Southwestern Bell Telephone Company is made a party to this case.

3. That any party wishing to request a hearing or to participate without intervention in this matter shall file an application no later than November 22, 1999, with:

Dale Hardy Roberts, Secretary
Missouri Public Service Commission
Post Office Box 360
Jefferson City, Missouri 65102

and send copies to:

Mary Ann (Garr) Young, Esq.
William D. Steinmeier, P.C.
Post Office Box 104595
2031 Tower Drive
Jefferson City, Missouri 65110-4595

Paul G. Lane, Esq.
Southwestern Bell Telephone Company
One Bell Center, Room 3516
St. Louis, Missouri 63101

and:

Office of the Public Counsel
Post Office Box 7800
Jefferson City, Missouri 65102

4. That the Staff of the Commission shall file a memorandum advising either approval or rejection of this agreement and giving the reasons therefor no later than January 7, 2000.

5. That this order shall become effective on November 12,
1999.

BY THE COMMISSION



Dale Hardy Roberts
Secretary/Chief Regulatory Law Judge

(S E A L)

Vicky Ruth, 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 2nd day of November, 1999.

RECEIVED

NOV 03 1999

COMMISSION COUNSEL
PUBLIC SERVICE COMMISSION