

**STATE OF MISSOURI  
PUBLIC SERVICE COMMISSION  
JEFFERSON CITY  
January 25, 2000**

**CASE NO: TO-2000-364**

**Office of the Public Counsel**  
P.O. Box 7800  
Jefferson City, MO 65102

**Charles Brent Stewart**  
Stewart & Keevil, L.L.C.  
1001 Cherry Street, Suite 302  
Columbia, MO 65201-7931

**General Counsel**  
Missouri Public Service Commission  
P.O. Box 360  
Jefferson City, MO 65102

**Paul G. Lane/Leo J. Bub**  
**Anthony K. Conroy/Mimi Macdonald**  
Southwestern Bell Telephone Company  
One Bell Center, Room 3546  
St. Louis, MO 63101-1976

**Enclosed find certified copy of an ORDER in the above-numbered case(s).**

Sincerely,



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

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

In the Matter of the Application of Intermedia )  
Communications, Inc., for Approval of Inter- )  
connection Agreement With Southwestern Bell ) Case No. TO-2000-364  
Telephone Company Pursuant to the Telecommuni- )  
cations Act of 1996. )

**ORDER APPROVING INTERCONNECTION AGREEMENT**

On December 9, 1999, Intermedia Communications, Inc. (Intermedia), filed an application with the Commission for approval of an interconnection agreement with Southwestern Bell Telephone Company (Southwestern Bell) executed pursuant to Section 252(i) of the federal Telecommunications Act of 1996 (the Act). The applicant states that there are no outstanding issues between Intermedia and Southwestern Bell that require the assistance of mediation or arbitration. The applicant further states that the agreement complies with Section 252(e) of the Act in that it does not discriminate against any telecommunication carriers and is consistent with the public interest. The applicant requests expeditious approval of the agreement.

The Agreement is a facilities-based interconnection agreement. According to the application, the agreement will replace Intermedia's initial interconnection agreement with Southwestern Bell that was approved by the Commission in Case No. TO-97-260. Intermedia states that the proposed agreement is, in all material respects, identical to, and is an

adoption of, the interconnection agreement between Southwestern Bell and AT&T which was previously approved by the Commission.

Although Southwestern Bell is a party to the Agreement, it did not join in the application. On December 20, 1999, the Commission issued an order making Southwestern Bell a party and directing any party wishing to request a hearing or to participate without intervention to do so no later than January 10, 2000.

On January 7, 2000, Southwestern Bell filed a Statement of Position. Southwestern Bell's statement noted that it signed the agreement because of Section 252(i) of the Act and in light of the Commission's decision in TO-98-200. Southwestern Bell stated its belief that the agreement would be subject to modification depending on the outcome of legal actions affecting the terms of interconnection agreements on which this agreement was based. Southwestern Bell's position is noted. However, the issue will not be determined or addressed in this case. Future modifications to the interconnection agreement are addressed below under the heading "Modification Procedure".

The Staff of the Commission (Staff) filed its Staff Recommendation and a memorandum on January 11, 2000, recommending that the Agreement be approved. The Staff Recommendation summarized the recommendations presented in the Staff memorandum.

No applications to participate or requests for hearing were filed. 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 negotiated between an incumbent local exchange company and a 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.

The Staff memorandum recommends that the 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 recommends that the Commission direct the parties 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 application, the supporting documentation, and Staff's recommendation. Based upon that review, the Commission has reached the conclusion that the 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

The Commission has a duty 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, litigation, arbitration, or by means of alternative dispute resolution procedures.

The parties filed five copies of the interconnection agreement (agreement) with the application with the pages numbered consecutively 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 Telecommunications Staff will maintain the official record of the original agreement and all the modifications made 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 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 Agreement between Intermedia and Southwestern Bell and its findings of fact, the Commission concludes that the Agreement is neither discriminatory nor inconsistent with the public interest and should be approved.

**IT IS THEREFORE ORDERED:**

1. That the interconnection agreement between Intermedia Communications, Inc., and Southwestern Bell Telephone Company, filed on December 9, 1999, is approved.

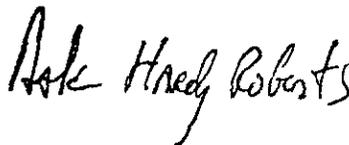
2. That the Commission's Staff shall retain one of the filed copies of the interconnection agreement for the Commission's permanent public file pursuant to the procedure outlined in this order and that Intermedia Communications, Inc., and Southwestern Bell Telephone Company shall respond promptly to any requests by Staff to assure the accuracy of the Commission's filed copy.

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 February 4, 2000.

5. That this case may be closed on February 7, 2000.

**BY THE COMMISSION**



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

( S E A L )

Keith Thornburg, 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 25th day of January, 2000.

FM: To Be Issued By Delegation

At/Secy: Thereseburg Pope

1-20  
Date Circulated

1-25  
Return by 3-PM.  
10 AM

CASE NO. TO-2000-364

MS  
Lumpe, Chair

absent  
Crumpton, Commissioner

MM  
Murray, Commissioner

DS  
Schenckauer, Commissioner

MS  
Drainer, Vice-Chair

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

I have compared the preceding copy with the original on file in this office and

I do hereby certify the same to be a true copy therefrom and the whole thereof.

WITNESS my hand and seal of the Public Service Commission, at Jefferson City,  
Missouri, this 25<sup>TH</sup> day of January 2000.

Dale Hardy Roberts

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

