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**BEFORE THE PUBLIC SERVICE COMMISSION**

**OF THE STATE OF MISSOURI**

In the Matter Of the Adoption of the GTE/ )  
AT&T Communications of the Southwest, Inc. )  
Interconnection Agreement by Broadspan ) Case No. TO-99-584  
Communications, Inc. d/b/a Primary Network )  
Communications Pursuant to Section 252(i) )  
of the Telecommunications Act of 1996. )

**ORDER AND NOTICE**

On June 2, 1999, GTE Midwest Incorporated (GTE) filed a document entitled Adoption of Interconnection Agreement with the Commission for approval of the adoption of the existing GTE/AT&T Interconnection Agreement (Agreement) by Broadspan Communications, Inc. d/b/a/ Primary Network Communications (Broadspan) under the provisions of the Federal Telecommunications Act of 1996 (the Act).

GTE stated that Broadspan notified GTE that it desired to adopt the terms of the Interconnection Agreement between GTE and AT&T in Case No. TO-97-63. GTE stated that GTE and Broadspan signed a short cover letters dated March 25, 1999 and April 1, 1999 respectively setting forth the terms of the adoption of the agreement. The applicant stated that there are no unresolved issues between GTE and AT&T and that the agreement complies with Section 252(i) of the Act in that the agreement being adopted was approved by the Commission on July 22, 1998. The applicant noted that the Commission found that the Agreement between GTE and AT&T was consistent with the public interest, convenience and necessity and did not discriminate against

any telecommunications carrier. Furthermore, the applicant noted that the Commission found that the GTE/AT&T Agreement was consistent with Missouri Senate Bill No. 507, which became effective on August 28, 1986. Pursuant to Section 252(i) of the Federal Telecommunications Act, the applicant stated that the terms of the GTE/AT&T agreement are adopted by BroadSpan and will apply to BroadSpan and GTE.

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 the opportunity 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 any party wishing to request a hearing or to participate without intervention in this matter shall file an application no later than July 6, 1999, with:

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

and send copies to:

Tracy D. Pagliara  
GTE Midwest Incorporated  
601 Monroe Street, Suite 304  
Jefferson City, MO 65101-3202

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 therefore no later than August 11, 1999.

5. That this order shall become effective on June 25, 1999.

BY THE COMMISSION



Dale Hardy Roberts  
Secretary/Chief Regulatory Law Judge

(S E A L)

Shelly A. Register, 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 15th day of June, 1999.

RECEIVED  
JUN 15 1999  
COMMISSION COUNSEL  
PUBLIC SERVICE COMMISSION