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**BEFORE THE PUBLIC SERVICE COMMISSION**

**OF THE STATE OF MISSOURI**

In the Matter of the Application of GTE Midwest )  
Incorporated and Communications Cable-Laying ) **Case No. TO-97-297**  
Company, Inc., d/b/a Dial U.S. )  
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**REPORT AND ORDER**

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**Issue Date:** April 15, 1997

**Effective Date:** April 25, 1997

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OF THE STATE OF MISSOURI

In the Matter of the Application of GTE Midwest )  
Incorporated and Communications Cable-Laying ) Case No. TO-97-297  
Company, Inc., d/b/a Dial U.S. )  
)

## APPEARANCES

James C. Stroo, Associate General Counsel-Midwest, GTE Operations,  
1000 GTE Drive, Wentzville, Missouri 63385, for GTE Midwest Incorporated.

Mark W. Comley, Newman, Comley & Ruth P.C., 205 East Capitol Avenue, Post Office Box 537, Jefferson City, Missouri 65102-0537, for Communications Cable-Laying Company, Inc., d/b/a Dial U.S.

W.R. England and Sondra B. Morgan, Brydon, Swearngen & England, P.C., 312 East Capitol Avenue, Post Office Box 456, Jefferson City, Missouri 65102, for: BPS Telephone Company, Cass County Telephone Company, Citizens Telephone Company of Higginsville, Missouri, Inc., Craw-Kan Telephone Cooperative, Inc., Ellington Telephone Company, Grand River Mutual Telephone Corporation, Green Hills Telephone Corporation, Holway Telephone Company, Iamo Telephone Company, KLM Telephone Company, Kingdom Telephone Company, Lathrop Telephone Company, Mark Twain Rural Telephone Company, McDonald County Telephone Company, Miller Telephone Company, New Florence Telephone Company, New London Telephone Company, Orchard Farm Telephone Company, Oregon Farmers Mutual Telephone Company, Steelville Telephone Exchange, Inc., and Stoutland Telephone Company; and Fidelity Telephone Company and Bourbeuse Telephone Company.

Michael F. Dandino, Senior Public Counsel, Office of the Public Counsel,  
Post Office Box 7800, Jefferson City, Missouri 65102, for the Office of the  
Public Counsel and the public.

Colleen M. Dale, Deputy General Counsel, Missouri Public Service Commission, Post Office Box 360, Jefferson City, Missouri 65102, for the staff of the Missouri Public Service Commission.

## ADMINISTRATIVE

**LAW JUDGE:** L. Anne Wickliffe, Deputy Chief.

## **REPORT AND ORDER**

GTE Midwest Incorporated (GTE) and Communications Cable-Laying Company, Inc. d/b/a Dial U.S. (Dial U.S.) filed a joint application on January 31, 1997, requesting that the Missouri Public Service Commission (Commission) approve an interconnection and resale agreement between GTE and Dial U.S. (Agreement). The Agreement was filed pursuant to Section 252(e)(1) of the Telecommunications Act of 1996 (the Act). *See* 47 U.S.C. § 251, *et seq.* Dial U.S. is a certificated provider of interexchange telecommunications services in Missouri and has been granted a certificate to provide basic local exchange telecommunications services. Dial U.S. wants to resell local exchange service to residential and business end users and provide such service, in whole or in part, over its own facilities.

The Commission, by order issued March 18, granted participation without intervention to the Small Telephone Company Group<sup>1</sup>, Fidelity Telephone Company and Bourbeuse Telephone Company (Fidelity). Participants filed comments regarding the Agreement and the Commission Staff (Staff) filed a Memorandum on March 24 recommending approval of the Agreement. The Commission conducted a hearing on April 2 where the parties responded to Commission questions.

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<sup>1</sup>The following companies comprise the Small Telephone Company Group: BPS Telephone Company, Cass County Telephone Company, Citizens Telephone Company of Higginsville, Missouri, Inc., Craw-Kan Telephone Cooperative, Inc., Ellington Telephone Company, Grand River Mutual Telephone Corporation, Green Hills Telephone Corporation, Holway Telephone Company, Iamo Telephone Company, KLM Telephone Company, Kingdom Telephone Company, Lathrop Telephone Company, Mark Twain Rural Telephone Company, McDonald County Telephone Company, Miller Telephone Company, New Florence Telephone Company, New London Telephone Company, Orchard Farm Telephone Company, Oregon Farmers Mutual Telephone Company, Steelville Telephone Exchange, Inc., and Stoutland Telephone Company.

## **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, under the provisions of Section 252(e) of the federal Telecommunications Act of 1996, has authority to approve an interconnection 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; . . . .

The interconnection and resale agreement between GTE and Dial U.S. is to become effective ten days after Commission approval. The term of the contract is one year from the date Dial U.S. completes its first commercial call; 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 provides for Dial U.S. to provide service as a reseller, a facilities-based provider, or a mixed-mode provider combining resold and facilities-based elements.

The Agreement provides for interconnection of the two companies' long distance networks by several methods, including mid-span fiber interconnection, physical and virtual collocation, SONET-based interconnection, and any other method the parties may determine to be technically feasible. The Agreement provides for reciprocal compensation for termination of local traffic and for Optional EAS (extended area service). The parties agreed that compensation rates for termination of MTS (Message Telephone Service) and 800 number service would be based on Dial U.S.'s and GTE's access service tariffs and that they would establish meet point billing arrangements for interLATA interexchange traffic.

GTE agreed to make available to Dial U.S. customers nondiscriminatory access to 911 and E911 (enhanced 911) service in all areas where there is a public service answering point available for connection of the service. Dial U.S. will provide the trunks over which 911 service will reach its own basic local customers.

The Agreement provides terms and conditions for GTE to provide unbundled network elements to Dial U.S. GTE agrees to provide number

portability using remote call forwarding and the Agreement sets out the rates for that service.

OPC raised issues in its filed comments which were explored in the hearing on April 2. The parties responded to OPC's concerns about the identification of GTE's avoided costs in the resale portion of the agreement. After clarification OPC stated that it has no objection to the specific provisions of the Agreement, with the understanding the identified avoided costs are relevant to this agreement only. The parties explained on the record that the time period referenced at Page III-2 of the Agreement should be 120 days rather than 30 days. The parties also stated that the provision that requires the "customer" to give written notice of any billing dispute refers to GTE or Dial U.S. and not to the end user. *See* Agreement, page II-1, Article II (1.8).

The Commission has reviewed the comments of the parties, the responses to questions at the hearing, and the Interconnection and Resale Agreement. 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 it should set out the procedures for maintaining the Interconnection Agreement and for approving any changes to the Agreement. First, all agreements, with any changes or modifications, should be accessible to the public at the Commission's offices. Second, the Act mandates that the Commission approve any changes or modifications to the Agreement. To fulfill these objectives, the companies must have a complete and current copy of the Agreement in the Commission's offices at

all times, and all changes and modifications must be timely filed with the Commission for approval. This includes any changes or modifications which are arrived at through the arbitration procedures provided for in the Agreement.

To enable the Commission to maintain a complete record of any changes and modifications, the Commission will request GTE and Dial U.S. to provide Staff with a copy of the Agreement with the pages numbered consecutively in the lower right-hand corner. The Commission will then keep this case open for the filing by GTE and Dial U.S. of any modifications or changes to the Agreement. These changes or modifications will be substituted in the Agreement, so they should contain, in the lower right-hand corner, the number of the page being replaced. Commission Staff will then date-stamp the pages when they are inserted into the Agreement. The official record of what changes or modifications have occurred will be the Commission's case file.

The Commission does not intend that a full proceeding will occur every time a change or modification is agreed to by the parties. Where the change or modification has been previously approved by the Commission in another agreement, Staff need only verify that the changes are contained in another agreement and file a memorandum to that effect. Such changes will then be approved. Where the changes or modifications are not contained in another agreement, Staff will file a memorandum concerning the change or modification and present its recommendation. The Commission, if necessary, will allow for responses and then will rule on the pleadings unless it determines a hearing is necessary.

The above-described procedures should accomplish the two goals of the Commission and still allow for expeditious handling of changes or modifications to the agreements.

### **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) and (2)(A) of the federal Telecommunications Act of 1996, 47 U.S.C. § 252, is required to review negotiated interconnection agreements, and may only reject an agreement upon a finding that its implementation would be discriminatory to a nonparty or inconsistent with the public interest, convenience and necessity. Based upon its review of the Interconnection and Resale Agreement between GTE and Dial U.S. 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 and Resale Agreement between GTE Midwest Incorporated and Communications Cable-Laying Company, Inc. d/b/a Dial U.S. filed on January 31, 1997, is approved.

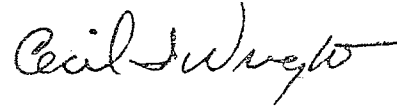
2. That GTE Midwest Incorporated and Communications Cable-Laying Company, Inc. d/b/a Dial U.S. shall file a copy of this agreement with the Staff of the Missouri Public Service Commission, with the pages numbered seriatim in the lower right-hand corner.

3. That any changes or modifications to this agreement shall be filed with the Commission for approval.



4. That this Report And Order shall become effective on April 25, 1997.

**BY THE COMMISSION**

A handwritten signature in cursive script, appearing to read "Cecil I. Wright".

**Cecil I. Wright  
Executive Secretary**

( S E A L )

Zobrist, Chm., Crumpton and  
Drainer, CC., concur.  
McClure, C., absent.

Dated at Jefferson City, Missouri,  
on this 15th day of April, 1997.