STATE OF MISSOURI
PUBLIC SERVICE COMMISSION
JEFFERSON CITY
December 22, 2000

CASE NO: TO-2001-234

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

Sincerely,

Dale Hardy Roberts

Dale Hardy Roberts
Secretary/Chief Regulatory Law Judge

Uncertified copies:

BEFORE THE PUBLIC SERVICE COMMISSION

OF THE STATE OF MISSOURI

Application for Approval of Agreement for Interconnection between Verizon Wireless Messaging Services, LLC and Southwestern Bell Telephone Company	))))	**Case No. TO-2001-234**

ORDER APPROVING INTERCONNECTION AGREEMENT

On October 6, 2000, Verizon Wireless Messaging Services, LLC (Verizon) 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). The applicant states that the agreement has been executed by the parties and complies with Section 252(e) of the Act in that it is not discriminatory to non-party 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. On October 23, 2000, the Commission issued an order making SWBT a party in this case and directing any party wishing to request a hearing to do so no later than November 15, 2000. No 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 requested a hearing, the Commission may grant the relief requested based on the application.

The Staff of the Commission (Staff) filed a memorandum and recommendation on December 14, 2000, recommending that the Agreement be approved.

Discussion

The Commission, under the provisions of Section 252(e) of the Act, has authority to approve an interconnection or resale agreement negotiated between an incumbent local exchange company and a new provider of basic local exchange service. The Commission may reject an interconnection or resale 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. Staff recommends that the parties be directed to submit to the Staff a copy of the agreement with pages numbered seriatim.

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 concludes 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 or recognize 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 or recognition, whether the modification arises through negotiation, arbitration, or by means of alternative dispute resolution procedures.

Modifications to an agreement must be submitted to the Staff for review. When approved or recognized, 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 Commission will take notice of the modification once Staff has verified that the provision is an approved provision, and prepared a recommendation. 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 Verizon and SWBT 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 Verizon Wireless Messaging Services, LLC and Southwestern Bell Telephone Company, filed on October 6, 2000, is approved.

2. That Verizon Wireless Messaging Services, LLC and Southwestern Bell Telephone Company shall submit to the Staff, no later than January 17, 2001, a copy of the agreement with pages numbered seriatim.

3. That any changes or modifications to this Agreement shall be made pursuant to the procedure outlined in this order.

4. That this order shall become effective on January 1, 2001.

5. That this case may be closed on January 2, 2001.

BY THE COMMISSION

Dale Hardy Roberts

Dale Hardy Roberts
Secretary/Chief Regulatory Law Judge

(S E A L)

Mills, Deputy Chief Regulatory Law Judge,
by delegation of authority pursuant
to Section 386.240, RSMo 1994.

Dated at Jefferson City, Missouri,
on this 22nd day of December, 2000.

FYI: To Be Issued By Delegation

ALJ/Sec'y: Wills Boyce

12-20
Date Circulated

12-26
Return by ~~3 p.m.~~ 10am

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Lumpe, Chair

Drainer, Vice Chair

Murray, Commissioner

Schemenauer, Commissioner

Simmons, Commissioner

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 22nd day of December 2000.

Dale Hardy Roberts

Dale Hardy Roberts
Secretary/Chief Regulatory Law Judge