

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



In the Matter of the Joint Application of)
Southwestern Bell Telephone Company and AT&T)
Wireless Services, Inc., for Approval of)
Interconnection Agreement Under the Telecom-)
munications Act of 1996.)

Case No. TO-97-474

REPORT AND ORDER

Issue Date: July 16, 1997

Effective Date: July 24, 1997

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APPEARANCES

Leo J. Bub, Attorney, and **Paul E. Dorin**, Attorney, Southwestern Bell Telephone Company, 100 North Tucker Boulevard, Room 630, St. Louis, Missouri 63101-1976, for Southwestern Bell Telephone Company.

Paul S. DeFord, Lathrop & Gage, L.C., 2345 Grand Boulevard, Kansas City, Missouri 64108,

and

Dineen J. Majcher, Smith, Majcher & Mudge, L.L.P., 816 Congress Avenue, Suite 1270, Austin, Texas 78701, for AT&T Wireless Services, Inc.

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.

ADMINISTRATIVE

LAW JUDGE: Thomas H. Luckenbill, Deputy Chief.

REPORT AND ORDER

Southwestern Bell Telephone Company (SWBT) and AT&T Wireless Services, Inc. (AWS) filed a Joint Application on April 25, 1997 requesting that the Missouri Public Service Commission approve an Interconnection Agreement between SWBT and AWS (Agreement). The Agreement was filed pursuant to Section 252(e)(1) of the federal Telecommunications Act of 1996 (the Act). See 47 U.S.C. § 251, et seq.

The Commission conducted an on-the-record proceeding on May 28, 1997, where SWBT, AWS and the Office of the Public Counsel (Public Counsel)

made presentations to the Commission regarding the Interconnection Agreement and answered Commission questions. At that proceeding two exhibits were offered and received into the record without objection. Exhibit 1 is the proposed Interconnection Agreement and Exhibit 2 is a Revised Pricing Plan relating to the Agreement.

Participants filed comments regarding the Agreement and the Commission Staff (Staff) filed a memorandum on July 14, 1997 recommending approval of the Agreement. The Staff concludes that the Agreement meets the requirements of the Act and recommends that it be approved.

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 Act, has authority to approve an Interconnection Agreement negotiated between an incumbent local exchange company (LEC) and a provider of wireless 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;

AWS stated at hearing that the Interconnection Agreement between AWS and SWBT is the product of extensive negotiation and that it is consistent with the Act. (Tr. 4). SWBT stated at hearing that although this is an interconnection agreement with a wireless carrier, the same standard under the Act applies to this Agreement as that which the Commission has applied in reviewing local service provider agreements. (Tr. 7). SWBT stated that the Agreement meets the standards under the Act and should be approved to become effective July 24, 1997. The term of the contract is two years from its effective date. The Agreement shall automatically be renewed for successive six-month terms unless either party notifies the other in writing, at its sole discretion, of its intention to terminate this Agreement at least 60 days prior to the initial term or any successive terms or the Agreement is otherwise terminated in accordance with the terms of the Agreement.

The Agreement provides that a physical network may be established between AWS and SWBT at one or more Tandem(s) or Mobile Switching Center(s) (MSC(s)). AWS and SWBT may interconnect their networks using Type S

interconnection for Signaling System 7 (SS7) to the extent it is technically feasible. AWS and SWBT may establish SS7 interconnections either directly with each other or through a third party. AWS and SWBT agree to make access to their SS7 networks available to one another. AWS and SWBT may request virtual collocation from each other at the rates, terms and conditions specified in SWBT's tariff on file with the Federal Communications Commission, FCC No. 73, Section 25, and physical collocation as specified in applicable tariffs or as agreed to on an individual basis. Alternatively, AWS may collocate at an SWBT facility with a third party with whom SWBT has already contracted for collocation. SWBT may also collocate at an AWS facility in the same manner. The Agreement provides that AWS may request SONET-based interconnection pursuant to SWBT's tariff as contained in FCC No. 73, Section 30. SWBT may request SONET-based interconnection under terms and conditions mutually agreed upon by the parties.

The Agreement states AWS and SWBT shall continue to handle E911/911 as they have previously and shall work together to meet any and all applicable legal requirements, including SWBT tariffs, and rules and regulations of the FCC. AWS and SWBT acknowledge and agree that as applicable requirements are implemented, additional charges for E911/911 traffic may apply and shall in no way delay implementation.

The Commission has considered the comments of the parties, the responses to questions at the hearing, and the Interconnection Agreement. The Commission finds that the Interconnection Agreement meets the requirements of the Act in that it does not unduly discriminate against a nonparty carrier, and implementation of the Agreement is consistent 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 Interconnection Agreement. To fulfill these objectives, the companies must have a complete and current Interconnection 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 resulting from 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 SWBT and AWS to provide Staff with a copy of the Interconnection Agreement with the pages numbered consecutively in the lower right-hand corner. The Commission will then keep this case open for the filing by SWBT and AWS of any modifications or changes to the Agreement. As these changes or modifications will be substituted in the Agreement, 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 all changes or modifications will be the Commission's case file.

The Commission does not contemplate a full proceeding with every change or modification 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 that 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.

The Commission finds that the negotiated Agreement, as proposed by the parties herein, does not discriminate against any telecommunications carrier not a party to the Agreement. The Commission also finds no provisions of the Agreement which are inconsistent with the public interest, convenience and necessity.

Conclusions of Law

The Missouri Public Service Commission has arrived at the following conclusions of law.

The Commission, under the provisions of Section 252 of the Telecommunications Act of 1996, 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 Agreement between SWBT and AWS 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 Southwestern Bell Telephone Company and AT&T Wireless Services, Inc. filed on April 25, 1997, along with the Revised Pricing Appendix is approved.

2. That Southwestern Bell Telephone Company and AT&T Wireless Services, Inc. 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 the Commission, by approving this Agreement, makes no finding as to whether Southwestern Bell Telephone Company has fulfilled the requirements of Section 271 of the Telecommunications Act of 1996, including the competitive checklist of any of the fourteen items listed in Section 271(c)(2)(B).

5. That this Report And Order shall become effective on July 24, 1997.

BY THE COMMISSION



**Cecil I. Wright
Executive Secretary**

(S E A L)

Zobrist, Chm., Crumpton, Drainer,
Murray and Lumpe, CC., concur.

Dated at Jefferson City, Missouri,
on this 16th day of July, 1997.