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July 17, 2002

Secretary of PSC  
Missouri Public Service Commission  
P. O. Box 360  
Jefferson City, MO 65102

**FILED**<sup>2</sup>

JUL 17 2002

Re: Consolidated Case No. TC-2002-57

Missouri Public  
Service Commission

Dear Secretary:

Enclosed for filing please find an original and eight (8) copies each of Petitioner's Motion Requesting Commission Take Official Notice of Documents in the above cited case. A copy has been sent to all attorneys of record listed below.

Thank you for seeing this filed.

Sincerely,



Lisa Cole Chase

LCC:sw

Enc.

cc: MITG Managers  
PSC General Counsel  
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**FILED<sup>2</sup>**

JUL 17 2002

Missouri Public  
Service Commission

Petitioners,

Case No. TC-2002-57

Case No. TC-2002-113

Case No. TC-2002-114

Case No. TC-2002-167

Case No. TC-2002-181

Case No. TC-2002-182

Consolidated

### Respondents.

COMES NOW Petitioners, Mid-Missouri Telephone Company, Alma Telephone Company, Northeast Missouri Rural Telephone Company, Modern Telecommunications Company, MoKan Dial, Inc., Choctaw Telephone Company, and Chariton Valley Telephone Company, (“MITG Companies”) and pursuant to § 536.070(6) RSMo and 4 CSR 240-2.130(2), hereby request the Missouri Public Service Commission (“Commission”) to take official notice of the referenced portions of the following interconnection agreement, and the Commission order approving same:

1. The interconnection agreement between Southwestern Bell Telephone Company and VoiceStream Wireless Corporation, which was submitted for approval pursuant to §

252(e)(1) of the Telecommunications Act of 1996, 47 U.S.C. § 252(e)(1), and was approved by the Commission pursuant to § 252(e)(1) of the Act in case TO-2001-489 on April 17, 2001.

2. After approval by the Commission, the interconnection agreement was duly filed with the Commission pursuant to 4 CSR 240-30.010. Upon filing, this interconnection agreement became a part of the law of the State of Missouri pursuant to § 392.220.1 RSMo. *Central Controls Co., Inc. v. AT & T Information Systems, Inc.*, 746 S.W.2d 150, 153 (Mo. App. E.D. 1988) (“*Central Controls*”).


3. Pursuant to §536.070(6) RSMo, an agency “shall take official notice of all matters of which the courts take judicial notice.” As the interconnection agreement is recognized as part of the law of Missouri, the Commission may take official notice of the interconnection agreement. *Central Controls*, 746 S.W.2d at 153.

4. This interconnection agreement is 60 or more pages in length. Producing the entire agreement as an exhibit, with the requisite number of copies, would be cumbersome and burdensome, as well as costly to reproduce. Petitioner’s recognize other parties may desire notice and use of other excerpts.

WHEREFORE Petitioners request that the Commission take official notice, for purposes of this proceeding, of the complete interconnection agreement cited above, and more specifically the attached Commission order in Case No. TO-2001-489, which approved the interconnection agreement, and the following portions of said interconnection agreement: pages 1-5, 15-19, 42-43, 48, and 65.

Respectfully Submitted,

**ANDERECK, EVANS, MILNE,  
PEACE & JOHNSON, L.L.C.**

By   
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**ATTORNEYS FOR PETITIONERS**

**CERTIFICATE OF SERVICE**

The undersigned does hereby certify that a true and accurate copy of the foregoing was mailed, via U.S. Mail, postage prepaid, this 17<sup>th</sup> day of July, 2002, to all attorneys of record in this proceeding.

  
Lisa Cole Chase Mo Bar No. 51502

FILED<sup>2</sup>

MAR 15 2001

Missouri Public  
Service Commission  
T0-2001-489

MISSOURI

**AGREEMENT FOR INTERCONNECTION  
AND RECIPROCAL COMPENSATION**

by and between

VOICESTREAM WIRELESS CORPORATION

and

SOUTHWESTERN BELL TELEPHONE COMPANY

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GSA

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PRICING

that interconnect Carrier's point of interconnection with SWBT's point of interconnection. SWBT shall provision mobile to land connecting facilities for Carrier under the terms and conditions specified in Section 7 of the applicable interstate or intrastate Special Access Tariffs.

### 3.1.2 Land to Mobile Traffic

3.1.2.1 SWBT shall be responsible for the delivery of traffic from its network to the appropriate point of interconnection (within the serving wire center boundary of the end office in which the tandem, providing Type 2A Interconnection, is located, or within the serving wire center boundary of the end office providing Type 1 Interconnection) on its network for the transport and termination of such traffic by Carrier to the handset of a Carrier end user.

3.1.2.2 Unless SWBT elects to have Carrier or a third party provision facilities under section 2.4, SWBT shall provide the physical plant facilities that interconnect SWBT's point of interconnection with Carrier's point of interconnection. SWBT shall be responsible for the physical plant facility from its network to the appropriate point of interconnection within the serving wire center boundary of the end office in which the tandem, providing Type 2A Interconnection, is located, or within the serving wire center boundary of the end office providing Type 1 Interconnection.

### 3.1.3 Traffic To Third Party Providers

Carrier and SWBT shall compensate each other for traffic that transits their respective systems to any Third Party Provider, as specified in Appendix PRICING. The Parties agree to enter into their own agreements with Third Party Providers. In the event that Carrier sends traffic through SWBT's network to a Third Party Provider with whom Carrier does not have a traffic interchange agreement, then Carrier agrees to indemnify SWBT for any termination charges rendered by a Third Party Provider for such traffic.

## 3.2 **Reciprocal Compensation**

### 3.2.1 Rates

The Parties shall provide each other symmetrical, Reciprocal Compensation for the transport and termination of Local Traffic at the

rates specified in Appendix PRICING. SWBT shall compensate Carrier for the transport and termination of Local Traffic originating on SWBT's network; Carrier shall compensate SWBT for the transport and termination of Local Traffic originating on Carrier's network. Compensation shall vary based on the method of interconnection used by the Parties, as specified in Appendix PRICING. Additional charges may also apply (on a non-symmetrical, non-reciprocal basis) as provided for in this Agreement. The Parties acknowledge that the rates set forth in Appendix PRICING are interim and shall be replaced by final rates as adopted by the Commission or the FCC, based on a final and unappealable ruling, and as further described below and in section 14.

### 3.2.2 True Up

The Parties recognize that rates, among other things, provided for under this Agreement may be affected by subsequent ruling of state or federal legislative bodies, courts, or regulatory agencies of competent jurisdiction. Accordingly, the Parties agree that in the event of such a final, non-appealable ruling, the Parties shall true up the Reciprocal Compensation provided for in this section once the ruling, decision or other mandate becomes effective, final and non-appealable (the "True Up Date"). The Parties shall complete true up 60 days after the True Up Date. The Parties agree that such True Up will include the Reciprocal Compensation associated with the provisioning of an AWCP, as outlined in paragraph 5.5.2.

### 3.2.3 Exclusions

Reciprocal Compensation shall apply solely to the transport and termination of Local Traffic, and shall not apply to any other traffic or services, including without limitation:

- 3.2.3.1 interMTA traffic;
- 3.2.3.2 Transiting Traffic;
- 3.2.3.3 traffic which neither originates nor terminates on Carrier's network; and
- 3.2.3.4 Paging Traffic.

### 3.2.4 Measuring Calls as Local Traffic

In order to measure whether traffic is Local Traffic for purposes of calculating Reciprocal Compensation, the Parties agree as follows: for SWBT, the origination or termination point of a call shall be the end office

which serves, respectively, the calling or called party. For Carrier, the origination or termination point of a call shall be the cell site/base station which serves, respectively, the calling or called party at the time the call begins.

### 3.2.5 Conversation Time

For purposes of billing compensation for the interchange of Local Traffic, billed minutes will be based upon conversation time. Conversation time will be determined from actual usage recordings. Conversation time begins when the terminating Party's network receives answer supervision and ends when the terminating Party's network receives disconnect supervision.

## 3.3 **Additional Compensation**

In addition to any other charges specified in this Agreement, the following charges may be applicable as specified in this Agreement at the rates listed in Appendix PRICING. Charges listed are in addition to, not exclusive of, any other charges that may be applicable under this Agreement.

3.3.1 Transiting Charge: Each Party shall compensate the other Party for traffic which transits the other Party's network destined to a Third Party Provider at rates specified in Appendix PRICING.

3.3.2 Facilities Charges: Each Party shall compensate the other (not on a reciprocal, symmetrical basis) for the use of the providing Party's facilities between Carrier and SWBT points of interconnection, in either direction, as the case may be.

3.3.3 Special Requests: All requests for (i) services covered by this Agreement for which facilities do not exist, (ii) facilities, equipment or technologies not in the providing Party's sole discretion, necessary to fulfill a request under this Agreement, or (iii) services not specifically enumerated in this Agreement, shall be handled as a Special Request, as described in Section 6.1.2.2. Special Requests under (ii) may include, without limitation, requests for fiber, microwave, alternate routing, redundant facilities and other non-standard facilities or services.

## 3.4 **Signaling**

SWBT will provide at Carrier's request Signaling System 7 ("SS7") in order to allow out of band signaling in conjunction with the exchange of traffic between the Parties' respective networks. SWBT shall provide such service at the rates specified in Appendix PRICING. This rate is for the use of multiple SWBT STPs in the provisioning of mobile to land traffic. Charges for STP Access Links and Port Terminations used to connect Carrier's MSC or STP (whichever is

applicable) and SWBT's STP shall be shared by the Parties based on the proportional (percentage) basis as specified in Appendix PRICING and at rates specified in Section 23 of FCC Tariff No. 73.

#### **4. TRANSMISSION AND ROUTING OF EXCHANGE ACCESS SERVICE PURSUANT TO SECTION 251(C)(2)**

This Section 4 provides the terms and conditions for the exchange of traffic between Carrier's network and SWBT's network for switched access to IXCs, thus enabling Carrier end users to access IXCs for the transmission and routing of interMTA and interLATA calls.

##### **4.1 General**

4.1.1 Carrier may order Equal Access Trunks in order to provide for access to IXCs through SWBT's network. Equal Access Trunks shall be used solely for the transmission and routing of Exchange Access to allow Carrier's end users to access IXCs, and shall not be used by Carrier for any other purpose.

4.1.2 For as long as SWBT may require, Carrier shall provide SWBT the appropriate call data to allow SWBT to bill IXCs for Originating Access (as defined below). Such data shall be provided in a form mutually agreed to by the Parties. SWBT shall notify Carrier in writing when it no longer requires Carrier to provide such data.

##### **4.2 Access Charges**

###### **4.2.1 When Applicable**

Carrier shall pay SWBT Switched Access charges (including Carrier Common Line, Local Switching and Transport) for any and all traffic which crosses an MTA boundary (as defined by the cell site/base station at which the call originates or terminates and the SWBT end user's serving wire center at which the call originates or terminates). Switched Access charges are specified in Appendix PRICING paragraph 5.2 as InterMTA rates.

Both Parties recognize that legislative and regulatory activities may impact the rates, terms and conditions associated with Switched Access services. The Parties agree that any rate changes associated with Switched Access services will flow through to the InterMTA rates specified in Appendix PRICING as stated in Section 14 of this Agreement.

If traffic is handed from SWBT directly to an IXC, from Carrier to an IXC via equal access trunks, or from an IXC directly to SWBT, access charges shall not apply to Carrier.

#### 4.2.2 InterMTA Factor

The Parties have agreed upon the interMTA factor specified in Appendix PRICING, which represents the percent of total minutes to be billed access charges. Carrier represents that the factor is based on a reasonable traffic study conducted by Carrier, and shall make such study available to SWBT upon request. Six months after the effective date of this Agreement, and every six (6) months thereafter, Carrier shall conduct a study (available to SWBT on request) to ensure the Parties are using an accurate interMTA factor.

The Parties agree that if the percent of land to mobile interMTA traffic is less than 3% of total land to mobile traffic, then such traffic will be deemed as de minimis and the land to mobile factor will be set at 0%.

The Parties agree that the percent of land to mobile interMTA traffic is less than 3% of the total land to mobile traffic as of the effective date of this Agreement.

#### 4.2.3 Examples

Following are two examples of traffic for which Carrier shall be required to pay access charges. They are examples only and in no way shall be deemed limiting or exhaustive of the applicability of access charges under this Agreement.

4.2.3.1 When a SWBT end user calls a Carrier end user (a land to mobile call), SWBT delivers the call to Carrier, and Carrier transports the call across MTA boundaries (either directly or through an IXC, access charges shall apply to Carrier ("Originating Access")).

4.2.3.2 When a Carrier end user calls a SWBT end user (a mobile to land call), the call crosses MTA boundaries, and Carrier transports the call across MTA boundaries, access charges shall apply to Carrier ("Terminating Access").

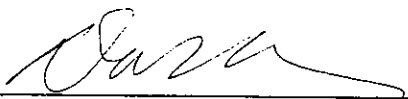
### 5. TRANSMISSION AND ROUTING OF OTHER TYPES OF TRAFFIC

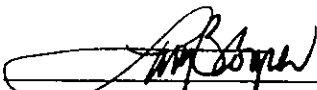
This Section 5 provides the terms for the exchange of 800/888 traffic, 911/E911 traffic, and Directory Assistance traffic from an end user on Carrier's network to SWBT's network.

#### 5.1 **800/888 Traffic**

If this Agreement is acceptable to Carrier and SWBT, both Parties will sign in the space provided below. This Agreement shall not bind Carrier and SWBT until executed by both parties.<sup>4</sup>

THIS AGREEMENT CONTAINS A BINDING ARBITRATION AGREEMENT.

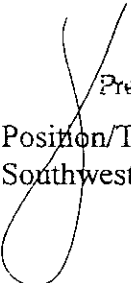
  
\_\_\_\_\_  
Sign:

  
\_\_\_\_\_  
Sign:

David Miller  
\_\_\_\_\_  
Print Name:

Larry Cooper  
\_\_\_\_\_  
Print Name:

Vice President of Legal Affairs  
\_\_\_\_\_  
Position/Title  
VoiceStream Wireless Corporation

  
\_\_\_\_\_  
President-Industry Markets  
Position/Title  
Southwestern Bell Telephone Company

1-5-00  
\_\_\_\_\_  
Date:

1-22-00  
\_\_\_\_\_  
Date:

<sup>4</sup> This Agreement is based on an approved contract previously entered into by Southwestern Bell Telephone Company and Western Wireless. Thus, notwithstanding language in the body of the Agreement or any attachments thereto, rates, terms, and conditions of this Agreement shall only apply after the Effective Date of this Agreement.

## MISSOURI

### APPENDIX PRICING

#### 1.0 Mobile to Land Interconnection Rates Per Minute of Use

Type 2A	Type 1	Type 2B	Transiting
\$.01	\$.01	\$.004	\$.004

#### 2.0 Land to Mobile Interconnection Rates Per Minute of Use

All Interconnection Types	Transiting
\$.01	\$.004

#### 3.0 Carrier facilities will be provided at rates, terms, and conditions developed on an individual case basis.

#### 4.0 Shared Facility (1)(2)

4.1	Shared Facility Factor - Carrier	.80
4.2	Shared Facility Factor - SWBT	.20

#### 5.0 Inter MTA Traffic (2)

##### 5.1 Inter MTA Traffic Factor

Land to Mobile: if less than 3% is reported then factor will be set at 0%, if greater than 3% then factor will be actual percentage reported

Mobile to Land: 0%

##### 5.2 Inter MTA Rates (to be paid to SWBT by Carrier on applicable Inter MTA calls)

Land to Mobile (originating)	\$.023971
Mobile to Land (terminating)	\$.023971

(1) These factors represent the percentage of the facility rate that each Party will pay for each shared connecting facility.

(2) This is an interim factor agreed to by Carrier and SWBT. This factor is to be verified within six (6) months of the Effective Date of this Agreement.



## Appendix GSA

State	Licensee	License Area	Switch Locations in the State
Texas	Western PCS I License Corp.	El Paso MTA	El Paso  Midland
Texas	GCC License Corporation	TX-3, TX-8, TX-12, TX-13, TX-14, TX-15  Abilene MSA  San Angelo MSA	Lubbock
Texas	Odessa Cellular License Corp.	Odessa MSA	
Texas	Midland Cellular License Corp.	Midland MSA	
Texas	KETS Partnership	Lubbock MSA	
Oklahoma	Western PCS I License Corp.	Oklahoma City MSA	Oklahoma City
Missouri	GCC License Corporation	MO-9	Salina, KS
Kansas	GCC License Corporation	KS-3,KS-4, KS-8, KS-9, KS-10, KS-14	Salina

## Appendix GSA

State	Licensee	License Area	Switch Locations in the State
Texas	Western PCS I License Corp.	El Paso MTA	El Paso
Texas	VoiceStream PCS BTA I License Corporation	Lubbock BTA	None
Texas	Cook Inlet/VoiceStream PCS L.L.C.	Dallas-Fort Worth BTA	None
Oklahoma	VoiceStream PCS I License L.L.C.	Oklahoma City MTA	Oklahoma City
Oklahoma	VoiceStream PCS BTA I License Corporation	Oklahoma City BTA Stillwater BTA Enid BTA Ponca BTA	Oklahoma City
Oklahoma	Cook Inlet Western Wireless PV/SS PCS, L.P.	Bartlesville BTA Muskogee BTA Tulsa BTA	Tulsa
Kansas	Cook Inlet Western Wireless PV/SS PCS, L.P.	Pittsburg-Parsons BTA Coffeyville BTA	None
Missouri	VoiceStream PCS BTA I License Corporation	Jefferson City BTA Poplar Bluff BTA Quincy, IL - Hannibal, MO BTA Rolla BTA West Plains BTA Cape Girardeau-Sikeston BTA	None

**BEFORE THE PUBLIC SERVICE COMMISSION**

## OF THE STATE OF MISSOURI

In the Matter of the Application of )  
VoiceStream Wireless Corporation for )  
Approval of its Interconnection Agreement ) Case No. TO-2001-489  
with Southwestern Bell Telephone Company )  
Under Section 252(e) of the )  
Telecommunications Act of 1996 )

### ORDER APPROVING INTERCONNECTION AGREEMENT

On March 15, 2001, VoiceStream Wireless Corporation filed an application with the Missouri Public Service Commission for approval of an interconnection agreement with Southwestern Bell Telephone Company. The Agreement was filed under Section 252(e)(1) of the Telecommunications Act of 1996.<sup>[1]</sup> The Agreement is a wireless interconnection and reciprocal compensation agreement.

Although SWBT is a party to the Agreement, it did not join in the application. On March 20, 2001, 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 April 9, 2001. 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.<sup>[2]</sup> Since no one has requested a hearing, the Commission may grant the relief requested based on the application.

The Staff of the Commission filed a memorandum and recommendation on April 12, 2001, 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.

### **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 under 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.<sup>[3]</sup> 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.<sup>[4]</sup> 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 under Commission Rule 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. If 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. When 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. When 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 VoiceStream 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 VoiceStream Wireless Corporation and Southwestern Bell Telephone Company, filed on March 15, 2001, is approved.

2. That any changes or modifications to this Agreement must be filed with the Missouri Public Service Commission under the procedure outlined in this order.



3. That this order shall become effective on April 27, 2001.

4. That this case may be closed on April 28, 2001.

**BY THE COMMISSION**

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

( S E A L )

Bill Hopkins, Senior Regulatory Law  
Judge, by delegation of authority  
under Section 386.240, RSMo 2000.

Dated at Jefferson City, Missouri,  
on this 17th day of April, 2001.

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[1] See 47 U.S.C. Section 251, et seq.

[2] *State ex rel. Rex Deffenderfer Enterprises, Inc. v. Public Service Commission*, 776 S.W.2d 494, 496 (Mo. App. 1989).

[3] 47 U.S.C. Section 252.

[4] 47 U.S.C. Section 252(h).