

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

In the Matter of the Application of Nextel West Corp., )  
d/b/a Nextel, for Approval of an Amendment to Its )  
Interconnection Agreement with Southwestern Bell )  
Telephone, L.P., d/b/a SBC Missouri, Pursuant to )  
to Section 252(e) of the Telecommunications Act of )  
1996. )

**Case No. TK-2005-0309**

**ORDER APPROVING AMENDMENTS**  
**TO INTERCONNECTION AGREEMENT**

This order approves the amendments to an interconnection agreement between the parties as filed by Nextel West Corp. d/b/a Nextel.

On March 17, 2005, Nextel filed an application with the Commission for approval of amendments to its interconnection agreement with Southwestern Bell Telephone, L.P. d/b/a SBC Missouri. Nextel and SBC Missouri's interconnection agreement was approved by the Commission in Case No. TO-99-149.

The amendments were filed pursuant to Section 252(e)(1) of the Telecommunications Act of 1996.<sup>1</sup> The amendments would provide for rates, terms, and conditions for the exchange of traffic in accordance with an interim ISP termination compensation plan. SBC Missouri holds a certificate of service authority to provide basic local exchange telecommunications services in Missouri. Nextel is a commercial mobile radio service provider in Missouri.

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<sup>1</sup> See 47 U.S.C. § 251, *et seq.*

Although SBC Missouri is a party to the Agreement, it did not join in the application. On March 24, 2005, the Commission issued an order making SBC Missouri a party in this case and directing any party wishing to request a hearing to do so no later than April 13, 2005. No requests were received.

The Staff of the Commission filed a memorandum and recommendation on April 18, 2005, recommending that the Agreement be approved.

### **Discussion**

Under Section 252(e) of the Act, any interconnection agreement adopted by negotiation must be submitted to the Commission for approval. The Commission may reject an agreement if it finds that the agreement is discriminatory or that it is not consistent with the public interest, convenience and necessity.

The Staff memorandum recommends that the amendments to the Agreement be approved and notes that the Agreement meets the limited requirements of the Act in that it is not discriminatory toward nonparties and is not against the public interest. Staff recommends that the Commission direct the parties to submit any further modifications or amendments to the Commission for approval and to submit a sequentially numbered agreement.

### **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 as amended meets the requirements of the Act in that it does not discriminate

against a nonparty carrier and implementation of the Agreement as amended is not inconsistent with the public interest, convenience and necessity. The Commission finds that approval of the Agreement as amended should be conditioned upon the parties submitting any further modifications or amendments to the Commission for approval pursuant to the procedure set out below. The Commission will also order the parties to submit a sequentially numbered copy of the Agreement as amended.

### **Modification Procedure**

The Commission has a duty to review all interconnection agreements, whether arrived at through negotiation or arbitration, as mandated by the Act.<sup>2</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 interconnection agreement available for public inspection.<sup>3</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.<sup>4</sup>

The parties to each 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.

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<sup>2</sup> 47 U.S.C. § 252.

<sup>3</sup> 47 U.S.C. § 252(h).

<sup>4</sup> 4 CSR 240-3.545.

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 in the Commission's Data Center.

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 has 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,<sup>5</sup> is required to review negotiated interconnection

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<sup>5</sup> 47 U.S.C. § 252(e)(1).

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.<sup>6</sup> Based upon its review of the amendments to the Agreement between Nextel and SBC Missouri and its findings of fact, the Commission concludes that the Agreement as amended is neither discriminatory nor inconsistent with the public interest and should be approved.

The Commission notes that prior to providing telecommunications services in Missouri, a party shall possess the following: (1) an interconnection agreement approved by the Commission; (2) except for wireless providers, a certificate of service authority from the Commission to provide interexchange or basic local telecommunications services; and (3) except for wireless providers, a tariff approved by the Commission.

**IT IS THEREFORE ORDERED:**

1. That the amendments to the interconnection agreement between Nextel West Corp. d/b/a Nextel, and Southwestern Bell Telephone, L.P. d/b/a SBC Missouri, filed on March 17, 2005, are approved.
2. That any changes or modifications to this Agreement shall be filed with the Commission pursuant to the procedure outlined in this order.
3. That no later than May 6, 2005, Nextel West Corp. d/b/a Nextel shall submit a copy of the Agreement as amended to the Data Center of the Missouri Public Service Commission, with the pages sequentially numbered. On the same date, Nextel West Corp. d/b/a Nextel shall file a notice in the official case file advising the Commission that it has complied with this order.

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<sup>6</sup> 47 U.S.C. § 252(e)(2)(A).

4. That this order shall become effective on May 6, 2005.

**BY THE COMMISSION**

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

( S E A L )

Nancy Dippell, Senior Regulatory  
Law Judge, by delegation of authority  
pursuant to Section 386.240, RSMo 2000.

Dated at Jefferson City, Missouri,  
on this 26th day of April, 2005.