

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

In the Matter of the Application for Approval of       )  
Adoption of and Amendments to the Interconnection )  
Agreement between DIECA Communications, Inc.,    )  
d/b/a Covad Communications Company and            )  
Southwestern Bell Telephone, L.P. d/b/a AT&T       )  
Missouri    )

**Case No. TK-2008-0264**

**ORDER DIRECTING NOTICE AND MAKING**  
**SOUTHWESTERN BELL TELEPHONE, L.P.**  
**D/B/A AT&T MISSOURI A PARTY**

Issue Date: February 19, 2008

Effective Date: February 19, 2008

This order provides notice of a proposal to adopt and amend an interconnection agreement and joins the other party to the agreement as a party to this proceeding.

On February 13, 2008, DIECA Communications, Inc., d/b/a Covad Communications Company (Covad) filed a Notice of Adoption of and Amendments to Interconnection Agreement, notifying the Commission of its desire to adopt the terms of the Interconnection Agreement between AT&T Missouri and NuVox Communications of Missouri, Inc. (NuVox), pursuant to Section 252(i) of the federal Telecommunications Act of 1996.<sup>1</sup> The Agreement between AT&T Missouri and NuVox was approved by the Commission in Case No. TK-2006-0072.

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<sup>1</sup> See 47 U.S.C. § 252, et seq.

Although AT&T Missouri is a party to the agreement, it did not join in the notice. Because AT&T Missouri is a necessary party to a full and fair adjudication of this matter, the Commission will add it as a party to this case.

The Act provides that an interconnection or resale agreement must be approved unless the state commission finds that the agreement discriminates against a telecommunications carrier not a party to the agreement, or that implementation of the agreement is not consistent with the public interest, convenience, and necessity.<sup>2</sup> The Act provides further that a local exchange carrier “shall make available any interconnection, services, or network element provided under an agreement . . . to which it is a party to any other requesting telecommunications carrier upon the same terms and conditions as those provided in the agreement.”<sup>3</sup> This provision has been interpreted as permitting any carrier to adopt any interconnection agreement previously entered into by any local exchange carrier with any other carrier. The Federal Communications Commission has adopted 47 C.F.R. Section 51.809 (Rule 809), referred to as the “pick and choose” rule, to implement Section 252(i). Rule 809 requires an incumbent local exchange company to make available to any requesting telecommunications carrier “any individual interconnection, service or network element arrangement contained in any agreement to which it is a party that is approved by a state commission pursuant to section 252 of the Act. . . .”

The Commission finds that proper persons shall be allowed 20 days from the issuance of this order to file a motion for hearing.

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<sup>2</sup> 47 U.S.C. § 252(e).

<sup>3</sup> 47 U.S.C. § 252(i).

Section 252(e)(4) of the Act provides that if the Commission has not approved an agreement within 90 days after submission, the agreement shall be deemed approved. Therefore, the Commission will proceed with this case expeditiously.

The Commission finds that notice of this case shall be sent to all interexchange and local exchange telecommunications companies.

**IT IS ORDERED THAT:**

1. The Commission's Data Center shall send notice to all interexchange and local exchange telecommunications companies.
2. Southwestern Bell Telephone, L.P. d/b/a AT&T Missouri is made a party to this case.
3. Any party wishing to request a hearing shall do so by filing a pleading no later than March 10, 2008, with:

Colleen M. Dale, Secretary  
Missouri Public Service Commission  
Post Office Box 360  
Jefferson City, Missouri 65102

and send copies to:

Carl J. Lumley  
Curtis, Heinz, Garrett & O'Keefe, P.C.  
130 S. Bemiston, Suite 200  
St. Louis, Missouri 63105

Leo Bub  
AT&T Missouri  
One SBC Center, Room 3518  
St. Louis, Missouri 63101

and:

Office of the Public Counsel  
Post Office Box 2230  
Jefferson City, Missouri 65102

4. The Staff of the Commission shall file a memorandum advising either approval or rejection of the proposed adoption of and amendments to the Interconnection Agreement, and giving its reasons therefor, no later than March 20, 2008.

5. This order shall become effective on February 19, 2008.

**BY THE COMMISSION**

A handwritten signature in black ink, appearing to read 'Colleen M. Dale', written over a horizontal line.

Colleen M. Dale  
Secretary

( S E A L )

Colleen M. Dale, Chief Regulatory Law Judge,  
by delegation of authority pursuant to  
Section 386.240, RSMo 2000.

Dated at Jefferson City, Missouri,  
on this 19th day of February, 2008.