

BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI

Application of Cass County Telephone Company)
for Approval of a Traffic Termination Agreement)
under the Telecommunications Act of 1996.)

Case No. TO-2006-0233

ORDER APPROVING INTERCONNECTION AGREEMENT
AND CLOSING CASE

Issue Date: January 4, 2006

Effective Date: January 14, 2006

Procedural History:

On November 30, 2005, Cass County Telephone Company filed an application with the Commission for approval of a Traffic Termination Agreement with United States Cellular Corporation¹ under the provisions of the federal Telecommunications Act of 1996.² Cass County states that there are no unresolved issues and that the agreement complies with Section 252(e) of the Act in that it is not discriminatory to nonparty carriers and is consistent with the public interest. Cass County requests approval of the agreement.

On December 6, the Commission made U.S. Cellular a party and directed notice of the application to all interexchange and local exchange telecommunications companies operating in Missouri, setting December 16 as the deadline for intervention applications. No such applications were received.

¹ Also known as "U.S. Cellular."

² Pub. L. No. 104-104, 110 Stat. 56, codified as various sections of Title 47, United States Code ("the Act").

The Commission's Staff timely filed its Memorandum and Recommendation on December 20, advising the Commission to approve the agreement between Cass County and U.S. Cellular.

Discussion:

The parties style their agreement a "traffic termination agreement." A traffic termination agreement is a species of interconnection agreement because it concerns the exchange of telecommunications traffic, and compensation therefor, between two telecommunications carriers. The Commission is authorized to approve interconnection agreements by § 252(e)³ of the Act, which provides:

(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) of this section 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; or

(B) an agreement (or any portion thereof) adopted by arbitration under subsection (b) of this section if it finds that the agreement

³ 47 U.S.C. § 252(e).

does not meet the requirements of section 251 of this title, including the regulations prescribed by the Commission pursuant to section 251 of this title, or the standards set forth in subsection (d) of this section.⁴

Under § 252(e)(1) of the Act, every interconnection agreement must be submitted to the Commission for approval. The Commission may reject a negotiated agreement if it finds that the agreement is discriminatory or that it is not consistent with the public interest, convenience and necessity. The Commission may reject an arbitrated agreement if it finds that the agreement does not meet the requirements of § 251 of the Act, including the F.C.C.'s implementing regulations, or the pricing standards in § 252(d) of the Act. In the present case, it is the former standard that applies.

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.

Cass County and U.S. Cellular filed their proposed agreement on November 30, 2005, accompanied by facsimile signature pages executed by representatives of both of them. The agreement recites that it is made pursuant to § 251 of the Act. The agreement concerns the exchange of traffic and the corresponding payment of compensation by the parties. Staff states that it has reviewed the proposed agreement and is of the opinion that it does not discriminate against non-party carriers and is not contrary to the public interest, convenience or necessity. Staff recommends that the Commission approve the agreement.

The Commission finds that approval of the agreement shall be conditioned upon the parties submitting any amendments to the Commission for approval pursuant to the procedure set out below.

⁴ Subsection (d) contains pricing standards.

Amendment 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.⁵ In order for the Commission's role of review and approval to be effective, the Commission must also review and approve or recognize amendments to these agreements. The Commission has a further duty to make a copy of every resale and interconnection agreement available for public inspection.⁶ 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.⁷

The parties to each resale or interconnection agreement must maintain a complete and current copy of the agreement, together with all amendments, in the Commission's offices. Any proposed amendment must be submitted pursuant to Commission Rule 4 CSR 240-3.513(6).

Conclusions of Law:

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

The Commission concludes that a traffic termination agreement is legally indistinguishable from other interconnection agreements and is thus subject in all respects to the requirements of the Act.

⁵ 47 U.S.C. § 252.

⁶ 47 U.S.C. § 252(h).

⁷ 4 CSR 240-3.545.

The Commission, under the provisions of § 252(e) of the Telecommunications Act of 1996,⁸ is required to review interconnection agreements. It may only reject a negotiated agreement if it finds that the agreement, or some portion thereof, discriminates against a telecommunications carrier not a party to the agreement; or that the implementation of the agreement is not consistent with the public interest, convenience, and necessity. Based upon its review of the agreement between Cass County and U.S. Cellular, and Staff's Memorandum and Recommendation, the Commission concludes that the agreement does not discriminate against any non-party carrier and that its implementation is consistent with the public interest, convenience, and necessity. For these reasons, the Commission concludes that this agreement will 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 application filed by Cass County Telephone Company on November 30, 2005, is approved.
2. That the Traffic Termination Agreement between Cass County Telephone Company and United States Cellular, filed by Cass County Telephone Company on November 30, 2005, is approved.

⁸ 47 U.S.C. § 252(e)(1).

3. That any changes or amendments to this interconnection agreement shall be submitted to the Commission for approval in compliance with Commission Rule 4 CSR 240-3.513(6).

4. That this order shall become effective on January 14, 2006.

5. That this case shall be closed on January 15, 2006.

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 4th day of January, 2006.