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**STATE OF MISSOURI
PUBLIC SERVICE COMMISSION**

At a session of the Public Service
Commission held at its office
in Jefferson City on the 10th
day of June, 1997.

Joint Application of Southwestern Bell Telephone)
Company and Comm South Companies, Inc. d/b/a)
Missouri Comm South for Approval of Resale Agree-) Case No. TO-97-447
ment under the Telecommunications Act of 1996.)
)

ORDER APPROVING RESALE AGREEMENT

Southwestern Bell Telephone Company (SWBT) and Comm South
Companies, Inc. d/b/a Missouri Comm South (Comm South) filed an Application
with the Commission on April 9, 1997, for approval of an interconnection
agreement (Agreement) between SWBT and Comm South under the provisions of
the Telecommunications Act of 1996 (the Act). The Agreement was filed
pursuant to Section 252(e)(1) of the Act. See 47 U.S.C. § 251, *et seq.*
Comm South wants to resell local exchange service to residential and
business end users.

The Commission issued an Order and Notice directing interested
parties wishing to participate or request a hearing to do so no later than
May 6, 1997. There were no applications to participate or requests for
hearing. Accordingly, the Commission may grant the relief requested based
on the verified application. State ex rel. Rex Deffenderfer Enterprises,
Inc. v. Public Service Commission, 776 S.W.2d 494, 496 (Mo. App. 1989).

The Commission Staff (Staff) filed a Memorandum on May 20, 1997,
recommending that the Agreement be approved. Staff stated that the
Agreement does not appear to discriminate against non-party telecommunica-

tions carriers or to be against the public interest. Staff recommended that the Commission require the parties to submit any 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, under the provisions of Section 252(e) of the federal Telecommunications Act of 1996, has authority to approve an interconnection agreement negotiated between an incumbent local exchange company (LEC) and a new provider of basic 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;

Staff stated in its recommendation that the terms of this Agreement are similar to those of other resale agreements previously approved by the Commission. The resale Agreement between SWBT and Comm South is to become effective ten days after Commission approval and the initial term of the contract is ninety days. After the ninety days, the Agreement will remain in effect until one of the parties gives 60 days written notice of termination. Because Comm South contemplates providing service only as a reseller, the Agreement contains no provisions regarding interconnection of the parties' facilities.

SWBT agreed to make available to Comm South customers access to 911 and E911 (enhanced 911) services. SWBT also agreed to make available intraLATA toll dialing parity in accordance with Section 251(b)(3) of the Telecommunications Act. The Agreement provides for a \$25.00 intercompany conversion charge when a customer switches from SWBT to Comm South. The Agreement also provides for negotiation and binding arbitration of disputes that arise between the signatories.

The Staff stated in its recommendation that the Agreement meets the limited requirements of the Telecommunications Act of 1996 in that it does not appear to be discriminatory toward non-parties, and does not appear to be against the public interest. Staff recommended approval of the Agreement provided that all modifications to the Agreement be submitted to the Commission for approval. This condition has been applied in prior cases where the Commission has approved similar agreements.

The Commission has considered the application, its supporting documentation and Staff's recommendation. Based upon that review the Commission finds that the resale Agreement proposed by the parties does not unduly discriminate against a non-party carrier, and implementation of the Agreement is not inconsistent with the public interest, convenience and necessity.

The Commission finds that it should set out the procedures for maintaining the resale 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 resale Agreement. To fulfill these objectives, the companies must have a complete and current resale 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 which are arrived at through 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 Comm South to provide Staff with a copy of the resale 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 Comm South of any modifications or changes to the Agreement. These changes or modifications will be substituted in the Agreement, so 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 what changes or modifications have occurred will be the official case file.

The Commission does not intend that a full proceeding will occur every time a change or modification is 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 make a recommendation. The Commission, if necessary, will allow for responses and then will rule on the pleadings unless it determines 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.

Conclusions of Law

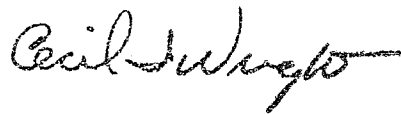
The Missouri Public Service Commission has arrived at the following conclusions of law.

The Commission, under the provisions of Section 252(e) of the Telecommunications Act of 1996, 47 U.S.C. § 252(e), is required to review negotiated resale agreements, and may only reject an agreement upon a finding that its implementation would be discriminatory to a non-party or inconsistent with the public interest, convenience and necessity. Based upon its review of the resale Agreement between SWBT and Comm South 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 resale agreement between Southwestern Bell Telephone Company and Comm South Companies, Inc. d/b/a Missouri Comm South filed on April 9, 1997, is approved.
2. That Southwestern Bell Telephone Company and Comm South Companies, Inc. d/b/a Missouri Comm South 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 pursuant to the procedures set out above.
4. That the Commission, by approving this agreement, makes no finding on whether Southwestern Bell Telephone Company has fulfilled the requirements of Section 271 of the Telecommunications Act of 1996, including the fourteen items listed in Section 271(c)(2)(B).
5. That this Order shall become effective on June 20, 1997.

BY THE COMMISSION



**Cecil I. Wright
Executive Secretary**

(S E A L)

Zobrist, Chm., Crumpton,
Drainer and Murray, CC., concur.
Lumpe, C., not participating.

ALJ: Wickliffe