

State Corporation Comm.

NOV 17 2003

LEGAL DIVISION

DEC 05 2003

**MEMORANDUM
UTILITIES DIVISION**

TO: Chair Moline
Commissioner Wine
Commissioner Krehbiel

FROM: Susan Palmer

DATE: November 13, 2003

DATE SUBMITTED TO LEGAL: 11/14/03

DATE SUBMITTED TO COMMISSIONERS: 12/2/03

RE: Docket No. 03-SWBT-330-IAT

In the Matter of the Application of Southwestern Bell Telephone Company for Approval of Interconnection Agreement Under the Telecommunications Act of 1996 with American Fiber Systems, Inc.

BACKGROUND:

On January 17, 2003, the Commission approved the Interconnection Agreement between Southwestern Bell Telephone Company ("SWBT") and American Fiber Systems, Inc. ("AFS").

On September 8, 2003, SWBT filed this modification to amend the Interconnection Agreement to incorporate a new non-recurring rate for HFPL Line and Station Transfer-Maintenance Phase.

ANALYSIS:

The modification amends this Interconnection Agreement to incorporate a new non-recurring rate for HFPL Line and Station Transfer-Maintenance Phase, which replaces and supersedes the rate currently shown as "to be determined."

SWBT contends that implementation of this agreement complies fully with Section 252(e) of the Federal Act. SWBT believes approval is consistent with the public interest, convenience and necessity and does not discriminate against any telecommunications carrier.

Section 252(e) of the Federal Act states that state commissions may reject an agreement arrived at through negotiations only if it finds that the agreement (or portion thereof) discriminates against a telecommunications carrier not a party to the agreement; or the implementation of such

an agreement (or portion thereof) is not consistent with the public interest, convenience and necessity. Staff finds no such cause for concern.

RECOMMENDATION:

Staff recommends the Commission grant approval of these modifications to the interconnection agreement between SWBT and AFS.

cc: Don Low
Pat Shurtz

Susan Duffy
Eva Powers

Tom Behner
Anne Bos