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Senior Counsel

2002.04.11 17:02:33
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Kansas Corporation Commission
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April 11, 2002

Mr. Jeff Wagaman, Executive Director
Kansas Corporation Commission
1500 SW Arrowhead Road
Topeka, Kansas 66604-4027

KANSAS CORPORATION COMMISSION

APR 11 2002

Re: Docket No. 99-SWBT-468-IAT

Jeff A. Wagaman Docket
Room

Dear Mr. Wagaman:

Enclosed for filing with the Commission is an original and three (3) copies of an Application for Approval of a Modification to the Interconnection Agreement ("the Agreement") between Southwestern Bell Telephone Company ("SWBT") and Panhandle Telecommunications Systems, Inc. ("Panhandle") approved on February 16, 1999 in the above-captioned docket. Also enclosed is the supporting Affidavit of Michael Scott, Area Manager-Regulatory Issues.

This modification amends the Agreement to remove the Area Wide Calling Plan billing option and to extend the term of the agreement for one year. The Agreement, with this modification, and the attachments incorporated therein are an integrated package and are the result of negotiation and compromise. There are no outstanding issues between the parties that need the assistance of mediation or arbitration.

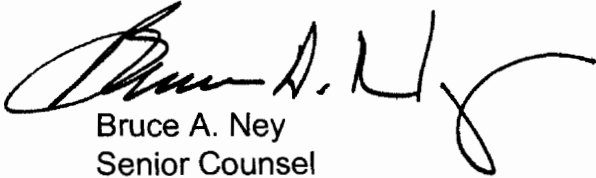
SWBT files this modification to the Agreement seeking Commission approval of its terms and conditions consistent with the Federal Telecommunications Act of 1996. SWBT represents and believes in good faith that the implementation of this modification to the Agreement is consistent with the public interest, convenience and necessity and does not discriminate against any telecommunications carrier. SWBT specifically requests that the Commission refrain from taking any action to change, suspend or otherwise delay implementation of this modification to the agreement, in keeping with the support for competition previously demonstrated by the Commission.

Contact information for Panhandle is listed below.

CLEC Officer Name:	CLEC Attorney Name:
Mr. Gary Burke	
Plant Manager	
P.O. Box 511	
Guymon, OK 73942	
Phone: 580-338-7525	
Fax: 580-338-4200	

The Commission's prompt attention to this matter would be appreciated.

Sincerely,

A handwritten signature in black ink, appearing to read "Bruce A. Ney", with a stylized flourish extending from the end.

Bruce A. Ney
Senior Counsel

Enclosures

cc: Ms. Eva Powers (transmittal letter only)
Mr. Joseph White (transmittal letter only)
Mr. Larry Cooper
Mr. Gary Burke

**BEFORE THE STATE CORPORATION COMMISSION
OF THE STATE OF KANSAS**

Application of Southwestern Bell Telephone)
Company for Approval of Interconnection and)
Reciprocal Compensation Agreement Under) Docket No. 99-SWBT-468-IAT
The Telecommunications Act of 1996 With)
Panhandle Telecommunications Systems, Inc.)

**APPLICATION OF SOUTHWESTERN BELL TELEPHONE COMPANY
FOR APPROVAL OF A MODIFICATION TO INTERCONNECTION AGREEMENT**

Southwestern Bell Telephone Company ("SWBT") hereby files this Application for Approval of a Modification to the Interconnection Agreement ("the Agreement") under the Telecommunications Act of 1996 ("Federal Act") between SWBT and Panhandle Telecommunications Systems, Inc. and would respectfully show the Kansas Corporation Commission ("Commission") the following:

I. INTRODUCTION

SWBT presents to this Commission a modification to the Agreement previously negotiated, executed and filed with the Commission on January 14, 1999 pursuant to the terms of the Federal Act. The Commission issued an order approving the Agreement on February 16, 1999.

This modification amends the Agreement to remove the Area Wide Calling Plan billing option and to extend the term of the agreement for one year. A copy of the executed Amendment which reflects the parties' agreement to incorporate this modification to the Agreement, is attached hereto as Attachment I.

II. REQUEST FOR APPROVAL

SWBT seeks the Commission's approval of this modification to the Agreement, consistent with the provisions of the Federal Act. The implementation of this modification to the Agreement complies fully with Section 252(e) of the Federal Act because the modifications are consistent with the Commission's previous conclusion that the Agreement is consistent with the public interest, convenience and necessity and does not discriminate against any telecommunications carrier.

SWBT respectfully requests that the Commission grant expeditious approval of this modification to the Agreement, without change, suspension or other delay in its implementation. The Agreement, with this modification, is a bilateral agreement, reached as a result of negotiations and compromise between competitors, and the parties do not believe a docket or intervention by other parties is necessary or appropriate.

III. STANDARD FOR REVIEW

The statutory standards of review are set forth in Section 252(e) of the Federal Act which provides as follows:

Section 252(e) of the Federal Act:

(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 . . .

The affidavit of Michael Scott, Area Manager-Regulatory Issues, establishes that the modification to the Agreement submitted herein satisfies the standards for approval under the Federal Act. (Affidavit, Attachment II).

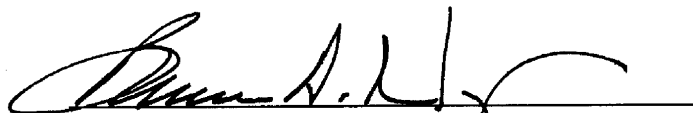
IV. KANSAS LAW

The negotiated and executed modification to the Agreement is consistent with the Kansas regulatory statutes.

V. CONCLUSION

For the reasons set forth above, SWBT respectfully requests that the Commission approve this modification to the Agreement previously approved.

SOUTHWESTERN BELL TELEPHONE COMPANY



BRUCE A. NEY (#15554) ✓
MICHELLE BOEHM O'NEAL (#18701)
220 E. Sixth Street, Room 515
Topeka, Kansas 66603-3596
(785-276-8413)

Attorneys for
Southwestern Bell Telephone Company

**AMENDMENT
to
INTERCONNECTION AGREEMENT UNDER
SECTIONS 251 AND 252 OF THE
TELECOMMUNICATIONS ACT OF 1996**

by and between

SOUTHWESTERN BELL TELEPHONE COMPANY

and

**PANHANDLE TELECOMMUNICATIONS SYSTEMS,
INC.**

AMENDMENT

to

INTERCONNECTION AND RECIPROCAL COMPENSATION AGREEMENT

between

SOUTHWESTERN BELL TELEPHONE COMPANY

and

PANHANDLE TELECOMMUNICATION SYSTEMS, INC.

The Interconnection and Reciprocal Compensation Agreement ("the Agreement") approved on February 16, 1999 in the state of Kansas, by and between Southwestern Bell Telephone Company ("SBC") and Panhandle Telecommunication Systems, Inc. ("PTSI") (jointly referred to as "the Parties"), is hereby amended as follows:

- (1) The Area Wide Calling Plan (AWCP) billing option, described in Section 5.5 of the Agreement, and associated pricing in Section 7.0 of the Appendix Pricing, shall be discontinued and unavailable as an option to PTSI after September 30, 2002. The Parties agree to cooperate and take all steps necessary to effectuate this provision.
- (2) Section 18.2 Term and Termination, of the Agreement is amended to reflect a one-year extension and now reads as follows:

18.2.1 SWBT and Carrier agree to interconnect pursuant to the terms defined in this Agreement until January 12, 2003, and thereafter this Agreement shall continue in force and effect unless and until terminated as provided herein. Either Party may terminate this Agreement by providing written notice of termination to the other Party, such written notice to be provided at least sixty (60) days in advance of the date of termination; provided, however, that no such termination shall be effective prior to the date one year from the Effective Date of this Agreement. By mutual agreement, SWBT and Carrier may amend this Agreement in writing to modify its terms.
- (3) **EXCEPT AS MODIFIED HEREIN, ALL OTHER TERMS AND CONDITIONS IN THE UNDERLYING AGREEMENT REMAIN UNCHANGED**, and all such terms and conditions are hereby incorporated by reference and the Parties hereby reaffirm the terms and provisions thereof.
- (4) This Amendment shall be filed with and is subject to approval by the Public Utility Commission and shall become effective ten (10) days following approval by such Commission.


This Amendment to the Interconnection Agreement was exchanged in triplicate on this 27th day of March, 2002, by SBC, signing by and through its duly authorized representative, and PTSI, signing by and through its duly authorized representative.

Panhandle Telecommunication Systems, Inc.

***Southwestern Bell Telephone Company**

**By: SBC Telecommunications, Inc.,
Its authorized agent**


Signature: 

Signature: 

Name: Ron Strecker
(Print or Type)

Name: O. R. Stanley
(Print or Type)

Title: Chief Executive Officer

 Title: President-Industry Markets

Date: March 21, 2002

Date: MAR 27 2002

*On January 25, 1999, the United States Supreme Court issued its opinion in *AT&T Corp. v. Iowa Utilities Board*, 525 U.S. 366 (1999) (and on remand *Iowa Utilities Board v. FCC*, 219 F.3d 744 (8th Cir. 2000)) and on June 1, 1999, the United States Supreme Court issued its opinion in *Ameritech v. FCC*, No. 98-1381, 1999 WL 116994, 1999 Lexis 3671 (June 1, 1999). In addition, on July 18, 2000, the United States Court of Appeals for the Eighth Circuit issued its opinion in *Iowa Utilities Board v. FCC*, No. 96-3321, 2000 Lexis 17234 (July 18, 2000), which is the subject of a pending appeal before the Supreme Court. In addition, on November 5, 1999, the FCC issued its Third Report and Order and Fourth Further Notice of Proposed Rulemaking in CC Docket No. 96-96 (FCC 99-238), including the FCC's Supplemental Order issued *In the Matter of the Local Competition Provisions of the Telecommunications Act of 1996*, in CC Docket No. 96-98 (FCC 99-370) (rel. November 24, 1999), which is the subject of a pending request for reconsideration and a pending appeal. By executing this amendment, SBC does not waive any of its rights, remedies or arguments with respect to any such decisions or proceedings and any remands thereof, including its right to seek legal review or a stay of such decisions and its rights contained in the Interconnection Agreement. SBC further notes that on April 27, 2001, the FCC released its Order on Remand and Report and Order in CC Dockets No. 96-98 and 99-68, *In the Matter of the Local Competition Provisions in the Telecommunications Act of 1996; Intercarrier Compensation for ISP-bound Traffic* (the "ISP Intercarrier Compensation Order.") By executing this Amendment and carrying out the intercarrier compensation rates, terms and conditions herein, SBC does not waive any of its rights, and expressly reserves all of its rights, under the ISP Intercarrier Compensation Order, including but not limited to its right to exercise its option at any time in the future to invoke the Intervening Law or Change of Law provisions and to adopt on a date specified by SBC the FCC ISP terminating compensation plan, after which date ISP-bound traffic will be subject to the FCC's prescribed terminating compensation rates, and other terms and conditions.

**BEFORE THE KANSAS CORPORATION COMMISSION
OF THE STATE OF KANSAS**

Application of Southwestern Bell Telephone)
Company for Approval of Interconnection and)
Reciprocal Compensation Agreement Under) Docket No. 99-SWBT-468-IAT
The Telecommunications Act of 1996 With)
Panhandle Telecommunications Systems, Inc.)

AFFIDAVIT OF MICHAEL SCOTT

STATE OF KANSAS)
) ss
COUNTY OF SHAWNEE)

Before me, the Undersigned Authority, on the 11th day of April, 2002, personally appeared Michael Scott of Southwestern Bell Telephone Company ("SWBT") who, upon being by me duly sworn on oath deposed and said the following:

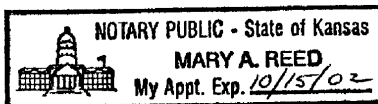
1. My name is Michael Scott. I am over the age of 21, of sound mind and competent to testify to the matters stated herein. I am the Area Manager-Regulatory Issues for SWBT, and I have personal knowledge concerning the Interconnection Agreement ("the Agreement") between SWBT and Panhandle Telecommunications Systems, Inc. which was approved by the Commission on February 16, 1999, and the proposed modification to that Agreement.
2. This modification amends the Agreement to remove the Area Wide Calling Plan billing option and to extend the term of the agreement for one year.
3. There are no outstanding issues between the parties that need the assistance of mediation and arbitration relating to the modification to the Agreement.
4. The implementation of this modification to the Agreement is consistent with the public interest, convenience and necessity.

5. This modification to the Agreement does not discriminate against any telecommunications carrier. The modification is available to any similarly situated local service provider in negotiating a similar agreement.
6. The negotiated and executed modification to the Agreement is consistent with Kansas law.

Michael Scott

Michael Scott

Subscribed and sworn to before me this 11th day of April, 2002.



Mary A. Reed
Notary Public

My Commission Expires: *October 15, 2002*