

THE STATE CORPORATION COMMISSION
OF THE STATE OF KANSAS

2001.12.04 11:39:31
Kansas Corporation Commission
/s/ Jeffery S. Wasaman

Before Commissioners: John Wine, Chair
Cynthia L. Claus
Brian J. Moline

In the Matter of the Application of)
Southwestern Bell Telephone Company for)
Approval of Resale Agreement Under the) Docket No. 01-SWBT-451-IAT
Telecommunications Act of 1996 With Tri)
State Telecommunications.)

ORDER APPROVING MODIFICATION TO RESALE AGREEMENT

NOW, the above-captioned matter comes before the State Corporation Commission of the State of Kansas ("Commission") for consideration. Having examined its files and records, and being duly advised in the premises, the Commission finds and concludes as follows:

1. On October 29, 2001, Southwestern Bell Telephone Company ("SWBT") filed an application seeking approval of a modification to a resale agreement with Tri State Telecommunications ("Tri-State"). The agreement to be modified was filed on November 29, 2000, and approved on February 21, 2001, in this same docket.

2. SWBT states that the Agreement, along with the proposed modification and attachments incorporated therein, is the result of negotiation and compromise and that there are no outstanding issues which would require mediation or arbitration. SWBT asserts that the Agreement complies fully with Section 252(e) of the Telecommunications Act of 1996 because the modifications are consistent with the Commission's previous conclusions that the Agreement is consistent with the public interest, convenience and necessity, and the Agreement does not discriminate against any telecommunications carrier.

3. The proposed modification amends the Appendix Pricing--Schedule of Prices to

the Agreement to include the conversion rates established by the Commission in Docket No. 97-SCCC-149-GIT. SWBT states that this Amendment does not modify or extend the effective date or other terms or conditions of the underlying agreement, but rather shall be coterminous with such agreement. The Amendment states that the Amended Index Pricing shall be deemed effective as of February 19, 1999, the date the order was issued by the Commission in Docket No. 97-SCCC-149-GIT, or the effective date of CLEC's Agreement, whichever is later, and shall be retroactively applied back to the Effective Date of such Agreement following approval of the Amendment by the Commission.

4. Section 252(e) of the Telecommunications Act of 1996 indicates that state commissions may reject an agreement arrived at through negotiations only if it finds that the agreement, or a portion thereof, discriminates against a telecommunications carrier not a party to the agreement; or the implementation of the agreement, or a portion thereof, is not convenient with the public interest, convenience and necessity. Neither of these criteria for rejection of the negotiated resale agreement have been met in this docket.

5. The Commission finds that approval of the modification to the Agreement will not discriminate against any telecommunications carrier, is consistent with the public interest, convenience and necessity, and should be approved.

IT IS, THEREFORE, BY THE COMMISSION ORDERED THAT:

The modification to the existing resale Agreement between Southwestern Bell Telephone and Tri State Communications is hereby approved.

Any party may file a petition for reconsideration of this order within fifteen days of the date this order is served. If service is by mail, service is complete upon mailing and an additional three days may be added to the above time frame.

The Commission retains jurisdiction over the subject matter and the parties for the purpose of entering such further order or orders as it may deem necessary.

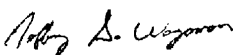
BY THE COMMISSION IT IS SO ORDERED.

Wine, Chr.; Claus, Com.; Moline, Com.

Dated: DEC 04 2001

ORDER MAILED

DEC 04 2001

 Executive
Director

Jeffrey S. Wagaman
Executive Director

AET