

THE STATE CORPORATION COMMISSION
OF THE STATE OF KANSAS

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

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

ORDER

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

1. On November 29, 2000, Southwestern Bell Telephone Company ("SWBT") filed an application seeking approval of an Interconnection Agreement ("Agreement") between SWBT and Tri State Telecommunications ("Tri State"). The Parties state that this is a bilateral agreement, reached as a result of comprehensive, good faith negotiations and compromise between competitors. SWBT and Tri State do not believe a docket Intervention by other parties is necessary or appropriate. SWBT states that there are no outstanding issues between SWBT and Tri State which need the assistance of mediation or arbitration.

2. SWBT seeks the Commission's approval of the Agreement pursuant to Section 252(e) of the Federal Telecommunications Act of 1996. The parties believe that the Agreement is consistent with the public interest, convenience, and necessity and does not discriminate against any carrier not a party to the contract.

3. On February 20, 2001, the Commission staff (“Staff”) submitted a memorandum recommending the Commission approve the Agreement between SWBT and Tri State. Staff contends that the Agreement, including the conditions and rules for resale are clear and reasonable and do not discriminate against other carriers. The “Non-exclusivity” clause clearly states that SWBT can provide the same or similar services to other local service providers, and that Tri State can obtain equal or similar services from other local exchange carriers. In the “Effect of Other Agreements” clause, the parties agree that SWBT will treat Tri State no less favorably than other competitive carriers, and that new entrants to the field can do so upon the same rates and terms as Tri-State.

4. Staff believes that approval of this Agreement will further the public interest by increasing consumer choice. While this is not the facilities based competition ultimately desired, it does add an option for the telephone consumer and introduces competition into the local service market.

5. The Federal Telecommunications Act of 1996, Section 252(e) states the Commission may only reject:

- (A) an agreement (or any portion thereof) adopted by negotiation . . . 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 . . .

5. The Commission finds that the application for approval of the Agreement between SWBT and Tri State should be granted. The Agreement does not, on its face, discriminate against any telecommunications provider not a party to the Agreement. Implementation of the Agreement is consistent with the public interest, convenience and necessity.

IT IS THEREFORE, BY THE COMMISSION ORDERED:

A. The Resale Agreement between Southwestern Bell Telephone Company and Tri State Telecommunications is approved.

B. This Agreement shall be effective ten (10) days following Commission approval.

C. A party may file a petition for reconsideration of this Order within fifteen (15) days of the service of this Order. If this Order is mailed, service is complete upon mailing, and three (3) days may be added to the above time frame.

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

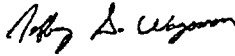
BY THE COMMISSION IT IS SO ORDERED.

Wine, Chr.; Claus, Corn.; Moline, Corn.

Dated: **FEB 21 2001** _____

ORDER MAILED

FEB 21 2001

 **Executive
Director**

Jeffrey S. Wagaman
Executive Director

AET:mr