STATE OF ILLINOIS

ILLINOIS COMMERCE COMMISSION

| Illinois Bell Telephone Company and IDT America, Corp. | : | : |
| Joint Petition for Approval of 4th Amendment to the Interconnection Agreement dated January 17, 2008, pursuant to 47 U.S.C § 252. | : | : |

ORDER

By the Commission:

I. PROCEDURAL HISTORY


A verified statement in support of the petition was filed by Eddie A. Reed, Jr., Director-Contract Management AT&T Wholesale Customer Care for AT&T Operations, Inc., asserts that the facts contained in the petition are true and correct to the best of his knowledge, information, and belief.

Pursuant to notice as required by law and the rules and regulations of the Commission, this matter came on for hearing by a duly authorized Administrative Law Judge of the Commission at its offices in Springfield, Illinois, on February 13, 2008. Staff filed the Verified Statement of A. Olusanjo Omoniyi of the Commission’s Telecommunications Division.

At the hearing on February 13, 2008, James Huttenhower representing AT&T, and Michael R. Borovik representing Staff appeared and agreed that there were no unresolved issues in this proceeding.
Mr. Omoniyi’s Verified Statement was admitted into evidence without objection and the record was marked "Heard and Taken."

II. SECTION 252 OF THE TELECOMUNICATIONS ACT

Section 252(a)(1) of the Act allows parties to enter into negotiated agreements regarding requests for interconnection services or network elements, as well as amendments to those agreements. AT&T and IDT have negotiated such an Agreement and submitted it for approval in this proceeding.

Section 252(e)(1) of the Act provides, in part, that “[a]ny interconnection agreement adopted by negotiation . . . shall be submitted for approval to the State Commission.” This Section further provides that a State Commission to which such an agreement is submitted “shall approve or reject the agreement, with written findings as to any deficiencies.” Section 252(e)(2) provides that the State Commission may only reject the negotiated agreement if it finds that “the agreement (or portion thereof) discriminates against a telecommunications carrier not a party to the agreement” or that “the implementation of such agreement or portion is not consistent with the public interest, convenience, and necessity.”

Section 252(e)(4) provides that the agreement shall be deemed approved if the State Commission fails to act within 90 days after submission by the parties. This provision further states that “[n]o State court shall have jurisdiction to review the action of a State Commission in approving or rejecting an agreement under this section.” Section 252(e)(5) provides for preemption by the Federal Communications Commission if a State Commission fails to carry out its responsibility, and Section 252(e)(6) provides that any party aggrieved by a State Commission’s determination on a negotiated agreement may bring an action in the appropriate Federal District Court.

Section 252(h) requires a State Commission to make a copy of each agreement approved under subsection (3) “available for public inspection and copying within 10 days after the agreement or statement is approved.” Section 252(i) requires a local exchange carrier to “make available any interconnection, service, or network element provided under an agreement approved under this section to which it is a party to any other requesting telecommunications carrier upon the same terms and conditions as those provided in the agreement.”

III. THE AGREEMENT

The Amendment between AT&T Illinois and IDT is the 4th Amendment to the interconnection Agreement between the parties dated January 17, 2008. This Amendment replaces the existing performance measures and remedies provisions of the underlying Agreement with the attached new AT&T Midwest Performance Remedy Plan Appendix. This Amendment shall not modify or extend the Effective Date or Time of the underlying
Agreement, but rather, shall be coterminous with the underlying Agreement. Except as modified in this Amendment, all other terms and conditions of the underlying Agreement remain unchanged and in full force and effect.

IV. POSITIONS OF THE PARTIES

No party contended that the Amendment is discriminatory or contrary to the public interest. Staff reviewed the Agreement in the context of the criteria contained in Section 252(e)(2)(A) of the Act and determined that it met the necessary requirements. Under this Section, the Commission may reject an agreement, or any portion thereof, adopted by negotiation under Subsection (a) only if it finds that (i) the agreement, or a portion thereof, discriminates against a telecommunications carrier not a party to the agreement; or (ii) the implementation of such an agreement, or a portion thereof, is not consistent with the public interest, convenience and necessity.

Mr. Omoniyi asserts in his Verified Statement that the Agreement meets the standards set forth in the Telecommunications Act of 1996 and is consistent with the public interest, convenience and necessity. There are no contested issues in this docket. Staff recommends that the Commission approve the Agreement for the reasons set forth in the Verified Statement of Mr. Omoniyi.

Staff recommends that in order to implement the AT&T Illinois - IDT 4th Amendment, the Commission should require AT&T Illinois to, within five (5) days from the date the Amendment is approved, modify its tariffs to reference the Amendment for each service affected. Such a requirement is consistent with the Commission’s Orders in previous negotiated agreement dockets and allows interested parties access to the Amendment. The following sections of AT&T Illinois’ tariffs should reference the AT&T ILLINOIS - IDT AMERICA, CORP. Agreement: Agreements with Telecommunications Carriers (ICC No. 16 Section 18).

Also, in order to assure that the implementation of the Amendment is in the public interest, AT&T Illinois should implement the Amendment by filing a verified statement with the Chief Clerk of the Commission, within five (5) days of approval by the Commission, that the approved Amendment is the same as the Amendment filed in this docket with the verified petition; the Chief Clerk should place the Amendment on the Commission’s web site under Interconnection Agreements.

V. FINDINGS AND ORDERING PARAGRAPHS

The Commission, having considered the entire record herein and being fully advised in the premises, is of the opinion and finds that:
Illinois Bell Telephone Company (AT&T Illinois) and IDT America, Corp., are telecommunications carriers as defined in Section 13-202 of the Public Utilities Act;

Illinois Bell Telephone Company (AT&T Illinois) and IDT America, Corp., have entered into a Fourth Amendment Interconnection Agreement which has been submitted to the Commission for approval under Section 252(e) of the Telecommunications Act of 1996;

the Commission has jurisdiction of the parties hereto and the subject matter hereof;

the recitals of fact and conclusions reached in the prefatory portion of this Order are supported by the record and are hereby adopted as findings of fact;

the Fourth Amendment Interconnection Agreement between Illinois Bell Telephone Company (AT&T Illinois) and IDT America, Corp., does not discriminate against a telecommunications carrier not a party to the Agreement;

in order to implement the AT&T Illinois - IDT 4th Amendment, the Commission shall require AT&T Illinois to, within five (5) days from the date the Amendment is approved, modify its tariffs to reference the Amendment for each service affected. Such a requirement is consistent with the Commission’s Orders in previous negotiated agreement dockets and allows interested parties access to the Amendment. The following sections of AT&T Illinois’ tariffs should reference the AT&T ILLINOIS -IDT AMERICA, CORP. Agreement: Agreements with Telecommunications Carriers (ICC No. 16 Section 18).

that in order to assure that the implementation of the Amendment is in public interest, AT&T Illinois shall implement the Amendment by filing a verified statement with the Chief Clerk of the Commission, within five (5) days of approval by the Commission, that the approved Amendment is the same as the Amendment filed in this docket with the verified petition; the Chief Clerk should place the Amendment on the Commission’s web site under Interconnection Agreements;

the Interconnection Agreement should be approved as hereinafter set forth;

approval of the Fourth Amendment Interconnection Agreement does not have any precedential effect on any future negotiated agreements or Commission Orders.
IT IS THEREFORE ORDERED by the Illinois Commerce Commission that the Fourth Amendment to the Interconnection Agreement between Illinois Bell Telephone Company (AT&T Illinois) and IDT America, Corp., is hereby approved pursuant to Section 252(e) of the Telecommunications Act of 1996.

IT IS FURTHER ORDERED that Illinois Bell Telephone Company (AT&T Illinois) and IDT America, Corp., shall comply with findings (6), and (7) of this Order within five days of the date of this Order.

IT IS FURTHER ORDERED that subject to the provisions of 83 Ill. Adm. Code 200.880, this Order is final; it is not subject to the Administrative Review Law.

By Order of the Commission this 27th day of February, 2008.

(SIGNED) CHARLES E. BOX

Chairman