

**STATE OF MISSOURI  
PUBLIC SERVICE COMMISSION**

At a session of the Public Service  
Commission held at its office in  
Jefferson City on the 18th day of  
October, 2005.

In the Matter of the Petition of Alma Telephone	)	
Company for Arbitration of Unresolved Issues	)	
Pertaining to a Section 251(b)(5) Agreement with	)	<b><u>Case No. IO-2005-0468</u></b>
T-Mobile USA, Inc.	)	

**ORDER DENYING APPLICATION FOR REHEARING**

Issue Date: October 18, 2005

Effective Date: October 18, 2005

On October 6, 2005, the Commission entered its Arbitration Order under the Telecommunications Act of 1996. On October 11, T-Mobile USA, Inc., asked for rehearing.

Section 386.500 governs rehearing before the Commission. For the reasons described below, this case does not fall within Section 386.500, and, therefore, the Commission has no jurisdiction to grant rehearing.

Sections 386.500-.515 require that a party ask the Commission for rehearing before that party can file a writ of review in circuit court. But here, in an arbitration case under the federal Telecommunications Act, the circuit court has no jurisdiction; the case goes directly to U.S. District Court according to 47 U.S.C. § 252(e).

Furthermore, even if the Commission could grant rehearing, the applications for rehearing are not ripe for review. Commission Rule 4 CSR 240-36.050(6) states that a party aggrieved under "this rule" may seek relief in federal court. "This rule" is

Commission Rule 4 CSR 240-36.050, which discusses Commission approval of agreements reached by arbitration. The rule does not apply yet, because the parties have yet to file their agreement. Thus the applications for rehearing are not ripe for review.

Also, even if the Commission could grant rehearing, and even if the applications were ripe for review, the Commission's time to rule on the open issues has lapsed. According to 47 U.S.C. § 252(b)(4)(c), the Commission must resolve all open issues within nine months after the date on which the local exchange carrier received the request. According to Petitioners' petitions and their attachments, Petitioners received T-Mobile's permission to begin negotiations on January 13, and nine months from then expired on October 12. T-Mobile filed its application on October 11. The Commission could not timely act upon Petitioners' application. Federal law prevents the Commission from ruling on open issues after October 12.

**IT IS THEREFORE ORDERED:**

1. That the Application for Rehearing filed by T-Mobile USA, Inc., is denied.
2. That this order shall become effective on October 18, 2005.

**BY THE COMMISSION**



Colleen M. Dale  
Secretary

( S E A L )

Davis, Chm., Murray and Appling, CC., concur  
Gaw and Clayton, CC., dissent

Pridgin, Regulatory Law Judge