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In the Matter of the Petition of Sprint  
Communications Company, L.P., for Arbitration  
of Unresolved Interconnection Issues Regarding  
xDSL with Southwestern Bell Telephone Company.

### Discussion:

The first issue raised by the parties is the authority of the Commission to entertain applications for rehearing filed after the effective date of the subject order. Pursuant to Sections 386.500 and 386.510, RSMo 1994, an application for rehearing is an indispensable precondition to judicial review of a Commission order. Such an application must be filed before the subject order becomes effective. Section 386.500.2, RSMo 1994. However, the Commission must permit a reasonable interval between the issue date and the effective date of each

order so that an application for rehearing may be timely filed. State ex rel. St. Louis County v. Public Service Commission, 228 S.W.2d 1, 2 (Mo. 1950); State ex rel. Kansas City, Independence & Fairmount Stage Lines Co. v. Public Service Commission, 63 S.W.2d 88, 93 (Mo. 1933). In the present case, the Arbitration Order was issued on August 3, 1999, effective August 4, 1999. Both parties urge the Commission to deem their applications timely.

Arbitration under the Telecommunications Act of 1996 is wholly a matter of federal law and the state law jurisprudence relied on by the parties is inapplicable. State courts are without jurisdiction to review an arbitration under the Act; such review is committed exclusively to the federal courts. 47 U.S.C. Section 252(e)(6). The Commission may participate in arbitrations under the Act only by grace of Congress. AT&T Communications of the Southwest, Inc. v. Southwestern Bell Telephone Company, No. 97-1573-CV-W-5, slip op. at 19 (W.D. Mo., Aug. 31, 1999). The Act nowhere expressly authorizes a state commission to entertain an application for rehearing. Moreover, the Act specifically requires that the state commission "conclude the resolution of any unresolved issues not later than 9 months after the date on which the local exchange carrier received the request under this section." 47 U.S.C. Section 252(b)(4)(C). A request for rehearing made after the nine months have run, as were those under consideration here, asks the Commission to act in a manner clearly contrary to the intent of Congress.

In any event, the Commission will not grant either application for rehearing. The parties offer nothing new. SWBT contends that the

Commission has set the prices for line conditioning too low and Sprint contends that the Commission has set them too high. These are the same arguments already offered by these parties in this matter. Therefore, the Commission will deny the applications for rehearing.

**IT IS THEREFORE ORDERED:**

1. That the applications for rehearing filed by Southwestern Bell Telephone Company and Sprint Communications Company, L.P., are denied.

2. That Southwestern Bell Telephone Company and Sprint Communications Company, L.P., shall submit for Commission approval an interconnection agreement that complies with the arbitration order of the Commission, issued on August 3, 1999, no later than October 14, 1999. The interconnection agreement shall be filed in this case.

3. That this order shall become effective on September 24, 1999.

**BY THE COMMISSION**



**Dale Hardy Roberts**  
Secretary/Chief Regulatory Law Judge

( S E A L )

Crumpton, Drainer, Murray and  
Schemenauer, CC., concur.  
Lumpe, Ch., absent.

Thompson, Deputy Chief Regulatory Law Judge

COMMISSION COUNSEL  
PUBLIC SERVICE COMMISSION

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