

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MISSOURI  
EASTERN DIVISION

SOUTHWESTERN BELL TELEPHONE,  
L.P., d/b/a SBC MISSOURI,

Plaintiff,

v.

No. 4:05-CV-1264 CAS

THE MISSOURI PUBLIC SERVICE  
COMMISSION; JEFF DAVIS, CONNIE  
MURRAY, STEVE GAW, ROBERT M.  
CLAYTON III and LINWARD APPLING, in  
their official capacities as commissioners of  
the Missouri Public Service Commission and  
not as individuals; BIG RIVER TELEPHONE  
COMPANY, LLC; BIRCH TELECOM OF  
MISSOURI, INC.; IONEX COMMUNI-  
CATIONS, INC.; NUVOX COMMUNI-  
CATIONS OF MISSOURI, INC.; SOCKET  
TELECOM, LLC; XO COMMUNICATIONS  
SERVICES, INC.; XO MISSOURI, INC.;  
XSPEDIUS MANAGEMENT CO. OF  
KANSAS CITY, LLC; XSPEDIUS  
MANAGEMENT CO. SWITCHED  
SERVICES, LLC; MCI COMMUNICATIONS  
SERVICES, INC., MCIMETRO, LLC;  
CHARTER FIBERLINK-MISSOURI, LLC;  
NAVIGATOR TELECOMMUNICATIONS,  
LLC; SPRINT COMMUNICATIONS  
COMPANY, L.P.; and WILTEL LOCAL  
NETWORK, LLC,

Defendants.


**DECLARATORY JUDGMENT**  
**AND PERMANENT INJUNCTION**

In accordance with the memorandum and order of this date and incorporated herein,

**IT IS HEREBY ORDERED, ADJUDGED and DECLARED** that the Missouri Public Service Commission's Arbitration Order dated July 11, 2005 is contrary to federal law and preempted to the extent that it requires Southwestern Bell Telephone, L.P. to (1) fill new orders for unbundled local switching or the network elements which together comprise the UNE Platform, and (2) continue offering unbundled access to de-listed network elements.

**IT IS FURTHER ORDERED, ADJUDGED and DECLARED** that the Missouri Public Service Commission's Arbitration Order dated July 11, 2005, is otherwise **AFFIRMED**, including with respect to its ruling that SBC must provide entrance facilities to Sprint Communications Company, L.P. as needed for interconnection pursuant to 47 U.S.C. § 251(c)(2), at TELRIC rates.

**IT IS FURTHER ORDERED** that the Missouri Public Service Commission is permanently enjoined from enforcing the Arbitration Order dated July 11, 2005, as well as related orders approving interconnection agreements between Southwestern Bell Telephone, L.P. and each CLEC defendant, to the extent that they require Southwestern Bell Telephone, L.P. to (1) fill new orders for unbundled local switching or the network elements which together comprise the UNE Platform, and (2) continue offering unbundled access to de-listed network elements.

  
**CHARLES A. SHAW**  
**UNITED STATES DISTRICT JUDGE**

Dated this 14th day of September, 2006.