

BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI

In the Matter of the Petition for Arbitration)
of Unresolved Issues in a Section 251(b)(5))
Agreement with T-Mobile USA, Inc.) **Case No. TO-2006-0147**

ORDER REGARDING DISMISSAL OF ISSUES A AND B
BETWEEN T-MOBILE AND PETITIONERS

Issue Date: January 9, 2006

Effective Date: January 9, 2006

On December 30, 2005, the Commission issued an order granting T-Mobile USA, Inc.'s motions to dismiss Issues A and B as presented for arbitration by Petitioners.¹ On January 5, 2006, Petitioners filed an application for rehearing of the order granting T-Mobile's motion to dismiss Issues A and B.

In support of its application, Petitioners argue that the order, which became effective on the date it was issued, deprived Petitioners of an opportunity to prepare an application for rehearing. Petitioners also argue that the order is factually and legally erroneous.

The Commission notes that 47 U.S.C. Section 252(b)(4)(C) states that the "State commission shall resolve each issue set forth in the Petition and the response" The State commission therefore has a federally mandated obligation to consider *all* issues presented. Commission rule 4 CSR 240-36.040(15) grants the arbitrator the same

¹ BPS Telephone Company; Cass County Telephone Company; Citizens Telephone Company of Higginsville, Missouri; Craw-Kan Telephone Cooperative, Inc; Ellington Telephone Company; Farber Telephone Company; Granby Telephone Company; Grand River Mutual Telephone Corporation; Green Hills Telephone Corporation; Holway Telephone Company; Iamo Telephone Company; Kingdom Telephone Company; KLM Telephone Company; Lathrop Telephone Company; Le-Ru Telephone Company; Mark Twain Rural Telephone Company; McDonald County Telephone Company; Miller Telephone Company; New Florence Telephone Company; Oregon Farmers Mutual Telephone Company; Peace Valley Telephone Company, Inc; Rock Port Telephone Company; and Steelville Telephone Exchange.

authority as a presiding officer would have under Commission rule 4 CSR 240-2.120, under which a presiding officer may take action consistent with the rules and policies of the Commission. Under Commission rule Commission rule 4 CSR 240-2.160, the Commission may correct its orders *nunc pro tunc*.

So that the Commission will be able to consider all of the issues raised in the petition, including Issues A and B between Petitioners and T-Mobile, the arbitrator will set aside his order dismissing Issues A and B, reserving them for final consideration in the arbitrator's report to the Commission.

IT IS THEREFORE ORDERED:

1. That the Order Granting Motion to Dismiss, dismissing Issues A and B between Petitioners and T-Mobile USA, Inc. issued on December 30, 2005, is set aside.
2. That this order shall become effective on January 9, 2006.

BY THE COMMISSION



Colleen M. Dale
Secretary

(S E A L)

Kennard L. Jones, Regulatory Law Judge,
by delegation of authority pursuant to
Section 386.240, RSMo 2000.

Dated at Jefferson City, Missouri,
on this 9th day of January, 2006.