

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 CINGULAR'S MOTIONS TO DISMISS

Issue Date: January 17, 2006

Effective Date: January 23, 2006

On January 4, 2006, Cingular Wireless moved the Commission to: (1) dismiss the competitive local exchange carriers' claims filed against Cingular; (2) dismiss all Petitioners' claims for compensation for traffic allegedly exchanged prior to the filing of Petitioners' wireless termination tariffs in 2001. Petitioners filed their response on January 12. As part of their response, Petitioners request that the Commission direct Cingular to state whether it will consent to voluntary arbitration under Section 386.230, RSMo 2000.

Cingular's motion to dismiss the CLECs' claims

As the Arbitrator reasoned in his Order Regarding Motion for Rehearing, issued on January 12, 2006, because the Telecommunications Act of 1996 requires the state commission to resolve each issue set forth in the petition,¹ the Arbitrator will present all issues in his report to the Commission.

In support of its motion, Cingular incorrectly states that the Commission, on December 20, 2005, entered an order dismissing the CLEC claims of Mark Twain Communications Company and Green Hills Telecommunications Services. In its order of

¹ 47 U.S.C Section 252(b)(4)(C)

December 20, the Commission did not dismiss the claims of any parties but rather dismissed as parties those relevant CLECs. The Commission will not dismiss the claims of Mark Twain or Green Hills.

Cingular's motion to dismiss claims for past compensation

Again, the Arbitrator will present in his report to the Commission all issues in the arbitration. That the Arbitrator intends to present issues of past compensation is a reflection of his intent to abide by the procedural requirements of the Telecommunications Act and dispose of all issues in his report to the Commission, rather than his determination that issues of past compensation are relevant to this arbitration. Consistent with its order of January 12, the Commission will deny Cingular's motion.

Petitioners' request that the Commission direct Cingular to address whether it will submit to voluntary arbitration under Section 386.230, RSMo 2000

The parties, themselves, can agree to submit to voluntary arbitration under Missouri law. It is not necessary that the Commission direct Cingular to state whether it is so willing. However, on January 12, Cingular filed a pleading stating that it is not willing to submit to arbitration under Missouri law.

IT IS THEREFORE ORDERED:

1. That Cingular Wireless' motion to dismiss the claims filed by Mark Twain Communications Company and Green Hill Telecommunications Services is denied.
2. That Cingular Wireless' motion to dismiss all Petitioners' claims for compensation for traffic allegedly exchanged prior to the filing of Petitioners' wireless termination tariff in 2001 is denied.

3. That this order shall become effective on January 23, 2006.

BY THE COMMISSION

A handwritten signature in black ink, appearing to read 'Colleen M. Dale', written over a horizontal line.

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 18th day of January, 2006.