

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)) **Case No. TO-2006-0147**
Agreement with T-Mobile USA, Inc.)

ORDER DENYING MOTION FOR SUMMARY DETERMINATION

Issue Date: December 29, 2005

Effective Date: December 29, 2005

A number of small rural carriers¹ have compelled T-Mobile USA, Inc. to arbitrate the terms of an interconnection agreement. At issue is:

Whether Petitioners have an obligation to pay reciprocal compensation on landline traffic terminated to Respondent by third party carriers (such as IXCs) where that traffic is neither originated by, nor the responsibility of, Petitioners.

On November 16, 2005, T-Mobile moved the Commission to issue an order summarily finding that Petitioners have an obligation to pay reciprocal compensation. T-Mobile states that there are no genuine issues of material fact and that the Commission should rule in T-Mobile's favor as a matter of law. Petitioners oppose the motion, stating that there remain genuine issues of material fact that bear upon the issue of reciprocal compensation. Petitioners further state that the discovery of facts relevant to a determination on this issue is currently being conducted.

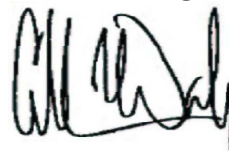
¹ BPS Telephone Company; Cass County Telephone Company; Citizens Telephone Company of Higginsville, Missouri; Craw-Kan Telephone Cooperative, Inc; Ellington Telephone Company; Farber Telephone Company; Granby Telephone Company; Grand River Mutual Telephone Corporation; Green Hills Telephone Corporation; 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.

Commission rule 4 CSR 240-2.117 requires that the pleadings show there is no genuine issue of material fact. It is not clear whether there are genuine issues of material fact. Although, on the face of T-Mobile's pleading, there appear to be no genuine issues of material fact, all of the pleadings taken together do not show that there are no genuine issues of material fact. Because it has not been shown that there is no genuine issue of material fact, the Arbitrator will deny the motion.

IT IS THEREFORE ORDERED:

1. That T-Mobile USA, Inc.'s motion for summary determination is denied.
2. That this order shall become effective on December 29, 2005.

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 29th day of December, 2005.