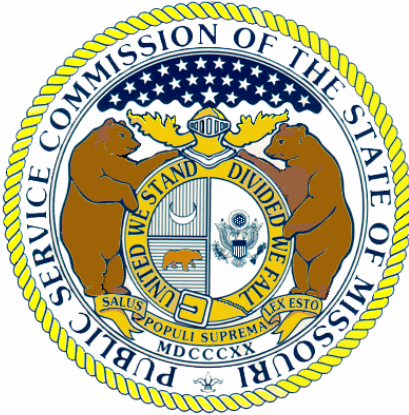


**BEFORE THE PUBLIC SERVICE COMMISSION  
OF THE STATE OF MISSOURI**



In the Matter of the Petition for Arbitration	)	<b><u>Case No. TO-2006-0147</u></b>
of Unresolved Issues in a Section 251(b)(5)	)	consolidated with
Agreement with T-Mobile USA, Inc.	)	Case No. TO-2004-0151

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**ARBITRATION ORDER**

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**Issue Date:**        **March 23, 2006**

**Effective Date:** **March 24, 2006**

**BEFORE THE PUBLIC SERVICE COMMISSION**  
**OF THE STATE OF MISSOURI**

In the Matter of the Petition for Arbitration	)	<b><u>Case No. TO-2006-0147</u></b>
of Unresolved Issues in a Section 251(b)(5)	)	consolidated with
Agreement with T-Mobile USA, Inc.	)	Case No. TO-2004-0151

**APPEARANCES**

**W.R. England, Brian T. McCartney and Melissa Manda**, Brydon, Swearengen & England, PC, 312 East Capitol Avenue, Post Office Box 456, Jefferson City, Missouri 65102. Attorneys for Petitioners.

**Mark Johnson**, Sonnenschein, Nath & Rosenthal, 4520 Main Street, Suite 1100, Kansas City, Missouri 64111. Attorney for T-Mobile USA, Inc.

**Paul Walters, Jr.**, The Walters Law Firm, 15 East 1<sup>st</sup> Street, Edmond, Oklahoma 73034. Attorney for Cingular Wireless.

**Arbitrator:** Kennard L. Jones, Administrative Law Judge

**Arbitration Advisory Staff:**

**Natelle Dietrich**, Regulatory Economist III, Utility Operations Division, Missouri Public Service Commission.

**Walter Cecil**, Regulatory Economist II, Utility Operations Division, Missouri Public Service Commission.

**Bill Voight**, Rate and Tariff Examiner Supervisor, Missouri Public Service Commission.

**Marc Poston**, Senior Counsel, General Counsel Division, Missouri Public Service Commission.

## **ARBITRATION ORDER**

### **PROCEDURAL HISTORY**

On October 4, 2005, a number of small rural telephone carriers<sup>1</sup> filed petitions for arbitration with the Commission pursuant to Section 252 of the Telecommunications Act of 1996, Pub. L. No. 104-104, 110, Stat. 56, codified at various sections of Title 47, United States Code (“the Act”), and Commission rule 4 CSR 240-36.040. The Petitioners in Case No. TO-2006-0147 ask the Commission to resolve issues pertaining to the negotiation of interconnection agreements between Petitioners and T-Mobile USA, Inc. The Petitioners in Case No. TO-2006-0151 ask the Commission to resolve issues pertaining to the negotiation of interconnection agreements between Petitioners and Cingular Wireless. Because the petitions contained common questions of law and fact and many of the same Petitioners, the Arbitrator consolidated these cases, making Case No. TO-2006-0147 the lead case.

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<sup>1</sup> The carriers filing under Case No. **TO-2006-0147** are BPS Telephone Company, Cass County Telephone Company, Citizens Telephone Company of Higginsville, Missouri, Craw-Kan Telephone Cooperative, Inc., Ellington Telephone Company, Farber Telephone Company, Inc., 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, New Florence Telephone Company, Oregon Farmers Mutual Telephone Company, Peace Valley Telephone Company, Inc., Rock Port Telephone Company, and Steelville Telephone Exchange, Inc.

The carriers filing under Case No. **TO-2006-0151** are BPS Telephone Company, Cass County Telephone Company, Citizens Telephone Company of Higginsville, Missouri, Craw-Kan Telephone Cooperative, Inc., Ellington Telephone Company, Farber Telephone Company, Goodman Telephone Company, Granby Telephone Company, Grand River Mutual Telephone Corporation, Green Hills Telephone Corporation, Green Hills Telecommunications Services, Holway Telephone Company, Iamo Telephone Company, Kingdom Telephone Company, KLM Telephone Company, Lathrop Telephone Company, Le-Ru Telephone Company, Mark Twain Rural Telephone Company, Mark Twain Communications Company, McDonald County Telephone Company, Miller Telephone Company, New Florence Telephone Company, Oregon Farmers Mutual Telephone Company, Ozark Telephone Company, Peace Valley Telephone Company, Inc., Rock Port Telephone Company, Seneca Telephone Company and Steelville Telephone Exchange, Inc.

## **Dismissal of CLECs**

On December 20, 2005, the Commission dismissed four CLEC petitioners from this arbitration: Fidelity Communications Services I, Inc.; Fidelity Communications Services II, Inc.; Green Hills Telecommunications Services; and Mark Twain Communications Company.

## **Motion for Summary Judgment**

During the course of the proceedings, T-Mobile filed a motion for summary determination of one of the contested issues; whether Petitioners have an “obligation to pay reciprocal compensation on landline (intraMTA) traffic terminated to [T-Mobile] by third-party carriers (such as IXCs) when that traffic is neither originated by, nor the responsibility of Petitioners.” T-Mobile pointed out that the Commission, on October 6, 2005, in Case No. IO-2005-0468, rejected Petitioners’ position on this issue. Petitioners opposed the motion, stating that there were genuine issues of material fact and that discovery was being conducted with regard to facts that were relevant to this issue.

Commission rule 4 CSR 240-2.117 requires that before a Motion for Summary Judgment may be granted, the pleadings must show there is no genuine issue of material fact. Because all of the pleadings did not show there were no genuine issues of material fact, the Arbitrator denied this motion, reserving consideration of this issue for this report.

## **Motion to Dismiss Issues having to do with Compensation for Past Traffic**

T-Mobile and Cingular filed motions to dismiss issues presented by Petitioners having to do with the delivery of past traffic and the related compensation. The Arbitrator initially granted the motions; however, upon reconsideration, set the ruling aside

recognizing the state Commission's federally mandated obligation to consider all issues presented.<sup>2</sup>

### **Oral Arguments**

The parties presented oral arguments on March 7, 2006. Petitioners made specific reference to the following issues: 4, 7, 9, 11, 12, 14, 15 and 25. With regard to Issue No. 9, Petitioners argued that the Arbitrator misstated Petitioners' position. Petitioners' position is corrected in this order. With regard to Issue No. 11, Petitioners emphasize that all of the Petitioners, including the seven Petitioners discussed in the order, have submitted cost data. The Arbitrator resolved that issue by concluding that a bill-and-keep method for forward-looking common transport costs shall be used for the seven Petitioners until cost data is provided. If the cost data has been provided, then the re-run costs filed by Mr. Schoonmaker shall be used.

Respondents discussed issues 8, 9, 13 and 14. Respondents' arguments were not persuasive and the conclusions reached by the Arbitrator have not been changed.

### **Commission rule 4 CSR 240-36.040(19)**

This rule states that "[u]nless the results would be clearly unreasonable or contrary to public interest, for each issue, the arbitrator shall select the position of one of the parties as the arbitrator's decision on that issue." For issues that cannot be resolved in favor of one party or the other because the results are clearly unreasonable, the Commission will adopt a reasonable position.

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<sup>2</sup> 47 U.S.C Section 252(b)(4)(C).

## **STATEMENT OF FINDINGS AND CONCLUSIONS**

### **Issue No. 1 – Must each Petitioner establish its own separate transport and termination rate based upon its own separate costs?**

**Petitioners** - Each Petitioner performed a cost study using the HAI forward-looking costs model and developed costs averaging \$0.0871 for T-Mobile and \$0.0843 for Cingular. However, Petitioners proposed to use a rate of \$0.035 in this arbitration. FCC rules do not prohibit a uniform rate for all Petitioners where, as here, it is no greater than their forward-looking costs.

**T-Mobile/Cingular** – Each Petitioner must establish its own transport and termination rate based upon specific forward-looking economic costs. The Act and FCC Rules do not allow a blanket rate to apply to all Petitioners.

**Commission Decision:** Consistent with the Arbitrator's Final Decision, each Petitioner need not establish separate transport and termination rates. However, each Petitioner must establish separate costs.<sup>3</sup>

### **Issue No. 2 – What is the appropriate transport and termination rate for each Petitioner?**

**Petitioners** – A uniform rate of \$0.035 per minute of use should be used.

**T-Mobile/Cingular** – Each Petitioner should use different rates, ranging from a low of \$0.0025/MOU for Granby to a high of \$0.0147.MOU for Le-Ru.

**Commission Decision:** Consistent with the Arbitrator's Final Decision, the appropriate rate for each Petitioner shall be the rate that results from the second re-run cost studies, identified as "Final Arbitration-Uncorrected Direct Trunks" filed on March 10,

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<sup>3</sup> 47 C.F.R. §51.505(e).

2006, and attached to Petitioners' Response to Final Arbitration Report. Petitioners can not force Respondents to pay any single or uniform rate that is higher than the cost for the individual Petitioner, but the parties may agree to any uniform rate applicable to all Petitioners.

**Issue No. 3 – What are Petitioners' forward-looking costs to purchase and install new switches?**

**Petitioners** – Petitioners recommend that the value be \$520.14 per line, based on review of this factor in the past and the resulting investment compared to actual investments.<sup>4</sup>

**T-Mobile/Cingular** –Respondents suggest \$76.56 per line plus adjustments to fill factors and removal of power plant investments.<sup>5</sup>

**Commission Decision:** Consistent with the Arbitrator's Final Decision, the Commission adopts the T-Mobile/Cingular position. Mr. Schoonmaker properly re-ran the cost studies for the switch investment. Although Respondents further argue that this switch investment is too high for those that serve fewer than 700 lines, there is not sufficient evidence in the record, and Schoonmaker's re-run costs, relating to switch investment, are within the bounds of reasonableness.

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<sup>4</sup> Schoonmaker Direct, pg. 24, lines 11-15.

<sup>5</sup> Conwell Direct, pg. 31, lines 3-14 – pgs. 46 - 49.

**Issue No. 4 – What is the appropriate value for the usage-sensitive portion of Petitioners’ forward-looking end office switching cost?**

**Petitioners** – The HAI Model’s input value assigns 70% of switch costs to usage sensitive costs. This is consistent with the FCC’s Tenth Report and Order in CC Docket 96-45 and the FCC’s “MAG Order.”<sup>6</sup>

**T-Mobile/Cingular** – Usage-sensitive costs for switches have fallen dramatically. The current version of HAI uses a 0% end office, non-port fraction. No additional costs are appropriate except interoffice trunk equipment. No more than \$18.33 per line should be used as a flat, monthly rate.<sup>7</sup>

**Commission Decision:** Consistent with the Arbitrator’s Final Decision, the Commission adopts T-Mobile/Cingular’s position. The “MAG Order” allows, but does not require, an input value of 70%, but also does not preclude a 0% input value. The Commission agrees that switching costs are no longer traffic sensitive.

**Issue No. 5 – What is the appropriate floor space attributable to switching?**

**Petitioners** – The HAI Model’s input for floor space should be adopted because it reflects an appropriate amount of building and land investment.<sup>8</sup>

**T-Mobile/Cingular** – Absent a determination of the floor space required for stand-alone/host switches and remote switches with current technologies, floor space should be

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<sup>6</sup> Schoonmaker Rebuttal pgs. 17 – 18.

<sup>7</sup> Conwell Direct, pg. 47.

<sup>8</sup> Schoonmaker Rebuttal pgs. 22-23.



derived from the response to data request for Cass County Telephone, which is 200 sq. ft for stand-alone/host switches (four bays) and 100 sq. ft for remotes (two bays).<sup>9</sup>

**Commission Decision:** Consistent with the Arbitrator's Final Decision, the Commission adopts T-Mobile/Cingular's position. Petitioners' position of 500 and 1000 square feet is clearly unreasonable. The wireless carriers based their calculations on the Southwestern Bell Missouri space requirements in its Caged Collocation tariff.<sup>10</sup> Moreover, the FCC requires that space increments for collocation be in single bays, which included space for the equipment rack, access to the back of the rack and swing room for rack doors in front.<sup>11</sup>

**Issue No. 6 – What is the appropriate Minutes of Use (MOU) forward-looking end office switching cost for all Petitioners?**

**Petitioners** – \$.0092 for T-Mobile Petitioners and \$.0010 for Cingular Petitioners.

**T-Mobile/Cingular** – \$.0012 per minute.

**Commission Decision:** The numbers proposed by each party are average numbers. Consistent with the Arbitrator's Final Decision, the actual numbers are the re-run, end-office switching element of costs in the second re-run cost studies, identified as "Final Arbitration-Uncorrected Direct Trunks" filed on March 10, 2006, and attached to Petitioners' Response to Final Arbitration Report.

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<sup>9</sup> Conwell Direct, pg. 53.

<sup>10</sup> Conwell Direct, pg. 52.

<sup>11</sup> FCC's Advanced Services First Report and Order, CC Docket 98-147 (Issued March 18, 1999).

**Issue No. 7 – What are Petitioners’ appropriate, forward-looking interoffice cable lengths?**

**Petitioners** – Interoffice cable lengths are based on HAI assumptions that today, the RBOC would not build facilities to Petitioners’ exchanges, as was the case historically.<sup>12</sup>

**T-Mobile/Cingular** – Petitioners’ switches should be assumed to remain in current locations and the existing interoffice cable distances among these switches should be used to compute transport costs. The distance between Petitioners’ switches and the meet points should reflect actual distance.<sup>13</sup>

**Commission Decision:** Consistent with the Arbitrator’s Final Decision, the Commission adopts the T-Mobile/Cingular position. For interoffice cable lengths the parties shall adopt the current meet point arrangements, subject to renegotiation if those arrangements change. Moreover, the HAI models algorithm overstates DS3 requirements and shall be modified accordingly. Finally, interoffice cable lengths shall be limited to the most practicable actual route between offices. If not already provided, Petitioners shall provide, as part of the underlying documentation in support of its second re-run costs studies, a chart showing the actual interoffice cable distances.

**Issue No. 8 – What are the appropriate cable sizes?**

**Petitioners** – The HAI input of 24 fiber cable to connect offices should be used.

**T-Mobile/Cingular** – Fiber cable sizes should be determined for each Petitioner’s network based on their total demand for fibers per FCC rule 51.505, with smaller cable sizes used as appropriate.

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<sup>12</sup> Schoonmaker Rebuttal pgs. 24-29.

<sup>13</sup> Conwell Direct, pg. 59.

**Commission Decision:** Consistent with the Arbitrator's Final Decision, the Commission adopts Petitioners' position. It is reasonable to assume that traffic will increase, necessitating use of larger cable. In addition, the costs associated with underestimating demand far outweigh the costs of overestimating demand.

**Issue No. 9 – What is the appropriate amount of sharing of Petitioners' interoffice cabling in order to reflect sharing with services other than transport and termination?**

**Petitioners –** The HAI Model assigns the cost of fiber cable to nine different types of trunks. While a significant portion of these trunks are tandem trunks, which are assigned to the common transport cost element, another significant portion is assigned to the dedicated transport element, and smaller amounts are assigned to local tandem and local direct trunks.<sup>14</sup>

**T-Mobile/Cingular –** FCC Rule 51.511 requires unit costs to reflect total costs of a network element divided by (shared among) total demand for the element. Petitioners' cost studies allocate the entire cost of the 24-fiber interoffice cable to the transport system, rather than sharing the cable cost among loops, leased fibers and others.

**Commission Decision:** Consistent with the Arbitrator's Final Decision, assigning 100% of interoffice fiber cable costs to transport is unreasonable. Petitioners shall determine exactly what portion of interoffice fiber cable *is* assigned to transport. Until this determination is made and the cost studies are re-run accordingly, 50% shall be used.

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<sup>14</sup> Schoonmaker rebuttal, pgs. 32-33.

**Issue No. 10 – What is the appropriate sizing of Petitioner’s forward-looking, interoffice transmission equipment?**

**Petitioners** – HAI input values for transmission equipment.<sup>15</sup>

**T-Mobile/Cingular** – Petitioners incorrectly assume an OC-48 add/drop multiplexer, an OC-3 terminal multiplexer, a digital cross-connect system and optical regenerators every 40 miles of interoffice cable routes. These lengths are overstated as discussed in Issue 7. Transport transmission equipment should be sized to serve the total demand for DS1-equivalent circuits at each Petitioners’ switch and reflect either fiber ring or point-to-point transport. The Commission should assume OC-3 sized systems and no need for optical regenerators.

**Commission Decision:** Consistent with the Arbitrator’s Final Decision, an OC-12 system shall be used for costing purposes.

**Issue No. 11 – What are the appropriate, forward-looking common transport costs for each Petitioner?**

**Petitioners** – Schedules RCS-4 and 5 are the sum of the Common Transport and Dedicated Transport elements.

**T-Mobile/Cingular** – 20 Petitioners have produced enough information to allow appropriate common transport costs to be computed. Exhibit WCC-1 to Direct Testimony of Conwell.

**Commission Decision:** Consistent with the Arbitrator’s Final Decision, the appropriate forward-looking common transport costs for each Petitioner are the re-run costs in the second re-run cost studies, identified as “Final Arbitration-Uncorrected Direct Trunks”

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<sup>15</sup> Schoonmaker Rebuttal, pgs. 35-36.

filed on March 10, 2006, and attached to Petitioner's Response to Final Arbitration Report. For the seven Petitioners that did not provide requisite cost data, a bill-and-keep methodology shall be used until appropriate cost data is produced.

**Issue No. 12 – Should any of the costs identified in HAI as dedicated transport be included in Petitioners' transport and termination rates?**

**Petitioners** – The dedicated transport costs in the HAI model should be included in the Petitioners' transport and termination rates as part of the common transport cost.<sup>16</sup>

**T-Mobile/Cingular** – Including dedicated transport costs is duplicative of common transport costs. The corrections for common transport accurately measure transport costs and it is unnecessary to add additional costs.<sup>17</sup>

**Commission Decision:** Consistent with the Arbitrator's Final Decision, the Commission finds that only common transport costs shall be included with no additional adjustments to this calculation or to any other calculation in which common transport is a component or is derived from such calculation.

**Issue No 13 – What is the appropriate value of Petitioners' forward-looking signaling link costs?**

**Petitioners** – For companies similar to the Petitioners, HAI uses a simplified investment input based on an amount per line, per wire center.<sup>18</sup> Costs are displayed in RCS-4 and 5.

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<sup>16</sup> Schoonmaker Direct pgs. 32-33.

<sup>17</sup> Conwell Direct pgs. 84-85.

<sup>18</sup> Schoonmaker Rebuttal pg. 38.

**T-Mobile/Cingular** – HAI assumes a pair of signaling links for every switch, which is not the case. HAI assumes the signaling links run over the same fictitious interoffice cable routes as common transport. To correct that assumption, Respondents used Petitioners' actual current costs for SS7 interconnection links divided by the HAI estimated number of messages.<sup>19</sup>

**Commission Decision:** Consistent with the Arbitrator's Final Decision, the Commission adopts Petitioners' position, modified by using the distances established in Issue No. 7.

**Issue No. 14 – Upon what basis should Petitioners and Cingular and T-Mobile compensate each other for traffic exchanged between February of 1998 and the 2001 effective date of Petitioners' wireless termination service tariffs?**

The Commission will not address this issue in this matter, as it does not relate to future interaction between the parties under the contemplated interconnection agreement.

**Issue No. 15 – Must Petitioners pay Cingular and T-Mobile reciprocal compensation for intraMTA, wireline to wireless traffic that they hand off to interexchange carriers?**

**Petitioners** – Petitioners have no obligation to pay reciprocal compensation on landline traffic terminated to Respondents by third-party carriers (such as IXC's) where that traffic is neither originated by, nor the responsibility of, Petitioners.

**T-Mobile**<sup>20</sup> – The reciprocal compensation obligation applies to all intraMTA traffic regardless of the type of intermediate carrier used to deliver the traffic for termination.

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<sup>19</sup> Conwell Direct, pgs. 87-89.

<sup>20</sup> Cingular takes no position on this issue.

**Commission Decision:** Consistent with the Arbitrator's Final Decision, the Commission adopts T-Mobile's position. As the Commission held in the recent Alma/T-Mobile Arbitration, 47 C.F.R. §51.703 requires reciprocal compensation arrangements. Treatment of this issue will be consistent between T-Mobile and Cingular, as described in the Arbitrator's Final Report.

**Issue No. 16 – Should the Commission establish an IntraMTA Traffic Ratio for use by the parties in billing the termination of traffic?**

**Petitioners –** The appropriate traffic factor should be reflective of actual traffic flows as calculated by Petitioners.

**T-Mobile/Cingular –** Cingular and T-Mobile lack the capability to measure all ICO traffic. Standard industry practice is to establish a traffic ratio that they can apply to the ICO-billed traffic to determine the amount of traffic for which the ICO owes reciprocal compensation.

**Commission Decision:** Consistent with the Arbitrator's Final Decision, the Commission shall establish an IntraMTA Traffic Ratio.

**Issue No. 17 – What is the appropriate IntraMTA traffic balance ratio/percentage?**

**Petitioners –** Schedule RCS shows 84/16 for T-Mobile and 83/17 for Cingular.<sup>21</sup> This is based on the average of the actual Missouri traffic studies performed by Petitioners.

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<sup>21</sup> Schoonmaker Direct, pgs. 52-53.

**T-Mobile** – T-Mobile’s studies, as reasonably adjusted for the traffic that could not be measured, establishes an average traffic ratio of 65% mobile-to-land and 35% land-to-mobile.

**Cingular** – The appropriate intraMTA traffic ratios for Cingular are listed on Confidential Schedule B to the Direct Testimony of Eric Pue.

**Commission Decision:** Consistent with the Arbitrator’s Final Decision, with regard to **T-Mobile**, the Commission adopts Petitioners’ position.

With regard to **Cingular**, the Commission, the Arbitrator adopts Cingular’s position.

**Issue No. 18 – Should the agreement allow for modification of the intraMTA traffic ratio?**

The parties agree on this issue.

**Issue No. 19 – Should Cingular and Petitioners employ bill-and-keep for compensation purposes if the traffic exchanged between them does not exceed 5000 minutes of use?**

**Petitioners** – Petitioners should be compensated for all of the traffic they transport and terminate for wireless carriers. Petitioners agree to accept quarterly billing.

**Cingular** – Requiring the parties to bill for amounts under 5,000 MOUs per month is not cost-effective. When exchange traffic amounts are below 5,000 MOUs per month, the parties should exchange traffic on a bill-and-keep basis.<sup>22</sup>

**Commission Decision:** Consistent with the Arbitrator’s Final Decision, and the resolution of Issue No. 33, the Commission will balance Petitioners’ desire to be compensated for calls terminated to them and Cingular’s position concerning cost

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<sup>22</sup> Pue direct p 20.



effectiveness. No bills under 5,000 MOU may be issued by Petitioners unless at least three months have passed without compensation.

**Issue No. 20 – Should Petitioners be required to provide local dialing for calls to a Cingular NPA/NXX rate centered in Petitioners’ EAS calling scopes?**

As the parties offered no proposed language to be included in the interconnection agreement, no language concerning this issue is required to be included in it.

**Issue No. 21 – Should Petitioners be required to accept and recognize as local all calls from/to Cingular subscribers who have been assigned numbers that are locally rated in Petitioners’ switches, if Cingular does not have direct interconnection to those switches?**

As the parties offered no proposed language to be included in the interconnection agreement, no language concerning this issue is required to be included in it.

**Issue No. 22 – Should the Cingular contract contain provisions for both direct and indirect interconnection?**

As the parties offered no proposed language to be included in the interconnection agreement, no language concerning this issue is required to be included in it.

**Issue No. 23 – Should Petitioners be entitled to claim the Rural Exemption?**

**Petitioners** – Yes. Petitioners currently have a rural exemption under Section 251(f) of the Act.

**Cingular** – This arbitration is limited to Petitioners’ obligation arising under Section 251(a) and (b) of the Act. The rural exemption of Section 251(f)(1) applies only to

obligations imposed by section 251(c) of the Act. Thus, the rural exemption is irrelevant to this proceeding.

**Commission Decision:** Consistent with Arbitrator's Final Decision, the Commission agrees with Cingular that this issue is irrelevant, but also with Petitioners that they have a rural exemption.

**Issue No. 24 – Can CLECs seek arbitration of interconnection agreements with Cingular?**

The Commission has dismissed the CLECs from this arbitration. This issue is moot.

**Issue No. 25 – Upon what basis should Petitioners and T-Mobile compensate each other for traffic exchanged between 2001 and the BFR date?**

This issue is not relevant to the formation of the contemplated interconnection agreement and is better addressed in the context of a complaint case.

**Issue No. 26 – Should the Arbitrator authorize the Petitioners and all transit providers to block T-Mobile's traffic until the past compensation issue are resolved?**

This issue is not relevant to the formation of the contemplated interconnection agreement and is better addressed in the context of a complaint case.

**Issue No. 27 – What InterMTA factors should be established for the interconnection agreement?**

The parties agree on this issue.

**Issue No. 28 – Within the traffic deemed InterMTA by applying the agreed InterMTA factor, how should inter- and intra-state InterMTA traffic be addressed?**

**Petitioners** – Petitioners proposed the same ratio of 80% intrastate and 20% interstate, as they have done with other Missouri wireless carriers.

**T-Mobile** – A reasonable allocation is 80% interstate, 20% intrastate.

**Commission Decision:** Consistent with Arbitrator’s Final Decision, the Commission finds in favor of Petitioners because Petitioners’ position is supported by T-Mobile’s own data.<sup>23</sup>

**Issue No. 29 – Should the interconnection agreement include an explicit statement that the compensation obligation for intraMTA traffic is reciprocal and symmetrical?**

The parties agree on this issue.

**Issue No. 30 – Should the interconnection agreement clarify which carrier pays for the trunks and associated costs of connecting each party’s network with the third-party transit network?**

The parties agree on this issue.

**Issue No. 31 – Should the interconnection agreement require the parties to send all traffic via a third-party LEC when the parties are indirectly interconnected?**

The parties agree on this issue.

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<sup>23</sup> Pruitt Direct, Attachment 1.

**Issue No. 32. What billing mechanism should be used to reflect the IntraMTA traffic balance percentage?**

**Petitioners** – A net billing arrangement is only appropriate for intraMTA traffic. InterMTA traffic, if any, should be identified and removed from total terminating usage before performing a net billing calculation on the remaining intraMTA minutes of use.

**T-Mobile** – Applying the traffic balance percentage, T-Mobile may accommodate either net billing or cross-billing, both of which present a practical means to efficiently bill under an interconnection agreement.

**Commission Decision:** Consistent with the Arbitrator's Final Decision, net billing shall include only intraMTA traffic. For calculating that traffic, bills shall be issued by ILECs based solely on the tandem companies' cellular usage reports.

**Issue No. 33 – Should billing be deferred until the amount owing equals at least \$250?**

**Petitioners** – Petitioners do not object to deferred billing for bills under \$250, but accumulation and rendering of one bill for multiple periods when the amount due exceeds \$250, provided, that a bill is rendered at least quarterly, even for lesser amounts.

**T-Mobile** – Requiring parties to bill for amounts under \$250 is inefficient for both parties. No late charges or interest should apply to deferred billings.

**Commission Decision:** Consistent with Issue No. 19, if the monthly billing is less than \$250, the parties shall continue to accumulate MOUs. However, accumulating MOUs will not be allowed for more than three months at a time.

**Issue No. 34 – Should the interconnection agreement include call-blocking as a remedy for a dispute between the parties.**

**Petitioners** – It is standard industry practice for a party to be able to terminate service to the other party for failing to comply with the terms of an agreement, including failure to pay undisputed amounts.

**T-Mobile** – The parties agree to apply late charge(s) to disputed payments under the agreement. Call blocking is not needed as a remedy and is contrary to the public interest.

**Commission Decision:** Consistent with the Arbitrator's Final Decision, the Commission adopts Petitioners' position. Commission rule 4 CSR 29.120 sets out the requirements for call-blocking. Any language in the agreement must be consistent with this rule.

**Issue No. 35 – What should be the effective date of the agreement?**

The parties agree on April 29, 2005.

**Issue No. 36 – Is the transit rate issue raised by Citizens a proper subject of this arbitration?**

This issue was not presented in the petition. Furthermore, the record is not sufficiently developed to address whether a \$.01 transiting rate is appropriate. The Commission will not rule on this issue.

**IT IS ORDERED THAT:**

1. The Final Arbitration Report, with amendments to Issues 9 and 11, filed in this case on March 3, 2006, is incorporated into this Order by reference.

2. The parties shall incorporate the Commission's resolution of each issue, as described in this Order, into their interconnection agreements and shall file their interconnection agreements no later than April 22, 2006.

3. The Staff of the Commission shall file a Memorandum and Recommendation advising the Commission that it has reviewed each such proposed interconnection agreement and determined that it complies with this Order and applicable statutes no later than May 2, 2006.

4. This order shall become effective on March 24, 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 )

Davis, Chm., Murray, and Appling, CC., concur.  
Gaw and Clayton, CC., dissent, with separate  
dissenting opinions to follow.

Dated at Jefferson City, Missouri,  
on this 23rd day of March, 2006.