

BEFORE THE PUBLIC SERVICE COMMISSION

OF THE STATE OF MISSOURI

In the Matter of the Necessity of Approval)
of Transiting Services Agreements Under) **Case No. TO-2005-0407**
Section 252 of the Telecommunications Act)
of 1996, and Related Issues.)

ORDER DENYING MOTION TO OPEN CASE

Issue Date: June 7, 2005

Effective Date: June 17, 2005

On May 11, 2005, Missouri RSA No. 5 Partnership d/b/a Chariton Valley Wireless and Chariton Valley Communications Corporation filed a joint motion to open a case to determine the necessity of approval by the Missouri Public Service Commission of transiting service agreements. Specifically, Joint Applicants requested that the Commission address the following questions:

- a. Are transit services provided pursuant to the Section 251(a) obligation to indirectly interconnect?
- b. Are transit service agreements rendered pursuant to the Section 251(b) obligation to enter reciprocal compensation arrangements?
- c. Is it appropriate for transit services to be made available pursuant to private agreements as opposed to publicly available access tariff offerings?
- d. Does the 1996 Telecommunications Act contemplate that agreements to provide transit services are required to be submitted for Commission approval pursuant to Section 252?
- e. Is it appropriate for transit services to be provided at any rates other than reciprocal compensation rates?
- f. Do local exchange companies have an obligation to accept transit traffic, or do they have the right to elect direct interconnection out of preference to negotiate their own terms and conditions of traffic terminating to them?

In Case Nos. TK-2005-0304 and TK-2005-0300 the Commission concluded that transiting traffic is an interconnection service and is subject to Commission approval and adoption by third party carries. This conclusion directly answers questions "c" and "d" above. The Commission will not revisit those questions.

Although the answers to the remaining questions may not be clear from the Commission orders in TK-2005-0304 and TK-2005-0300, the Commission will not render an advisory opinion where there is no case in controversy.

IT IS THEREFORE ORDERED:

1. That the motion to open a case to determine the necessity of approval by the Missouri Public Service Commission of transiting service agreements is denied.
2. That this order shall become effective on June 17, 2005.
3. That this case may be closed on June 18, 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 7th day of June, 2005.