

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 GRANTING MOTION TO DISMISS

Issue Date: December 30, 2005

Effective Date: December 30, 2005

A number of small rural carriers¹ have compelled T-Mobile USA, Inc. to arbitrate the terms of an interconnection agreement. On November 16, 2005, T-Mobile filed a motion to dismiss issues A and B as presented by Petitioners for arbitration. Both of the issues concern compensation for traffic delivered prior to Petitioners' request for negotiation.

More specifically, Issue A involves compensation for mobile-to-land traffic that Petitioners may have terminated prior to any tariffs being in place to govern such traffic. Issue B concerns compensation for mobile-to-land traffic while wireless termination tariffs were in effect.

47 U.S.C §252(b)(c) sets forth the standards for arbitration as follows:

In resolving by arbitration under subsection (b) of this section any open issues and imposing conditions upon the parties to the agreement, a State commission shall –

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.

(1) Ensure that such resolution and conditions meet the requirements of section 251 of this title, including the regulations prescribed by the Commission pursuant to section 251 of this title;

(2) Establish any rates for interconnection, services, or network elements according to subsection (d) of this section; and

(3) provide a schedule for implementation of the terms and conditions by the parties to the agreement.

The compensation concerns presented in issues A and B are not relevant to the above standards for arbitration. The standards set out above concern only the contemplated interconnection agreement, and the provisions to be included therein. The Commission's consideration of issues related to the interconnection agreement is therefore prospective. Neither issue A nor B has to do with interconnection agreements or arbitration under the Telecommunications Act. They are therefore not properly before the Commission in this arbitration proceeding and shall be dismissed.

IT IS THEREFORE ORDERED:

1. That issues A (Post-Wireless Tariff Traffic) and B (Pre-Wireless Tariff Traffic), as described in the Petition for arbitration, are dismissed.

2. That this order shall become effective on December 30, 2005.

(S E A L)

BY THE COMMISSION



Colleen M. Dale
Secretary

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

Dated at Jefferson City, Missouri,
on this 30th day of December, 2005.