

00001

1

STATE OF MISSOURI

2

PUBLIC SERVICE COMMISSION

3

4

5

6

TRANSCRIPT OF PROCEEDINGS

7

Initial Arbitration Meeting

8

June 21, 2006

9

Jefferson City, Missouri

Volume 1

10

11

12

In the Matter of the Petition for )

Arbitration of Unresolved Issues )

13

in a Section 251(b) (5) Agreement ) Case No. TO-2006-0463

with Alltel Wireless and Western )

14

Wireless )

15

16

NANCY M. DIPPELL, Presiding,  
SENIOR REGULATORY LAW JUDGE.

17

18

19

20

21

22

23

REPORTED BY:

24

KELLENE K. FEDDERSEN, CSR, RPR, CCR  
MIDWEST LITIGATION SERVICES

25

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

APPEARANCES:

W.R. ENGLAND III, Attorney at Law  
MELISSA MANDA, Attorney at Law  
Brydon, Swearngen & England, P.C.  
312 East Capitol  
P.O. Box 456  
Jefferson City, MO 65102-0456  
(573) 635-7166

FOR: Cass County Telephone Company.  
Citizens Telephone Company of  
Higginsville, Missouri.  
Goodman Telephone Company, Inc.  
Granby Telephone Company.  
Green Hills Telephone Company.  
Holway Telephone Company.  
Iamo Telephone Company.  
KLM Telephone Company.  
Kingdom Telephone Company.  
Lathrop Telephone Company.  
Le-Ru Telephone Company.  
Mark Twain Rural Telephone Company.  
McDonald County Telephone Company.  
Miller Telephone Company.  
Oregon Farmers Mutual Telephone  
Company.  
Ozark Telephone Company.  
Rock Port Telephone Company.  
Seneca Telephone Company.  
Peace Valley Telephone Co., Inc.  
Craw-Kan Telephone Cooperative, Inc.

WILLIAM D. STEINMEIER, Attorney at Law  
William D. Steinmeier, P.C.  
2031 Tower Drive  
P.O. Box 104595  
Jefferson City, MO 65110  
(573) 734-8109

FOR: Alltel Communications.  
Western Wireless.

00003

1 P R O C E E D I N G S

2 JUDGE DIPPELL: This is Case  
3 No. TO-2006-0463. My name is Nancy Dippell. I'm the  
4 Regulatory Law Judge assigned to this matter and the  
5 arbitrator appointed to this case. The case is titled in  
6 the matter of the petition for arbitration of unresolved  
7 issues in a Section 251(b) (5) agreement with Alltel  
8 Wireless and Western Wireless.

9 I'd like to begin with entries of  
10 appearance, if we could start with Mr. England.

11 MR. ENGLAND: Thank you. On behalf of  
12 Petitioners, let the record reflect the appearance of  
13 W.R. England and Melissa Manda. Our mailing address is  
14 Brydon, Swearngen & England, Post Office Box 456,  
15 Jefferson City, Missouri 65102.

16 JUDGE DIPPELL: Mr. Steinmeier?

17 MR. STEINMEIER: Thank you, your Honor.  
18 And on behalf of Alltel Communications and Western  
19 Wireless, please let the record reflect the appearance of  
20 William D. Steinmeier and Mary Ann (Garr) Young,  
21 William D. Steinmeier, PC, mailing address Post Office  
22 Box 104595 in Jefferson City, Missouri 65110.

23 JUDGE DIPPELL: And I will note for the  
24 record that Ms. Young is not actually present here today,  
25 but Mr. Steinmeier is entering her appearance.

00004

1                   Also, I believe we have on the telephone,  
2 not officially entering his appearance but observing and  
3 participating later in the discussions, Mr. Steve Rowell,  
4 who is also with Alltel. That's correct, just so the  
5 record is --

6                   MR. STEINMEIER: Yes. Thank you, your  
7 Honor. Mr. Rowell is vice president of state regulatory  
8 legal affairs for Alltel Communications and joining us  
9 today by telephone from Little Rock, Arkansas.

10                  JUDGE DIPPELL: All right. I'd like to  
11 begin by introducing my Advisory Staff. I think most  
12 of -- I think you-all already know them. Natelle Dietrich  
13 and Walt Cecil are in the back of the room, and they've  
14 been appointed as the Advisory Staff. And as such, they  
15 are considered part of the arbitrator and, therefore, any  
16 communications with them should not be ex parte, should  
17 not be substantive communications with either Natelle or  
18 Walt.

19                  If you have need to discuss substantive  
20 issues with Staff, you can contact the other members of  
21 the teleco staff. They're not on my side of the ex parte  
22 wall. I believe there's also some information about that  
23 in the arbitration rule, how that works.

24                  We're basically here today to set a  
25 procedural schedule, for you-all to discuss that. These

00005

1 arbitrations are on a quick deadline, not as quick as the  
2 one that I mentioned in the Order, but the August 7th date  
3 was incorrect in the Order. That is actually the date by  
4 which my final report is due to the Commission under our  
5 rule. Those dates can be changed, but not by much and  
6 give the Commission any time to work things out.

7                   September 26th is actually the 270th day by  
8 which the Commission must have completed the arbitration.  
9 So I'll just make that correction now on the record that  
10 that order was incorrect when it said August 7th was the  
11 deadline.

12                   MR. STEINMEIER: But that would be --

13                   JUDGE DIPPELL: That would actually be the  
14 deadline.

15                   MR. STEINMEIER: -- the date on which your  
16 final report is due to the Commission?

17                   JUDGE DIPPELL: Yes.

18                   MR. STEINMEIER: Okay.

19                   JUDGE DIPPELL: Mr. England, you look like  
20 maybe my math is still incorrect.

21                   MR. ENGLAND: No. I -- not at all. I  
22 wouldn't question your math at all.

23                   JUDGE DIPPELL: I would.

24                   MR. ENGLAND: Certainly given my math.

25                   MR. STEINMEIER: Certainly not on the

00006

1 record.

2 JUDGE DIPPELL: Well, in any event, I  
3 believe I'm correct in September 26th, and we can work  
4 backwards from there from the rule, but I believe  
5 August 7th is when the final arbitrator report is due to  
6 the Commission.

7 So included in the procedural items we  
8 found in the past some things that will make my job easier  
9 and the Commission's job easier and hopefully get you-all  
10 a better decision will be that -- and I will order these  
11 later -- that the testimony will contain the issue number  
12 that is addressed.

13 The testimony shall contain a table of  
14 contents with each issue addressed in the testimony  
15 identified in that table of contents. The final decision  
16 point list shall include references to the testimony. And  
17 on any issue where there's competing interconnection  
18 language, agreement language, the final decision point  
19 list shall include that language.

20 And finally, just to make it simpler for  
21 everyone, I'm going to ask that you-all e-mail the  
22 testimony and the final decision point list to me to make  
23 it easier from our side. And I will set those things out  
24 in a procedural order when we get some dates and so forth  
25 to give you some advance warning.

00007

1                   And also, if you've been watching how these  
2 arbitrations have been going under our new rule, you'll  
3 notice that it's almost exclusively issue by issue, best  
4 last offer. So I'd encourage you not to be unreasonable  
5 in your negotiations. If you're arguing an unreasonable  
6 or unlawful point, you're going to lose. If both of you  
7 are arguing an unreasonable or unlawful point, I'm going  
8 to go with the most reasonable.

9                   I have the Advisory Staff to help me out,  
10 but if your issues aren't clear, you're going to be stuck  
11 with me, the person who knows the least about teleco in  
12 this room, deciding what the issue is and then deciding  
13 what the answer to that issue is. You can always take it  
14 to the Commission after me, but just try to keep it clear  
15 and as simple as you can. And I think the issues here are  
16 maybe not as technical as some. So hopefully that will  
17 help.

18                   Are there any questions or any issues that  
19 you-all want to bring up with me?

20                   MR. ENGLAND: In my prior experience, which  
21 is limited to one, when we arbitrated with T-Mobile and  
22 Cingular, it appears -- and I'm looking at my calendar,  
23 and I may be off by a couple of days, but I think I'm  
24 close -- that the arbitrator's final report was filed in  
25 that case on March 3rd. We had oral argument the

00008

1 following week, and a final decision had to be rendered, I  
2 want to say around about the 24th. In other words, the  
3 final report was roughly three weeks before the Commission  
4 issued its final report.

5                   And I was wondering if that is any -- if  
6 your deadlines are hard and fast or we can kind of slip  
7 that August deadline back to early September.

8                   JUDGE DIPPELL: I believe the rule allows  
9 for me to change those deadlines as necessary. I won't  
10 want to -- I'm sure that the Commission will want  
11 sufficient time, so I wouldn't squeeze it any more than in  
12 that prior case. But I am open to pushing that back a  
13 little if necessary, but we've still got to keep it tight.

14                   MR. ENGLAND: I understand.

15                   JUDGE DIPPELL: I believe also in -- maybe  
16 in that case the parties agreed to extend the Commission's  
17 deadline.

18                   MR. ENGLAND: That's correct.

19                   JUDGE DIPPELL: So I'll leave that up to  
20 you-all, leave that thought with you-all anyway. I did  
21 bring a copy of the most current Commission calendar,  
22 which I will give you-all, and I put some Xs on dates that  
23 were not good with the arbitrator.

24                   MR. ENGLAND: Speaking of which, my  
25 experience on this as well, at least when we had our

00009

1 hearing set in the T-Mobile/Cingular arbitration, it was  
2 layered in on top of at that time I think the Aquila rate  
3 case because of the deadline, and since it's really tried  
4 before you as before the Commission, my understanding is  
5 we would use the smaller hearing room.

6 So I guess my question is, is other than  
7 your availability, is the hearing schedule as critical as  
8 it would be in a --

9 JUDGE DIPPELL: No. You're right. We can  
10 schedule any hearing dates on top of other Commission  
11 hearings since the Commissioners will not be participating  
12 in that part. I would ask you to, you know, respect the  
13 other parties. If there's -- if it's a teleco hearing  
14 that's going on, you know, it might be difficult for the  
15 Advisory Staff.

16 MR. ENGLAND: I guess my thought is, as  
17 long as we can accommodate you --

18 JUDGE DIPPELL: As long as there's a room  
19 available.

20 MR. ENGLAND: -- and the parties and the  
21 arbitration panel, we don't need to worry too much about  
22 the other -- the Commissioners or the other law judges.

23 JUDGE DIPPELL: That's correct.

24 MR. STEINMEIER: I can mention, your Honor,  
25 that we would not be in a position yet today to talk about

00010

1 or consider agreeing to an extension of the end date of  
2 the arbitration itself in this matter for this very  
3 specific reason. The other arbitration that Mr. England  
4 refers to, the T-Mobile/Cingular case that was just  
5 decided in March, still awaits the filing of a conformed  
6 interconnection agreement conforming with that arbitration  
7 decision.

8                   We're going to want a chance to review that  
9 conformed agreement. It is possible that Alltel and  
10 Western Wireless would determine that that conformed  
11 agreement meets their needs and would adopt it, but we  
12 obviously can't begin that analysis until it is filed.  
13 The time for filing it has been extended twice. The  
14 current due date is tomorrow. I don't know if that's  
15 going to happen tomorrow or not.

16                   MR. ENGLAND: It's going to happen for some  
17 but not all. We're still waiting on some signed  
18 agreements from Cingular and from our clients. But I  
19 think most will probably be filed. Let me back up.

20                   We're filing conformed agreements between  
21 petitioners in those cases and T-Mobile on the one hand  
22 and then Cingular on the other. So there will be two  
23 different agreements, if you will, to some degree. I  
24 don't know how materially different they'll be.

25                   And then the other thing I might point out

00011

1 is, I'm not sure about the availability of Alltel -- or  
2 Alltel's ability to opt into an agreement once arbitration  
3 has begun without the consent of all parties.

4 JUDGE DIPPELL: I'll let you-all work those  
5 kind of discussions out in your procedural things, unless,  
6 you know, obviously if you can't agree to a procedural  
7 schedule.

8 How quickly do you think that you can get  
9 some proposed deadlines and dates to me?

10 MR. ENGLAND: Well, I suppose we can go off  
11 the record and talk about that and hopefully have some  
12 dates at least.

13 MR. STEINMEIER: But I would promise it  
14 well ahead of August 7th.

15 JUDGE DIPPELL: Okay. Well, I didn't set a  
16 deadline for you to, you know, file proposed procedural  
17 schedule or anything, so that's the reason I was -- what I  
18 was trying to get to. I guess I'll let you-all discuss  
19 it. If you could give me a report when you're ready to  
20 leave today as to what you've -- how you left things, I  
21 should be available in my office.

22 MR. ENGLAND: Fair enough.

23 JUDGE DIPPELL: And then I can issue a  
24 notice or order if I need to telling you when you have to  
25 file some dates certain.

00012

1 MR. ENGLAND: Okay.

2 MR. STEINMEIER: Sure.

3 JUDGE DIPPELL: Anything else from my  
4 Advisory Staff? Okay.

5 MR. ENGLAND: I'm sorry. Did you give us  
6 your availability dates on that sheet you handed out?

7 JUDGE DIPPELL: Yes. Just the ones that  
8 are Xed out are the ones I'm not available. I didn't  
9 actually consult with Natelle and Walt, if they know --

10 MR. ENGLAND: If they have any summer  
11 vacation plans.

12 JUDGE DIPPELL: -- dates that they're not  
13 available this summer.

14 Anything else? All right. I don't see  
15 anything further. Then we can go ahead and go off the  
16 record.

17 WHEREUPON, the recorded portion of the  
18 initial arbitration meeting was concluded.

19

20

21

22

23

24

25