

BEFORE THE NEBRASKA PUBLIC SERVICE COMMISSION

In the Matter of Great Plains) Application No. C-2872
Communications, Inc. of Blair,)
Nebraska, seeking arbitration to) ORDER GRANTING MOTION TO
resolve issues relating to an) STRIKE, DENYING MOTION TO
interconnection agreement with) HOLD IN ABEYANCE AND
WWC License L.L.C. of Issaquah,) ARBITRATOR SELECTION
Washington.)
) Entered: March 11, 2003

BY THE COMMISSION:

On January 23, 2003, Great Plains Communications, Inc. of Blair, Nebraska, filed an application with the Commission seeking arbitration to resolve issues relating to an interconnection agreement with WWC License L.L.C. ("Western Wireless") of Issaquah, Washington. Notice of the application was published in The Daily Record, Omaha, Nebraska, on January 27, 2003.

Subsequently, on February 19, 2003, Western Wireless filed a motion with the Commission requesting that the arbitration at issue be held in abeyance while Western Wireless, Great Plains, and other carriers implement the Commission's directives for group negotiations on reciprocal compensation issues as set forth in Application No. C-2738/PI-58.

Sprint Spectrum L.P. d/b/a Sprint PCS ("Sprint") filed comments in support of Western Wireless' Motion on February 26, 2003. Great Plains objected to Sprint's comments and moved to strike them from the record. Sprint filed a response to the motion to strike on March 10, 2003.

On March 6, 2003, Great Plains filed a response to the motion to hold in abeyance suggesting the Commission deny the request to hold in abeyance and proceed with the proposed arbitration.

In the interim, both parties continued discussion regarding the selection of an arbitrator. Unable to reach a mutual decision, the parties filed their respective proposals to the Commission on March 3, 2003, so that the Commission could make the final selection. Great Plains put forth Paul Hartman and Western Wireless suggested Dr. Marlon Griffing.

Oral arguments regarding the motion to hold in abeyance were held on March 10, 2003, at 10:00 a.m. in the Commission Hearing Room. Philip Schenkenberg appeared on behalf of Western Wireless and Paul Schudel appeared on behalf of Great Plains.

O P I N I O N A N D F I N D I N G S

Motion to Strike:

Upon review of the pleadings filed herein, the Commission is of the opinion and finds that the Motion to Strike should be granted. As Sprint is not a party in the above-captioned matter and such comments were not requested by the Commission, the comments are improper and should be stricken.

Motion to Hold in Abeyance:

Mr. Schenkenberg argued that to proceed with the Great Plains/Western Wireless arbitration at this point would not be an efficient use of resources in light of the group negotiation/arbitration process contemplated by the Commission in Application No. C-2738/PI-58. Furthermore, to alleviate concerns about the additional delay prejudicing Great Plains, Western Wireless agreed to engage in reciprocal compensation with Great Plains at the final arbitrated or agreed to rates for the time period between July 26, 2003, and the date of formal Commission approval.

Mr. Schudel argued that the Telecommunications Act of 1996 (the "Act") specifies a precise timeline that must be followed by the Commission in this proceeding. Accordingly, the time schedule specifically outlined by Congress in Section 252 of the Act preempts the Commission from changing the time schedule provided absent a mutual agreement by the parties to extend the proceeding. Furthermore, in Great Plains' opinion, nothing in the C-2738 order expressly, or by implication, can be interpreted as requiring or even permitting the suspension of a negotiation/arbitration process being conducted pursuant to Section 252 of the Act that was in progress on the date such order was entered.

In consideration of the pleadings and the oral argument herein, the Commission is of the opinion and finds that Western Wireless' request to hold the Western Wireless/Great Plains arbitration in abeyance should be denied. While the Commission does not necessarily agree with Great Plains' position that the Commission may never unilaterally extend the timeline for negotiation/arbitration, the Commission believes that such a finding is not warranted under these circumstances. Furthermore, the Commission does not believe that proceeding at this time with the Western Wireless/Great Plains arbitration will materially jeopardize any group negotiation/arbitration

process contemplated by the Commission in Application No. C-2738/PI-58.

Selection of Arbitrator:

While the Commission would prefer that the parties reach a mutual decision regarding the selection of an arbitrator, Great Plains and Western Wireless have been unable to do so in this proceeding.

Therefore, the Commission is left with no choice but to select one party's suggested arbitrator over the other. While not endorsing any one arbitrator, the Commission will appoint an arbitrator.

O R D E R

IT IS THEREFORE ORDERED by the Nebraska Public Service Commission that the Great Plains' Motion to Strike should be, and is hereby, granted.

IT IS FURTHER ORDERED that Western Wireless' Motion to hold the Western Wireless/Great Plains arbitration in abeyance should be, and is hereby, denied.

IT IS FINALLY ORDERED that the Commission will select an arbitrator in this matter.

MADE AND ENTERED at Lincoln, Nebraska, this 11th day of March, 2003.

NEBRASKA PUBLIC SERVICE COMMISSION

COMMISSIONERS CONCURRING:

Chair

ATTEST:

Executive Director