

BEFORE THE NEBRASKA PUBLIC SERVICE COMMISSION

In the Matter of the Interconnection Contract )	Application No. C-1400
Negotiations Between AT&T Communica- )	
tions of the Midwest, Inc., and GTE )	Motion Denied
Midwest Inc., pursuant to 47 U.S.C. )	
Section 252. )	Entered October 29, 1996

OPINION AND FINDINGS

On August 30, 1996, GTE Midwest, Inc. (GTE) filed a motion to dismiss in Application C-1400 all Section 251(c) claims. An oral argument was held on the motion September 25, 1996 in the Commission Hearing Room with Commissioner Rod Johnson chairing the proceeding. Appearances at the oral argument were made by the legal counsels for GTE, AT&T Communications of the Midwest, Inc. (AT&T) and the Commission. On October 15, 1996, the Commission entered an Order denying GTE's motion to dismiss. On October 24, 1996, GTE filed a motion for rehearing on its motion to dismiss. AT&T filed a response in opposition to the motion on October 25, 1996.

GTE states its motion for rehearing should be granted because in an article published in the Omaha World Herald on October 9, 1996, the Chairman of the Commission commented publicly about the pending motion to dismiss. The article stated "the motion will be rejected because the rules for granting the rural-exemption status are based on the size of the entire company, not only on the communities they serve in a single state." GTE asserts that this test set forth by Commissioner Johnson is the incorrect legal standard for determining whether GTE qualifies for a rural-exemption.

GTE further states in its motion for rehearing that on October 15, 1996, the date the Commission entered its Order, Commissioners Dan Urwiller and James Munnely were absent and that the Commission denied Commissioner Urwiller's request (made in absentia) to postpone the decision on GTE's motion for one week.

We do not find that the reasons listed above support GTE's motion for rehearing. The appearance of an article in the Omaha World Herald does not render cause to supersede the Commission's Order that was entered and voted upon by a majority of Commissioners on October 15, 1996. The article is not an official statement of the Commission.

The Commission has traditionally rendered rulings and entered Orders, provided that a quorum of Commissioners are in attendance. A quorum was in attendance when the Order was entered October 15, 1996. Further, the Order entered was unanimous with all three Commissioners present voting to deny GTE's motion. Therefore, even if the two absent Commissioners were in attendance on October 15, 1996, there would not be sufficient votes to change the result.

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For the above-mentioned reasons, the Commission finds that GTE has not provided sufficient evidence to support its motion for rehearing and therefore, the motion is denied.

ORDER

IT IS THEREFORE ORDERED by the Nebraska Public Service Commission that the motion for rehearing filed by GTE Midwest, Inc. be, and it is hereby denied.

MADE AND ENTERED at Lincoln, Nebraska this 29th day of October, 1996.

NEBRASKA PUBLIC SERVICE COMMISSION

COMMISSIONERS CONCURRING:



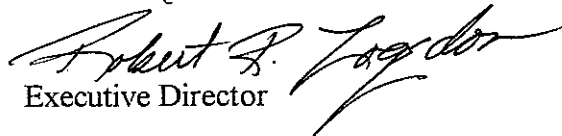
//s// Rod Johnson

//s// Frank E. Landis

//s// James F. Munnelly

Chairman

ATTEST:



Executive Director