

BEFORE THE NEBRASKA PUBLIC SERVICE COMMISSION

In the Matter of Sprint	)	Application No. C-3429
Communications Company L.P.,	)	
Overland Park, Kansas, Petition	)	
for arbitration under the	)	MOTION GRANTED
Telecommunications Act, of	)	
certain issues associated with	)	
the proposed interconnection	)	
agreement between Sprint and	)	
Southeast Nebraska Telephone	)	
Company, Falls City.	)	Entered: June 14, 2005

BY THE COMMISSION:

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

This matter comes before the Commission on the Motion of James Overcash, counsel for Southeast Nebraska Telephone Company (SENTCO), Falls City, filed on May 31, 2005, requesting the Commission act as the Arbitrator in this Petition. Oral argument was held on June 7, 2005. Appearing for the movant was James Overcash. Brad Kistler and Diane Browning appeared for the Petitioner, Sprint. The Hearing Officer granted Mr. Kistler's request to move Ms. Browning's admittance to practice before the Commission in this proceeding.

At the oral argument, Mr. Overcash argued the Commission should eliminate a step in this proceeding by acting as the Arbitrator. Mr. Overcash argued the Commission was familiar with the disputed issues as it has previously been faced with them in Sprint's application for competitive local exchange authority. Further, Mr. Overcash argued that arbitrating this case would not be a burden on the Commission.

Ms. Browning disagreed with the arguments presented by Mr. Overcash. She stated the issues are different from those previously determined by the Commission and the case is more complex than what SENTCO portrays. She stated there would be factual disputes as well as questions of law for the Commission to determine. However, Ms. Browning stated Sprint does not object to the Commission acting as Arbitrator.

The Commission's Mediation and Arbitration policy provides that in cases of financial hardship, the parties have seven days to file a motion requesting the Commission act as arbitrator.<sup>1</sup>

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<sup>1</sup> Application No. C-1128, Progression Order No. 3, *In the Matter of the Commission on its own motion, to set guidelines for Mediation, Arbitration, and Reviews of Negotiated Agreements under the Telecommunications Act of*

The showing of financial hardship appears to be a condition precedent to having the Commission act as Arbitrator. However, based on the arguments presented, the Commission finds it may be appropriate to act as Arbitrator as in this case. The Commission finds that acting as Arbitrator may be more efficient and less costly for the parties as the Commission is at least tangentially familiar with the issues presented. Further, as neither party objects to the Motion to Designate the Commission as the Arbitrator, the Commission finds no cause to deny said motion. Accordingly, the Motion is granted.

O R D E R

IT IS THEREFORE ORDERED by the Nebraska Public Service Commission that the Motion to Designate the Commission as Arbitrator should be and it is hereby granted.

IT IS FURTHER ORDERED that a planning conference be set at the earliest practical date to set a case progression schedule.

MADE AND ENTERED at Lincoln, Nebraska this 14<sup>th</sup> day of June, 2005.

NEBRASKA PUBLIC SERVICE COMMISSION

COMMISSIONERS CONCURRING:

Chairman

ATTEST:

Executive Director