DECISION MEMORANDUM

TO:COMMISSIONER HANSEN

COMMISSIONER NELSON

COMMISSIONER SMITH

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TONYA CLARK

RITA SCOTT

STEPHANIE MILLER

DON HOWELL

JOE CUSICK

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DAVID SCOTT

WORKING FILE

FROM:CHERI COPSEY

DATE:JANUARY 12, 1999

RE:CSY-T-98-1/GTE-T-98-9, IN THE MATTER OF C-SYSTEMS, INC. PETITION FOR ARBITRATION REGARDING INTERCONNECTION AGREEMENT WITH GTE NORTHWEST, INC.

On December 16, 1998, the Commission received a Demand for Arbitration and Motion for Emergency Temporary Interconnect Order from C-Systems, Inc., citing four essential areas of concern and alleging GTE had engaged in bad faith negotiations.  C-Systems did not serve GTE initially.  47 U.S.C. §252(b) requires service on GTE and gives GTE twenty-five (25) days within which to respond.  After Staff requested C-Systems to serve GTE, C-Systems served GTE by fax (on December 18, 1998) and by FEDEX.  On January 8, 1999, the Commission received a timely Motion to Dismiss from GTE arguing that C-Systems has not met the statutory requirements for compulsory arbitration.

BACKGROUND

C-Systems began its negotiations with GTE on May 26, 1998.  See May 26, 1998 letter attached to the Demand.  This letter initiating the formal negotiation process was sent in response to an E-mail message, dated April 24, 1998, from GTE in which GTE’s representative stated, among other things, “if you do not wish for this letter to start the formal negotiation time line of 160 days, please state this in your letter.”  In its May 26, 1998, letter C-Systems did not indicate it did not wish for its letter to start the formal negotiation time line of 160 days.  Therefore, the formal negotiation time line began on May 26, 1998.

On December 16, 1998, the Commission received a Demand for Arbitration and Motion for Emergency Temporary Interconnect Order from C-Systems.  C-Systems served GTE by fax on December 18, 1998.  C-Systems’ demand for arbitration was initiated at the time it served GTE or 204 days after its May 26, 1998, request for negotiation.  47 U.S.C. §252(b)(2)(B).

On January 8, 1999, GTE filed its timely response to the Petition and moved to dismiss it on the ground that C-Systems failed to comply with the requirements of 47 U.S.C. § 252 -- namely file a petition by the 160th day after formal negotiations began.  On January 11, 1999, C-Systems requested the Commission consider its Petition withdrawn.

Staff Recommendation

Staff recommends the Commission accept C-Systems request to withdraw its Petition.  Staff has been informed that C-Systems intends to restart the negotiation process.

Commission Decision

Does the Commission want to dismiss this Petition without prejudice and the docket closed?

Cheri C. Copsey

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