

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of)	
)	
Armstrong Communications, Inc.)	CCBPol No. 97-6
Petition for Relief Pursuant to)	
Section 252(e)(5) of)	
the Telecommunications Act of 1996)	
and Request for Additional Relief)	

ORDER ON FURTHER RECONSIDERATION

Adopted: May 4, 2001

Released: May 4, 2001

By the Chief, Common Carrier Bureau:

1. This *Order on Further Reconsideration* addresses the petition of Armstrong Communications, Inc. (Armstrong)¹ for further reconsideration of an order by the Common Carrier Bureau² denying Armstrong's original petition (Armstrong Petition)³ for preemption of the jurisdiction of the Pennsylvania Public Utility Commission (Pennsylvania Commission). For the reasons set forth below, we deny Armstrong's petition for further reconsideration.

2. The original Armstrong Petition requested that the Commission preempt the jurisdiction of the Pennsylvania Commission pursuant to section 252(e)(5) of the Telecommunications Act of 1996 (the Act) with respect to Armstrong's pending request for interconnection with Citizens Telephone Company of Kecksburg (Citizens). In addition, or in the alternative, Armstrong requested that the Commission direct Citizens, pursuant to sections 251(b) and (c) of the Act, to provide Armstrong with interconnection and to negotiate in good faith the terms and conditions of an interconnection agreement consistent with those sections. The Bureau determined that preemption pursuant to section 252(e)(5) was not warranted and denied Armstrong's original petition.⁴ Because we declined to preempt the Pennsylvania Commission's jurisdiction, we concluded we need not reach Armstrong's additional requests that we direct Citizens to interconnect and engage in good faith negotiations under sections 251(b) and (c) and

¹ Armstrong Communications, Inc. Petition for Further Reconsideration in CCBPol No. 97-6 (filed July 26, 1999) (Armstrong Further Reconsideration Petition).

² *In the Matter of Armstrong Communications, Inc. Petition for Relief Pursuant to Section 252(e)(5) of the Telecommunications Act of 1996 and Request for Additional Relief*, CCBPol No. 97-6, Memorandum Opinion and Order, 13 FCC Rcd 871 (Com. Car. Bur. 1998) (Armstrong Order).

³ Armstrong Communications, Inc. Petition for Relief Pursuant to Section 252(e)(5) of the Telecommunications Act of 1996 and Request for Additional Relief, CCBPol No. 97-6 (filed May 22, 1997) (Armstrong Petition).

⁴ Armstrong Order, 13 FCC Rcd at 880, para. 17.

pursuant to section 51.301 of the Commission's rules.⁵ We subsequently issued an order⁶ denying Armstrong's first Petition for Reconsideration,⁷ finding that Armstrong raised no new facts or arguments that caused us to reach a different result. In the instant Petition for Further Reconsideration,⁸ Armstrong asserts that the Bureau failed to address its request for relief with respect to sections 251(b) and (c) of the Act⁹ and section 51.301 of the Commission's Rules.¹⁰

3. We find that we correctly denied the original Armstrong Petition by ruling that Armstrong did not demonstrate that the Pennsylvania Commission had "failed to act" within the meaning of section 252(e)(5).¹¹ In addition, we find that the Bureau correctly determined on reconsideration of its original order that Armstrong raised no new facts or arguments in its Petition for Reconsideration. In the Petition for Further Reconsideration currently before us, Armstrong has raised no new issues of fact or law that would cause us to reconsider our findings in our prior orders and accordingly we deny that petition as repetitious pursuant to section 1.106(b)(3) of our rules.¹²

4. Accordingly, IT IS ORDERED that the Petition for Further Reconsideration filed July 26, 1999 by Armstrong Communications, Inc. IS DENIED.

FEDERAL COMMUNICATIONS COMMISSION

Dorothy T. Attwood
Chief, Common Carrier Bureau

⁵ Armstrong Order, 13 FCC Rcd at 881, para. 19.

⁶ *In the Matter of Armstrong Communications, Inc. Petition for Relief Pursuant to Section 252(e)(5) of the Telecommunications Act of 1996 and Request for Additional Relief*, CCBPol No. 97-6, Order on Reconsideration, 14 FCC Rcd 9521 (Com. Car. Bur. 1999) (Order on Reconsideration).

⁷ Armstrong Communications, Inc. Petition for Reconsideration in CCBPol No. 97-6 (filed February 23, 1998) (Petition for Reconsideration).

⁸ Armstrong Further Reconsideration Petition at 1-2.

⁹ 47 U.S.C. §§251(b) and (c).

¹⁰ 47 C.F.R. §51.301. Section 51.301 addresses violations of the duty to negotiate in good faith the terms and conditions of agreements to fulfill the duties established by sections 251(b) and (c) of the Act.

¹¹ Armstrong Order, 13 FCC Rcd at 876, para. 9.

¹² 47 C.F.R. §1.106(b)(3). Section 1.106(b)(3) provides that a petition for reconsideration of an order denying an application for review which fails to rely on new facts or changed circumstances may be dismissed as repetitious.