

**BEFORE THE WASHINGTON STATE
UTILITIES AND TRANSPORTATION COMMISSION**

In the Matter of the Petition for)	DOCKET UT-083025
Arbitration of an Interconnection)	
Agreement Between)	ORDER 05
)	
COMCAST PHONE OF)	
WASHINGTON, LLC,)	ORDER APPROVING
)	INTERCONNECTION AND
with)	COLLOCATION AGREEMENT
)	
UNITED TELEPHONE COMPANY OF)	
THE NORTHWEST, INC. d/b/a)	
EMBARQ)	
)	
Pursuant to 47 U.S.C. Section 252(b).)	
.....)	

- 1 **SYNOPSIS.** *The Commission approves the Interconnection and Collocation Agreement between Comcast and Embarq filed on February 13, 2009. In accordance with its terms, the Agreement will become effective on March 14, 2009.*

- 2 **NATURE OF PROCEEDING.** On April 29, 2008, Comcast Phone of Washington, LLC (Comcast) filed with the Washington Utilities and Transportation Commission (Commission) a request for arbitration pursuant to 47 U.S.C. § 252(b) of the Telecommunications Act of 1996, Public Law No. 104-104, 101 Stat. 56 (1996) (Act). The petition was served on United Telephone Company of the Northwest, Inc. d/b/a Embarq (Embarq).

- 3 **APPEARANCES.** Gregory J. Kopta, Seattle, Washington, and Michael C. Sloan, Washington, D.C., Davis Wright Tremaine LLP, represent Comcast. William E. Hendricks, III, United Telephone Company of the Northwest, Hood River, Oregon, represents Embarq.

4 **PROCEDURAL HISTORY.** The Commission held a prehearing conference in this docket at Olympia, Washington, on May 27, 2008, before Administrative Law Judge (ALJ) Adam E. Torem. The parties agreed upon the sole issue presented:

Where Comcast is not purchasing UNE loops or resold services from Embarq, should Embarq be permitted to charge Comcast a monthly charge for “maintenance and storage” of Comcast’s customers’ basic directory listing information?

The parties also agreed on a procedural schedule that included filing deadlines for witness testimony, an evidentiary hearing, and a deadline for the Arbitrator’s Report and Decision. *See Order 02 (Prehearing Conference Order).*

5 The Commission held a hearing in this docket at on August 19, 2008, before ALJ Torem. Each party presented a single witness for cross-examination: Timothy Gates testified for Comcast and Alan Lubeck testified for Embarq.

6 The parties filed responsive post-hearing briefs on September 17, 2008, and September 26, 2008. Subsequently, Comcast filed “supplemental authority” supporting its position from arbitrators’ rulings in Texas and Pennsylvania; while Embarq filed “supplemental authority” supporting its position from the Indiana Utility Regulatory Commission.

7 Following several extensions of the original deadline for the Arbitrator’s Report and Decision, the Washington Utilities and Transportation Commission (Commission) entered Order 04, *Arbitrator’s Report and Decision*, in this docket on January 13, 2009. The Order, among other things, rejected Embarq’s Directory Listing Storage and Maintenance (DLSM) proposal and instead adopted Comcast’s proposed contract language. The Order required the parties to file a signed Interconnection Agreement within thirty days.

8 On February 13, 2009, Embarq filed a copy of the parties’ signed Interconnection and Collocation Agreement as specified in the Order.

9 **REVIEW AND APPROVAL OF INTERCONNECTION AGREEMENT.** The Commission has examined the filing and concluded that the parties’ signed Interconnection and Collocation Agreement comply with the terms of Order 04.

Therefore, the Commission approves the Interconnection and Collocation Agreement between Comcast and Embarq filed with the Commission on February 13, 2009. Pursuant to the terms of the Commission's Order 04 in this proceeding, the parties Interconnection and Collocation Agreement will become effective as filed with an effective date of March 14, 2009.

FINDINGS OF FACT

- 10 (1) The Washington Utilities and Transportation Commission is an agency of the State of Washington, vested by statute with authority to regulate rates, rules, regulations, practices, and accounts of public service companies, including telecommunications companies. Federal law vests the Commission with the authority to arbitrate interconnection disputes between local exchange carriers.
- 11 (2) Comcast Phone of Washington, LLC (Comcast) and United Telephone Company of the Northwest, Inc. d/b/a Embarq (Embarq) are "public service companies" and "telecommunications companies," as those terms are defined in RCW 80.04.010 and as those terms otherwise are used in Title 80 RCW. Comcast and Embarq are engaged in the state of Washington in the business of supplying telecommunications services for hire, sale, or resale to the general public for compensation.
- 12 (3) In compliance with Order 04, *Arbitrator's Report and Decision*, Comcast and Embarq have filed a signed Interconnection and Collocation Agreement that contains the contract language approved by the Arbitrator.

CONCLUSIONS OF LAW

- 13 (1) The Washington Utilities and Transportation Commission has jurisdiction over the subject matter of, and parties to, these proceedings. *47 U.S.C. § 252(b); Title 80 RCW; and WAC 480-07-630.*
- 14 (2) The parties' filing of a signed Interconnection and Collocation Agreement that complies with Order 04, resolves all issues raised in this matter, and meets the requirements of Section 251 of the Telecommunications Act of 1996 and the

regulations adopted by the Federal Communications Commission. *47 U.S.C. § 251 and Chapter 47 C.F.R., Part 51.*

- 15 (3) The parties' signed Interconnection and Collocation Agreement should become effective on March 14, 2009.
- 16 (4) The Commission should retain jurisdiction over the subject matter and the parties to this proceeding as necessary to effectuate the terms of this Order. *Title 80 RCW.*

ORDER

THE COMMISSION ORDERS:

- 17 The negotiated and arbitrated Interconnection and Collocation Agreement of Comcast and Embarq for the State of Washington, filed with the Commission on February 13, 2009, including all negotiated and arbitrated terms consistent with the Arbitrator's Report and Decision, Order 04 in this proceeding, is approved and will become effective on March 14, 2009.

Dated at Olympia, Washington, and effective February 25, 2009.

WASHINGTON STATE UTILITIES AND TRANSPORTATION COMMISSION

JEFFREY D. GOLTZ, Chairman

PATRICK J. OSHIE, Commissioner

PHILIP B. JONES, Commissioner