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June 10, 2009

VIA E-MAIL AND HAND DELIVERY

Mr. David Danner, Executive Director and Secretary
Washington Utilities and Transportation Commission
1300 South Evergreen Park Drive SW
Olympia, WA 98504-7250

Re: Docket No. UT-083055 – Petition for Arbitration Between Comcast
Phone of Washington, LLC and Lewis River Telephone Company
d/b/a TDS Telecom

Dear Mr. Danner:

This letter is filed on behalf of Lewis River Telephone Company d/b/a TDS and seeks to strike the letter of June 10, 2009, submitted by Mr. Greg Kopta on behalf of Comcast Phone of Washington, LLC (“Comcast Phone”). In what is described as a need to submit material under RPC 3.3, and which, instead, is a thinly disguised effort to have the last word in this proceeding, Comcast Phone asserts that TDS did not properly bring to the Commission’s attention all of the salient facts. That is not true and the June 10, 2009, letter should be stricken.

TDS cited to the Commission the Michigan Commission decision in the arbitration between the Comcast affiliate in Michigan and TDS’ affiliate in Michigan.¹ TDS argues that the Michigan order relies on a mistaken interpretation of the FCC’s and the court’s decisions because it turns, in large part, on a “just because” argument. The “just because” argument is premised on the idea that just because a carrier has a certificate in the state, it is entitled to interconnection under Section 251 in that state. TDS has asserted and argued strenuously that the “just because” idea is a faulty premise and

¹ TDS Reply Brief at ¶¶ 11-13 and footnote 11.

was addressing the Michigan order in that context.

Part of TDS' discussion of the Michigan order was to show that the Michigan arbitrator and the Commission were not looking at the FCC and court orders in proper context and in proper detail. One aspect of this was the Michigan arbitrator's confusion over what constitutes a private letter ruling at the FCC and a letter seeking an explanation as to why Comcast IP should not be viewed as providing telecommunications service.

Given that the Michigan Commission order was cited fully, and the Michigan Commission's decision is all of five pages long, it is hardly misleading to not quote expressly that the Michigan arbitrator's reference to the "private letter ruling" was stated by the Michigan Commission to not ultimately have a final bearing on their decision. However, it is still a valid reference to show that the whole rationale underlying the scope of the "just because" argument is an incomplete and improper reading of the FCC and court decisions, particularly given the Michigan Commission's terse decision.

If any entity in this proceeding has attempted to mislead the Commission it is Comcast Phone. As just one small example from their Reply Brief, at Paragraph 3 at the top of Page 2, Comcast argues that TDS' arguments are based upon mischaracterization of law and suggests that TDS' sole argument on common carriage is that common carriage is limited to the "widespread general solicitation of customers from a general population."² That is an absolute and complete mischaracterization of TDS' position which is undertaken by Comcast Phone in an effort to denigrate that position. A duty to be forthcoming includes an obligation not to purposefully misrepresent the other party's position.

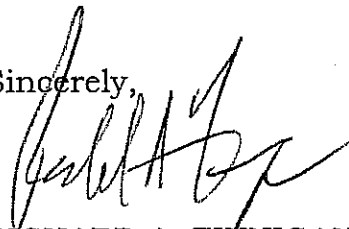
It would not be appropriate for TDS to set out its position in full to show just how badly Comcast misrepresented that position since that would be re-arguing the issue. However, suffice it to say that TDS' Opening Brief and Reply Brief in this matter will speak for themselves and underscore Comcast's inappropriate characterizations.

² Comcast Phone's June 10, 2009, letter at p. 2.

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TDS respectfully requests that the June 10, 2009, letter filed by Comcast
Phone be stricken.

Sincerely,

A handwritten signature in black ink, appearing to read 'Richard A. Finnigan', written in a cursive style.

RICHARD A. FINNIGAN

RAF/km

cc: Parties of Record (via e-mail and U.S. mail)
Clients (via e-mail)