

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

In the Matter of the Petition for Arbitration of
an Interconnection Agreement Between

COMCAST PHONE OF WASHINGTON,
LLC,

and

LEWIS RIVER TELEPHONE COMPANY,
D/B/A TDS TELECOM

Pursuant to 47 U.S.C. Section 252

DOCKET NO. UT-083055

ANSWER OF LEWIS RIVER TELEPHONE
COMPANY d/b/a TDS TELECOM TO
COMCAST PHONE OF WASHINGTON, LLC
PETITION FOR ARBITRATION

OPENING STATEMENT

1. Lewis River Telephone Company, d/b/a TDS Telecom (“TDS”), submits its Answer to the Petition for Arbitration submitted by Comcast Phone of Washington, LLC (“Comcast Phone”).

As a preliminary matter, TDS wishes to point out to the Commission that it appears that the sole issue involved in this Petition for Arbitration is whether Comcast Phone has the ability to request Section 251 interconnection from TDS as a basis for sending communications traffic that originates on a Voice over Internet Protocol (VoIP) platform operated on a retail basis by an affiliate of Comcast Phone, which Comcast Phone identifies as Comcast IP Phone II (“Comcast II”). This is the very issue that the Washington Independent Telecommunications Association and TDS placed before the Commission in a Petition for Declaratory Ruling. TDS respectfully submits that the Petition for Declaratory Ruling is the appropriate forum for resolving this issue on a legal and policy basis. The reason the Petition for Declaratory Ruling is a superior methodology in that an arbitration necessarily is binding only between the two parties to the arbitration. Under a Petition for Declaratory Ruling, the Commission can provide guidance to all rural incumbent local exchange carriers that may face interconnection requests from Comcast Phone and, perhaps, other VoIP providers.

2. As will be set out in more detail in the Answer set forth below, TDS realized through proceedings that were going on in other states that the basis for the negotiation request from Comcast Phone may be to allow its affiliate Comcast II to send what Comcast Phone considers as information service traffic, rather than telecommunications service traffic, to TDS as the only traffic using the interconnection facilities. This raises the question of whether Comcast Phone is entitled to request interconnection for that purpose.

3. TDS also notes that the Petition for Arbitration fails to include all of the requirements for a Petition for Arbitration as required under WAC 480-07-630, including such things as a list of issues, a brief and other information. Under ordinary process, TDS would be entitled to respond to such items. If Comcast Phone attempts to supplement its filing through documents filed at a later basis, TDS respectfully requests the right to file an Amended Answer so that it has the opportunity to reply as contemplated by the provisions of WAC 480-07-630.

4. Because of Comcast Phone's failure to identify any specific issues related to the form of interconnection agreement Comcast Phone attached to its Petition for Arbitration, it appears that Comcast Phone is committing to sign the TDS template that TDS provided to Comcast Phone without modification. This is the reason that it appears to TDS that the only issue pending in this Petition for Arbitration is Comcast Phone's ability to request interconnection under the circumstances surrounding its request.

ANSWER

5. TDS admits that Comcast Phone has filed a Petition for Arbitration as set forth in Paragraph 1 of the Petition for Arbitration and the identification of TDS. TDS denies the remainder of the allegations set forth in Paragraph 1 as it is an open issue as to whether Comcast Phone can seek arbitration.

6. Paragraph 2 to the Petition for Arbitration is simply a statement of what the Petition contains and TDS has no comment thereon.

7. TDS admits the dates set forth in Paragraph 3 of the Petition for Arbitration are correct. TDS denies each and every other allegation contained in Paragraph 3 of the Petition for Arbitration.

8. Since the issue is whether Comcast Phone can request interconnection under the circumstances surrounding its request, TDS denies that arbitration is available as set forth in Paragraph 4 of the Petition for Arbitration.

9. TDS admits the first sentence of Paragraph 5 of the Petition for Arbitration. TDS denies the second sentence of Paragraph 5 of the Petition for Arbitration.

10. TDS admits the statements contained in Paragraphs 6, 7 and 8 of the Petition for Arbitration.

11. As to Paragraph 9 of the Petition for Arbitration, TDS disagrees with the summary provided by Comcast Phone and states as follows: On or about May 20, 2008, TDS received a purported bona fide request for interconnection with Lewis River Telephone Company from Comcast Phone. This followed purported bona fide requests previously sent for affiliated entities of TDS operating in Michigan and New Hampshire and preceded requests to affiliated entities in Georgia and Indiana in June and Florida in July. By letter dated June 5, 2008, TDS sent an acknowledgment letter to Comcast Phone. On June 18, 2008, correspondence seeking information on the nature of services provided by Comcast Phone was sent to Comcast Phone. Comcast Phone sent replies dated June 24, 2008, and July 17, 2008, which did not respond to the questions posed by TDS, but requested further negotiation. In late summer, TDS became aware that questions were being raised in several states concerning the status of Comcast Phone (and its related entities operating in other states) and began to research that material. An extension for Washington was reached in September. On October 14, 2008, in a conference call with Comcast Phone, TDS indicated that TDS desired to pursue state rulings as to whether Comcast Phone qualifies to request interconnection and would begin that work. On October 20, 2008, in a conference call between Officer representatives of Comcast Phone and TDS, it was agreed that

the companies would continue negotiations while pursuing regulatory rulings on Comcast Phone's status as a telecommunications carrier. These discussions continued on October 23, 2008. On October 28, 2008, a Petition for Declaratory Ruling was filed by the Washington Independent Telecommunications Association and TDS requesting a declaratory ruling as to Comcast Phone's status to request Section 251 interconnection. On October 29, 2008, as agreed, TDS sent a draft agreement for the State of Washington which TDS stated would provide the basis for ongoing negotiations while state proceedings were pending. On November 3, 2008, Comcast Phone filed its Petition for Arbitration, enclosing the draft Interconnection Agreement provided by TDS to Comcast Phone on October 29, 2008, as the proposed Interconnection Agreement. The documents referenced above are attached as Exhibit 1.

12. TDS denies the allegations contained in Paragraph 10 of the Petition for Arbitration. TDS admits that on October 14, 2008, TDS had communications with Comcast Phone as described in Paragraph 11 of this Answer, above.

13. Except as to the last sentence of Paragraph 11, TDS denies the allegations contained in Paragraph 11 of the Petition for Arbitration. TDS is without sufficient information to affirm or deny the last sentence of Paragraph 11 of the Petition for Arbitration and therefore denies the same.

14. As to Paragraph 12 of the Petition for Arbitration, TDS admits that it has entered into an agreement with an affiliate of Comcast Phone in Vermont, which agreement states that it was entered into pursuant to Section 251 of the Act. That agreement was signed before TDS discovered there was a serious question concerning the status of Comcast Phone (and its similar affiliates in other states). TDS expressly denies each and every other allegation as contained in Paragraph 12 of the Petition for Arbitration. By way of further answer, TDS admits that an

affiliate of Comcast Phone “opted into” an interconnection agreement between an affiliate of TDS and US LEC in Tennessee effective May 1, 2006. TDS further admits that an affiliate of Comcast Phone “opted into” an interconnection agreement between an affiliate of TDS and MCImetro in Indiana effective October 1, 2006. Both “opt-ins” occurred before Comcast Phone and its affiliates began to file Section 63.17 discontinuance of service notices and before TDS had enough information to question the eligibility of Comcast Phone to request interconnection under Section 251. TDS expressly denies that there is any estoppel. Comcast Phone has failed to demonstrate any sufficient comparison of facts to support an estoppel argument. Further, Comcast Phone has failed to provide legal authority to support an estoppel argument. If estoppel is to become an issue, which TDS denies that it should be, that issue must be separately briefed.

15. TDS denies the allegations contained in Paragraph 13 of the Petition for Arbitration.

16. TDS denies the request for relief contained in Paragraph 14 of the Petition for Arbitration.

OTHER MATTERS

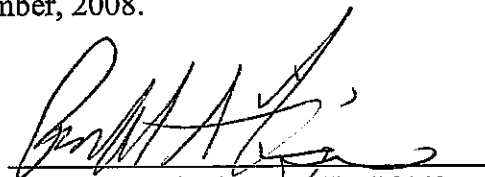
17. Attached to this Answer as Attachment 1 is the Brief of TDS filed pursuant to WAC 480-07-630(7)(f)(ii). In addition, pursuant to WAC 480-07-630(e), TDS is providing a set of discovery requests that, should Comcast Phone fail to voluntarily comply with its obligation related to discovery, the Arbitrator in this matter should issue with directions to Comcast Phone to respond. The discovery requests are contained in Attachment 2.

18. Since discovery is needed in this matter, TDS is unable to provide all documents it relies on to support its positions or that it intends to introduce as exhibits at the hearing, as required by WAC 480-07-630(7)(f)(iii) and hereby requests that this requirement be stayed until discovery is complete.

19. Pursuant to WAC 480-07-630(7)(b), the unresolved issue in this matter is the extent to which Comcast Phone may request interconnection for traffic that is originated from a VoIP platform offered on a retail basis by Comcast II. TDS' position is set forth in this Answer and the Brief that accompanies this Answer. Presumably, Comcast Phone takes the opposing position.

20. Pursuant to WAC 480-07-630(7)(d), TDS respectfully requests that the Arbitrator dismiss the Petition for Arbitration on the basis that arbitration is unavailable to Comcast Phone for the type of interconnection it has requested for traffic originating from a VoIP platform (which Comcast Phone describes as information service traffic) operated by Comcast Phone's affiliate, Comcast II.

Respectfully submitted this 1st day of December, 2008.



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Company, d/b/a TDS Telecom