

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

In the Matter of the Petition for	)	DOCKET UT-083055
Arbitration of an Interconnection	)	
Agreement Between	)	ORDER 06
	)	
COMCAST PHONE OF	)	
WASHINGTON, LLC	)	
	)	ORDER APPROVING
and	)	INTERCONNECTION
	)	AGREEMENT
LEWIS RIVER TELEPHONE	)	
COMPANY, D/B/A TDS TELECOM	)	
	)	
Pursuant to 47 U.S.C. Section 252(b)	)	
	)	
.....	)	

1 **SYNOPSIS.** *The Commission approves the Interconnection Agreement between TDS Telecom and Comcast Phone filed on August 26, 2009, which the parties have agreed will become effective on October 1, 2009.*

2 **NATURE OF THE PROCEEDING.** Docket UT-083055 involves a petition by Comcast Phone of Washington, LLC (Comcast Phone) for arbitration of an interconnection agreement filed with Lewis River Telephone Company, Inc., d/b/a TDS Telecom (TDS Telecom) pursuant to 47 U.S.C. § 252(b) of the Telecommunications Act of 1996.

3 **APPEARANCES.** Gregory J. Kopta, Davis Wright Tremaine LLP, Seattle, Washington, and Michael C. Sloan, Davis Wright Tremaine LLP, Washington, D.C. represent Comcast Phone. Richard Finnigan, Attorney, Olympia, Washington, represents TDS Telecom.

4 **PROCEDURAL HISTORY.** Comcast Phone filed a petition with the Washington Utilities and Transportation Commission (Commission) for arbitration of an interconnection agreement with TDS Telecom on November 3, 2008. The Commission appointed Administrative Law Judge Ann E. Rendahl as Arbitrator.

- 5 The facts agreed to by the parties demonstrate that if the Commission approves an interconnection agreement between Comcast Phone and TDS Telecom, Comcast Phone would offer service to its affiliate, Comcast IP Phone II, LLC (Comcast IP) so that Comcast IP may offer Comcast Digital Voice service, a Voice over Internet Protocol service, to end user customers in TDS Telecom's serving area, allowing digital voice end users to place calls to TDS Telecom end users within TDS Telecom's local calling areas, and *vice versa*.<sup>1</sup> The primary issue in dispute is an issue of law: whether Comcast Phone is a telecommunications carrier entitled to interconnection, and related rights, with TDS Telecom under Section 251 of the Telecommunications Act of 1996.
- 6 After the parties filed motions for summary determination on this issue, the Arbitrator entered the Arbitrator's Report and Decision, Order 05 on July 20, 2009, finding as a matter of law that Comcast Phone is a telecommunications carrier under the Act entitled to negotiate and arbitrate an interconnection agreement with TDS Telecom. The Arbitrator directed the parties to file an interconnection agreement with the Commission, conditioning approval of the agreement on Comcast Phone making publicly available its agreement with its affiliate Comcast IP.<sup>2</sup>
- 7 No party sought review of the Arbitrator's decision. On August 24, 2009, the parties filed an interconnection agreement between Lewis River Telephone Company, Inc., d/b/a TDS Telecom, and Comcast Phone of Washington, LLC, d/b/a Comcast Digital Phone, requesting Commission approval.
- 8 On August 28, 2009, Comcast Phone filed as a public document in this proceeding the Local Interconnection Service Agreement between Comcast Phone, LLC, and Comcast Phone II, LLC, and Comcast IP Phone, LLC, dated May 15, 2008, and the First Amendment to the agreement dated February 1, 2009. Comcast Phone states that it will also make the agreement publicly available on its website, as required by paragraph 100 of Order 05.

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<sup>1</sup> Stipulated Facts, Docket UT-083055, ¶ 15, filed April 2, 2009.

<sup>2</sup> See Order 05, Docket UT-083055, ¶ 100.

**MEMORANDUM**

**The Interconnection Agreement**

9 We find the Interconnection Agreement between TDS Telecom and Comcast Phone filed on August 24, 2009, consistent with the Arbitrator's decision in Order 05 and Section 251 of the Act. Comcast Phone has complied with the condition in paragraph 100 of the Order, making its agreement with Comcast IP publicly available. We approve the interconnection agreement and find that the negotiated terms of the parties' Interconnection Agreement are consistent with the public interest and do not discriminate against any other telecommunications carrier.

**FINDINGS OF FACT**

- 10 Having determined that the issue is essentially an issue of law, the Commission makes the following summary findings of fact.
- 11 (1) The Washington Utilities and Transportation Commission is an agency of the State of Washington, vested by statute with authority to regulate in the public interest the rates, services, facilities, and practices of telecommunications companies in the state.
- 12 (2) TDS Telecom is engaged in the business of furnishing telecommunications services, including, but not limited to, basic local exchange service within the state of Washington, and is a local exchange carrier as defined in the Act.
- 13 (3) Comcast Phone is a Competitive Local Exchange Carrier that furnishes telecommunications services to customers in Washington.
- 14 (4) On November 3, 2008, Comcast Phone filed a petition with the Commission seeking arbitration of an interconnection agreement with TDS Telecom.
- 15 (5) On July 20, 2009, the Arbitrator entered an Arbitrator's Report and Decision resolving all disputed issues between the parties.

- 16 (6) On August 24, 2009, the parties jointly filed an interconnection agreement with the Commission for approval.
- 17 (7) On August 28, 2009, Comcast Phone complied with the condition set forth in paragraph 100 of the Arbitrator's decision, filing as a public document its agreement with its affiliate, Comcast IP.

### CONCLUSIONS OF LAW

- 18 Having stated general findings and conclusions, the Commission now makes the following summary conclusions of law. Those portions of the preceding detailed discussion that state conclusions pertaining to the ultimate decisions of the Commission are incorporated by this reference.
- 19 (1) The Washington Utilities and Transportation Commission has jurisdiction over the subject matter and the parties to this proceeding.
- 20 (2) The Telecommunications Act of 1996 authorizes the Commission to arbitrate and approve interconnection agreements between telecommunications carriers, pursuant to Section 252 of the Act. The Commission is specifically authorized by state law to engage in that activity. *RCW 80.36.610*. This arbitration and approval process was conducted pursuant to and in compliance with 47 U.S.C. § 252 and *RCW 80.36.610*.
- 21 (3) The negotiated terms of the parties' August 24, 2009, Interconnection Agreement, are consistent with the public interest and do not discriminate against any other telecommunications carrier.
- 22 (4) The laws and regulations of the state of Washington and Commission orders shall govern the construction and interpretation of the parties' Interconnection Agreement. The parties' Interconnection Agreement is subject to the jurisdiction of the Commission and Washington courts.

**ORDER**

23 **THE COMMISSION ORDERS** That the negotiated and arbitrated Interconnection Agreement of Comcast Phone of Washington, LLC, d/b/a Comcast Digital Phone and Lewis River Telephone Company, Inc., d/b/a TDS Telecom, filed with the Commission on August 24, 2009, including all negotiated and arbitrated terms, is consistent with the Arbitrator's Report and Decision – Order 05 in this proceeding, and is approved.

DATED at Olympia, Washington and effective September 8, 2009.

WASHINGTON STATE UTILITIES AND TRANSPORTATION COMMISSION

JEFFREY D. GOLTZ, Chairman

PATRICK J. OSHIE, Commissioner

PHILIP B. JONES, Commissioner