

**BEFORE THE WASHINGTON  
UTILITIES AND TRANSPORTATION COMMISSION**

In the Matter of the Petition for Arbitration of an )  
Interconnection Agreement Between )  
COMCAST PHONE OF WASHINGTON, LLC, ) DOCKET NO. UT-\_\_\_\_\_  
and )  
UNITED TELEPHONE COMPANY OF THE )  
NORTHWEST, INC. D/B/A EMBARQ )  
Pursuant to 47 U.S.C. Section 252. )

**COMCAST PHONE OF WASHINGTON, LLC PETITION FOR ARBITRATION**

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ATTORNEYS FOR COMCAST PHONE  
OF WASHINGTON, LLC

April 28, 2008

## PETITION FOR ARBITRATION

1. Comcast Phone of Washington, LLC (“Comcast”), through counsel, petitions the Washington Utilities and Transportation Commission (“Commission”) to arbitrate, pursuant to applicable Commission Rules and the federal Communications Act of 1934, as amended (the “Act”), an Interconnection Agreement between Comcast and United Telephone of the Northwest d/b/a Embarq (“Embarq”). (Hereafter, Comcast and Embarq are collectively referred to as the “parties”).

2. After nearly 18 months of negotiations, the parties have managed to resolve all of their differences except one, which is the issue identified in Section E of this Petition. Comcast respectfully asks the Commission to resolve this last, unresolved issue by ordering the parties to incorporate Comcast’s position into an Interconnection Agreement for execution by the parties.

3. This petition for arbitration (“Petition”) includes background information on the parties, the history of Comcast’s interconnection negotiations with Embarq, the Commission’s jurisdiction and applicable legal standards, and a presentation of the unresolved issue. The Appendices to the Petition include: (1) the letter stating the date for filing of this Petition (attached hereto as Exhibit A); and (2) a redline of the disputed language (Exhibit B).<sup>1</sup>

### **A. Applicable Legal Standards**

4. This Commission has jurisdiction over this Petition pursuant to Section 252(b)(1) of the Act<sup>2</sup> and RCW 80.36.610. Under the Act, parties negotiating for interconnection, access to unbundled network elements, or resale of services within a particular state may petition that state's utility regulatory commission for arbitration of any unresolved issues from the 135<sup>th</sup> to the

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<sup>1</sup> A copy of the complete agreement is not currently available but will be provided via a supplemental filing. Because there is only one disputed issue, a separate decision point list is not included with this petition, but would be provided upon request.

<sup>2</sup> 47 U.S.C. § 252(b)(1).

160<sup>th</sup> day (inclusive) of such negotiations.<sup>3</sup> Accordingly, Comcast files this Petition with the Commission on this date to preserve its rights under Section 252(b) of the Act and to seek relief from the Commission in resolving the outstanding dispute.

5. Pursuant to Section 252(b)(4)(C) of the Act,<sup>4</sup> this arbitration is to be concluded not later than nine months after the applicable request for negotiations, which request, for purposes of this Petition, was made by Comcast and received by Embarq on November 22, 2007. Therefore, the arbitration is to be concluded on or before August 22, 2008.

6. This arbitration must be resolved under the standards established in Sections 251 and 252 of the Act, the rules adopted and orders issued by the Federal Communications Commission (“FCC”) in implementing the Act and the applicable rules and orders of this Commission.

7. The Commission may, under its own state law authority, impose additional requirements pursuant to Section 252(e)(3) of the Act, as long as such requirements are consistent with the Act and the FCC’s regulations.<sup>5</sup>

8. The Commission should make an affirmative finding that the rates, terms, and conditions that it prescribes in this proceeding are consistent with the requirements of Sections 251 and 252 of the Act.

9. Comcast also respectfully requests a reasonable opportunity to supplement this Petition with additional information as the need arises.

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<sup>3</sup> *Id.*

<sup>4</sup> 47 USC § 252(b)(4)(C).

<sup>5</sup> 47 USC § 252(e)(3); *Implementation of the Local Competition Provisions of the Telecommunications Act of 1996*, CC Docket No. 96-98, First Report and Order, 11 FCC Rcd. 15499, ¶ 244 (1996) (contemplating that states may impose additional “access and interconnection obligations” over and above those required by federal law).

**B. Name, Address, and Telephone Number of the Petitioner and its Counsel**

10. Comcast is a Delaware limited liability company with its principal place of business in Philadelphia, Pennsylvania. Comcast is a facilities-based local exchange carrier providing local exchange, interexchange and other telecommunications services in the Embarq incumbent local exchange carrier (“ILEC”) service territory in Washington.

11. The names, addresses and contact information for Comcast's representative in this proceeding is as follows:

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Comcast respectfully requests that a copy of all Commission orders and notices, and all Embarq pleadings and filings also be sent to:

Michael C. Sloan  
Davis Wright Tremaine LLP  
1919 Pennsylvania Avenue, NW  
Suite 200  
Washington, DC 20006  
P: (202) 973-4227  
F: (202) 973-4499  
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**C. Identity of Respondent**

12. Embarq is an “incumbent local exchange carrier” as that term is defined in Section 251(h)(1) of the Act. Embarq’s counsel in Washington is:

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Attorney - Law & External Affairs  
Embarq  
902 Wasco Street  
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**D. Brief Summary of the Negotiation History**

13. Comcast obtained its first interconnection agreement with Embarq (then d/b/a Sprint) on May 5, 2005. On November 17, 2006, Comcast notified Embarq of its intent to negotiate a successor agreement. Since then the negotiations have been continuous, extensive, and largely successful. The parties have amicably resolved a number of disputed issues and, because of the generally positive nature of the negotiations, have extended the Section 252(b)(1) negotiation window several times. Via letter agreement dated November 20, 2007 (attached as Exhibit A), the parties agreed that April 29, 2008 would constitute the 160<sup>th</sup> day of their negotiations.

**E. Description of the Remaining Unresolved Issue**

14. The remaining dispute involves Embarq’s recurring charges for entering, maintaining and storing Comcast’s directory listings (“DL”) in the Embarq’s DL database. For purposes of the arbitration, Comcast proposes identifying the issues as follows:

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?

15. Embarq has proposed charging Comcast a significant nonrecurring charge of \$6.49 to process Comcast's DL service orders and load them into Embarq's DL database. Embarq then seeks to charge an additional \$0.50 per listing per month for a "directory listing storage and maintenance" ("DLSM") charge for each subscriber listing that Comcast provides to Embarq.

16. The DLSM charge is impermissible on at least two separate grounds. First, the charge is clearly discriminatory and, as such, violates Section 251(b)(3) of the Act and Section 51.217 of the FCC's rules (47 C.F.R. § 51.217). The law is clear that Embarq must include listings for Comcast's customers in Embarq's directory assistance database on the same terms and conditions that apply to listings for its own retail and other wholesale customers. Embarq does not charge its own customers a separate charge to store and maintain their listings, nor does it charge requesting carriers that purchase UNE loops or resold services a separate DL "storage and maintenance" charge. The charge is, therefore, discriminatory and must be rejected.

17. Embarq does not impose the DLSM charge on its own customers or CLECs that utilize other business models. As such, the charge violates Embarq's obligation, under Section 251(b)(3) of the Act, to provide Comcast with "non-discriminatory access" to its DLSM function. Embarq has claimed that its proposed DLSM rate is market-based, but has failed to provide any justification for the charge which, under applicable rules, must still be cost justified. The parties' attempts to negotiate a mutually acceptable alternative rate have also failed.

18. No other ILEC charges a similar charge today, and no other ILEC has ever proposed such a charge. There is simply no basis for the charge other than as a method to significantly increase the monthly cost per subscriber that is incurred by Embarq's facilities-based competitors.

19. WHEREFORE, Comcast respectfully requests that the Commission reject Embarq's proposed DLSM charge and adopt Comcast's proposed interconnection language.

Respectfully submitted:

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**CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of the foregoing Petition for Arbitration was served by electronic mail and overnight delivery on the 28<sup>th</sup> of April 2008.

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## **Exhibit A**

## **Exhibit B**