

**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)
LEWIS RIVER TELEPHONE COMPANY, D/B/A)
TDS TELECOM)
Pursuant to 47 U.S.C. Section 252.)

COMCAST PHONE OF WASHINGTON, LLC PETITION FOR ARBITRATION

Andrew Fisher, Esq.
(215) 286-3039
Andrew_Fisher@Comcast.com

Beth Choroser
(215) 286-7893
Beth_Choroser@Comcast.com

Comcast Cable Communications, LLC
One Comcast Center, 50th Floor
Philadelphia, PA 19103
F: (215) 286-5039

Gregory J. Kopta
Michael C. Sloan
Davis Wright Tremaine LLP
1201 Third Avenue, Suite 2200
Seattle, Washington 98101-3045
P: (206) 757-8079
F: (206) 757-7079
Email: gregkopta@dwt.com
michaelsloan@dwt.com

ATTORNEYS FOR COMCAST PHONE
OF WASHINGTON, LLC

November 3, 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 WAC 480-07-630 and the federal Telecommunications Act of 1996 (“Act”), an Interconnection Agreement between Comcast and Lewis River Telephone Company, d/b/a TDS Telecom (“TDS”) (Comcast and TDS are collectively referred to as the “parties”).

2. This petition for arbitration (“Petition”) includes background information on the parties, the history of Comcast’s interconnection negotiations with TDS, the Commission’s jurisdiction and applicable legal standards, and a presentation of the unresolved issue. The Appendices to the Petition include: (1) the letter establishing the date on which negotiations between the parties began (attached hereto as Exhibit A); and (2) a copy of the interconnection agreement that the parties have negotiated for Washington (Exhibit B).

A. Applicable Legal Standards

3. The Commission has jurisdiction over this Petition pursuant to Section 252(b)(1) of the Act¹ 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 135th to the 160th day (inclusive) of the negotiations.² For purposes of this Petition, Comcast made and TDS received Comcast’s request for negotiations on June 20, 2008. Based on that date, the 135th day is November 2, 2008, and the 160th day is November 27, 2008. Pursuant to Section 252(b)(4)(C) of the Act,³ this arbitration is to be concluded not later than nine months after the

¹ 47 U.S.C. § 252(b)(1).

² *Id.*

³ 47 USC § 252(b)(4)(C).

applicable request for negotiations. Therefore, the arbitration is to be concluded on or before March 20, 2009.

4. 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. 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.⁴ 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.

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

5. 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 TDS incumbent local exchange carrier (“ILEC”) service territory in Washington.

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

Gregory J. Kopta
Davis Wright Tremaine LLP
1201 Third Avenue, Suite 2200
Seattle, Washington 98101-3045
P: (206) 757-8079
F: (206) 757-7079
Email: gregkopta@dwt.com

⁴ 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).

Comcast respectfully requests that a copy of all Commission orders and notices, and all TDS 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
Email: michael Sloan@dwt.com

C. Identity of Respondent

7. TDS is an “incumbent local exchange carrier” as that term is defined in Section 251(h)(1) of the Act. The TDS representative with whom Comcast has been negotiating is:

Linda Lowrance
Manager – Interconnection
TDS Telecom – Knoxville
10025 Investment Drive, Suite 200
Knoxville, TN 37932
P: (865) 671-4758
F: (865) 966-4720
Email: Linda.Lowrance@tdstelecom.com

8. On information and belief, TDS’s counsel in Washington is:

Richard Finnigan
2112 Black Lake Blvd SW
Olympia, WA 98512
P: (360) 956-7001
F: (360) 753-6862
rickfimm@localaccess.com

D. Brief Summary of the Negotiation History

9. Comcast first requested negotiations with TDS for Washington and five other states in April 2008, and the parties’ negotiations have been generally productive and continuous since then. The parties even agreed in late September to extend the arbitration window to provide additional time to resolve the final outstanding issues. (See Letter Agreement attached

hereto as Exhibit A.) After more than six months of negotiations, Comcast and TDS have resolved all the disputed issues in a template agreement for the six states, and all that remained was to customize that agreement for each state and execute and file the agreements for state commission approval. TDS even sent a customized agreement to Comcast for Washington (*See* attached Exhibit B).

10. On or about October 13, 2008, however, TDS informed Comcast that it would not execute the agreement because of unspecified “concerns” about Comcast’s telecommunications carrier status and suspended negotiations with Comcast based on the unsupported contention that Comcast is not entitled to interconnection. TDS now refuses to finalize the agreement the parties have negotiated.

E. Description of the Disputed Issue

11. TDS’ sudden eleventh hour refusal to execute an interconnection agreement with Comcast based on unspecified “concerns” about Comcast’s telecommunications carrier status is unsupported by fact or law. Comcast offers various telecommunications services to the public, including both telephone exchange and exchange access service offerings. Both the Commission and the Federal Communications Commission have expressly recognized that Comcast and its similarly situated affiliates operating in 37 other states are regulated telecommunications carriers under federal and state laws that are entitled to interconnection under Section 251 of the Communications Act of 1934, as amended, and other applicable state and federal laws. The Commission registered and authorized Comcast to provide intrastate telecommunications services as a competitively classified company.⁵ In addition, the Commission has approved

⁵ *Application and Petition of AT&T Broadband Phone of Washington, LLC, for Registration as a Telecommunications Company and Classification as a Competitive Telecommunications Company, Order Authorizing Registration and Granting Petition for Competitive Classification,*

Section 251 interconnection agreements between Comcast and *five* other ILECs in Washington and currently is in the process of arbitrating an agreement between Comcast and another ILEC.⁶

12. TDS has also recognized Comcast's status as a telecommunications carrier. Comcast requested interconnection with TDS pursuant to Section 251 of the Act, and TDS responded and participated in interconnection agreement negotiations pursuant to that request without questioning Comcast's right to interconnection under the Act. Indeed, in the letter attached hereto as Exhibit A, TDS agreed that it was engaging in negotiations with Comcast for purposes of establishing an interconnection agreement under Section 251 of the Act pursuant to the process outlined in Section 252. Likewise, TDS affiliates have entered into interconnection agreements with Comcast's competitive local exchange carrier affiliates in Tennessee, Indiana, and most recently in Vermont.. The Vermont agreement, which the Vermont Public Service Board approved in August 2008, states expressly that it was entered into pursuant to Section 251 of the Act. Thus, TDS has already stipulated that Comcast is a telecommunications carrier entitled to interconnection and Comcast has taken actions in reliance on that stipulation. TDS is, thus, estopped, from taking a contrary position now.

13. There is no basis in law or fact for TDS' position that Comcast is not a telecommunications carrier. To the contrary, TDS' position is clearly an anticompetitive attempt to block Comcast's entry into the market.

14. WHEREFORE, Comcast respectfully requests that the Commission find that Comcast is entitled to interconnection under the Act and adopt the interconnection agreement that the parties have negotiated.

Docket UT-010681 (Washington Utilities and Transportation Commission July 11, 2001). The company's name was subsequently changed to Comcast Phone of Washington, LLC.

⁶ *In re Petition for Arbitration of an Interconnection Agreement Between Comcast and Embarq pursuant to 47 U.S.C. Section 252(b)*, Docket No. UT-083025.

Respectfully submitted:



Gregory J. Kopta
Michael C. Sloan
Davis Wright Tremaine LLP
1201 Third Avenue
Seattle, Washington 98101-3045
P: (206) 757-8079
F: (206) 757-7700
Email: gregkopta@dwt.com
michaelsloan@dwt.com

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OF WASHINGTON, LLC

Andrew Fisher, Esq.
(215) 286-3039
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Comcast Cable Communications, LLC
One Comcast Center
50th Floor
Philadelphia, PA 19103
F: (215) 286-5039

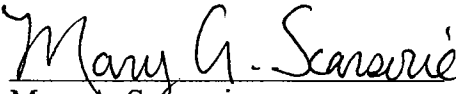
November 3, 2008

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 3rd of November 2008.

Linda Lowrance
Manager – Interconnection
TDS Telecom – Knoxville
10025 Investment Drive, Suite 200
Knoxville, TN 37932
P: (865) 671-4758
F: (865) 966-4720
Email: Linda.Lowrance@tdstelecom.com

Richard Finnigan
2112 Black Lake Blvd SW
Olympia, WA 98512
P: (360) 956-7001
F: (360) 753-6862
rickfinn@localaccess.com


Mary A. Scorsorie