

**BEFORE THE
WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION**

In the Matter of the Petition for Arbitration)	
of an Interconnection Agreement Between)	
)	
COMCAST PHONE OF WASHINGTON,)	DOCKET NO. UT-083025
LLC,)	
)	
with)	
)	
UNITED TELEPHONE COMPANY OF)	
THE NORTHWEST, INC. d/b/a EMBARQ)	
)	
Pursuant to 47 U.S.C. Section 252(b).)	
.....)	
....)	

SECOND NOTICE OF SUPPLEMENTAL AUTHORITY

Comcast Phone of Washington, LLC (“Comcast”), through undersigned counsel, submits this Second Notice of Supplemental Authority in response to a request made by Judge Torem at the August 19, 2008 hearing about the status of the “other arbitrations” between Embarq and Comcast involving the same disputed directory listing and storage and maintenance charge at issue in this proceeding.¹

¹ See August 19 Transcript at 92:24.

On September 19, 2007, Administrative Law Judge David A. Salapa of the Pennsylvania Public Utility Commission (“PUC”) issued the attached Recommend Decision in the Pennsylvania “version” of this case.² While the Pennsylvania ALJ’s Recommended Decision is not a final order of the Pennsylvania PUC, Comcast respectfully submits that it is a highly persuasive analysis of issues identical to those presented in this proceeding. Just like the arbitrators in Texas have proposed,³ Judge Salapa has recommended that Embarq’s proposed interconnection language be rejected. In summary, Judge Salapa found that Embarq’s proposed directory listing storage and maintenance charge “does not comply with the[] requirements [of section 251(b)(3)] because the language is discriminatory on its face in that it treats competitors differently depending on whether they purchase UNE loops or resale services.”⁴ Judge Salapa also found that, “Embarq has failed to present sufficient evidence that either its competitors that purchase UNE loops or resale services from it or its own customers pay a similar monthly amount for the same services.”⁵

² *Petition of Comcast Business Communications, LLC d/b/a Comcast Long Distance for Arbitration of an Interconnection Agreement with United Telephone Company of Pennsylvania, Inc. d/b/a Embarq Pursuant to 47 U.S.C. § 252(b)*, Recommended Decision (Penn. PUC Sep. 19, 2008) (“Pennsylvania Recommended Decision”). As the Commission is aware, Comcast initiated identical Section 252 arbitration proceedings against Embarq in Texas, Pennsylvania, Indiana, Washington, Minnesota and New Jersey, all of which involved the same directory listing charge at issue in this proceeding.

³ See Comcast Notice of Supplemental Authority (filed September 15, 2008).

⁴ Pennsylvania Recommended Decision at 15.

⁵ *Id.* at 15-16.

WHEREFORE, Comcast respectfully requests that the Commission take notice of the Pennsylvania Arbitrators' *Recommended Decision* in the Commission's adjudication of this proceeding.



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