

**BEFORE THE
NEW HAMPSHIRE PUBLIC UTILITIES COMMISSION**

Petition of Comcast Phone of New Hampshire, LLC)
d/b/a Comcast Digital Phone for Arbitration of)
Rates, Terms and Conditions of Interconnection with)
Kearsarge Telephone Company d/b/a TDS Telecom,)
Merrimack County Telephone Company d/b/a TDS) DOCKET NO. _____
Telecom and Wilton Telephone Company, Inc. d/b/a)
TDS Telecom Pursuant to the Communications Act)
of 1934, as Amended)

**PETITION FOR ARBITRATION
OF COMCAST PHONE OF NEW HAMPSHIRE, LLC**

DIRECT TESTIMONY OF BETH CHOROSER

1 **Q. PLEASE STATE YOUR NAME, BUSINESS ADDRESS, EMPLOYER AND**
2 **CURRENT POSITION.**

3 A. My name is Beth Choroser. My business address is One Comcast Center, 50th Floor,
4 Philadelphia, PA 19103. I am employed as Senior Director of Regulatory
5 Compliance for Comcast Cable Communications, LLC.

6 **Q. ON WHOSE BEHALF ARE YOU TESTIFYING?**

7 A. I am testifying on behalf of Comcast Phone of New Hampshire, LLC, d/b/a Comcast
8 Digital Phone (“Comcast Phone”).

9 **Q. PLEASE SUMMARIZE YOUR EDUCATIONAL AND PROFESSIONAL**
10 **BACKGROUND.**

11 A. I received a Bachelor of Arts degree from Pennsylvania State University and a Master
12 of Business Administration from Syracuse University. I have worked in various
13 capacities in both the communications industry and the electric utility industry. My
14 experience includes work in the areas of rates, billing, taxation, regulatory reporting,

1 tariffs, interconnection, numbering, and overall regulatory compliance. From 1985 to
2 1988, I worked for New England Electric System as a rate analyst and later as staff
3 assistant to the Chief Operating Officer. In those roles I performed cost of service
4 studies and fuel cost studies, and testified before the state commission on fuel cost
5 charges. I also oversaw budgeting for the Chief Operating Officer. From 1997 to
6 1999, I was with ATX Telecommunications. Initially I had responsibility for billing
7 specifications and revenue assurance. Subsequently, I managed the end-user taxation
8 and regulatory functions. I have been with the Comcast organization since 2000.
9 From 2000 to 2003, I was the Manager of Regulatory Compliance for the company's
10 start-up commercial voice business, Comcast Business Communications, LLC. I had
11 responsibility for tariffs, billing compliance, interconnection, regulatory reporting,
12 end-user taxation, and surcharging. From 2003 to the present, I have held positions
13 of increasing responsibility in the company's residential voice business, including
14 promotion to my current position.

15 **Q. PLEASE DESCRIBE YOUR CURRENT RESPONSIBILITIES WITH**
16 **COMCAST PHONE.**

17 A. I am responsible for a wide variety of regulatory matters, including compliance with
18 both state and federal regulatory requirements. More specifically for purposes of this
19 docket, I oversee negotiation of Interconnection Agreements with incumbent local
20 exchange carriers ("ILECs") consistent with Section 251 of the federal
21 Communications Act of 1934, as amended ("Act") on behalf of Comcast Phone and
22 its affiliates that provide regulated telecommunications services.

1 **Q. WHAT IS THE PURPOSE OF YOUR TESTIMONY IN THIS PROCEEDING?**

2 A. The purpose of my testimony is to describe, explain, and provide support for Comcast
3 Phone's positions on the issues in dispute between Comcast Phone and Kearsarge
4 Telephone Company d/b/a TDS Telecom ("Kearsarge"), Merrimack County
5 Telephone Company d/b/a TDS Telecom ("Merrimack") and Wilton Telephone
6 Company, Inc. d/b/a TDS Telecom ("Wilton") (collectively, "TDS" or "the TDS
7 entities").

8 **Q. PLEASE DESCRIBE THE BUSINESS OF COMCAST PHONE?**

9 A. Comcast is a Delaware limited liability company with its principal place of business
10 at One Comcast Center, Philadelphia, PA 19103. It is a telecommunications carrier
11 registered to provide service in the New Hampshire service area of Fairpoint f/k/a
12 Verizon New England and seeking additional authority from the Commission to
13 provide service in the territory of the TDS companies that are named in this
14 proceeding.

15 **Q. WHAT SERVICES DOES COMCAST PHONE OFFER?**

16 A. Comcast Phone currently offers Business Local Service, a single line business
17 service; Schools and Libraries Network Service, a high-speed T1 voice and data
18 service to primary and secondary schools, municipal libraries, and other "e-rate"
19 eligible institutions; and Local Interconnection Service, two-way interconnection with
20 the public switched telephone network ("PSTN") for the exchange of voice traffic,
21 and administration of numbering resources, local numbering portability, operator
22 services, 911 emergency calling services, and directory listing and directory

1 assistance services. These services are offered in the Fairpoint service area in New
2 Hampshire, proposed to be offered in the TDS service area, and generally the same as
3 those offered by Comcast Phone's telecommunication carrier affiliates in other states.

4 **Q. WHAT ISSUE IS COMCAST SEEKING TO HAVE THE NEW HAMPSHIRE**
5 **PUBLIC UTILITIES COMMISSION ("COMMISSION") ARBITRATE**
6 **BETWEEN IT AND TDS?**

7 A. The issue in this arbitration is whether Comcast Phone is entitled to an
8 interconnection agreement with TDS. Through negotiations, Comcast Phone and
9 TDS have managed to resolve all of the technical issues associated with establishing
10 an interconnection agreement for New Hampshire, as well as to resolve nearly all
11 terms for agreements with operating affiliates in Michigan, Georgia, Indiana,
12 Washington and Florida. TDS, however, recently informed Comcast Phone that it
13 questions whether Comcast Phone is a telecommunications carrier entitled to
14 interconnection under Section 251 of the Act and has refused to execute the
15 negotiated interconnection agreement. The precise nature of TDS' position is not
16 fully known at this point, but TDS' contention that Comcast Phone is not a
17 telecommunications carrier is clearly incorrect. The Commission should, therefore,
18 pursuant to its authority under the Act, issue an order reaffirming Comcast Phone's
19 telecommunications carrier status (as it has in orders approving interconnection
20 agreements between Comcast Phone and other ILECs as well as in the pending
21 Docket 08-013 concerning Comcast Phone's application for authority to provide

1 service in TDS territory, and require TDS to execute the proposed Interconnection
2 Agreement attached to Comcast Phone's Petition as Exhibit C.¹

3 **Q. WERE YOU INVOLVED IN THE NEGOTIATIONS THAT LED TO THE**
4 **DEVELOPMENT OF THE PROPOSED INTERCONNECTION**
5 **AGREEMENT?**

6 A. Yes. I generally oversaw Comcast Phone's negotiation of the proposed
7 Interconnection Agreement with TDS, which was negotiated with the intention that it
8 would serve as the basis for the Comcast Phone-TDS Interconnection Agreement in
9 multiple states. I have been involved in well over 100 other negotiations for Section
10 251 Interconnection Agreements on behalf of Comcast Phone and its affiliates since
11 2000.

12 **Q. COULD YOU SUMMARIZE THE COURSE OF THOSE NEGOTIATIONS?**

13 A. Comcast Phone requested negotiation for an Interconnection Agreement with TDS in
14 New Hampshire in April 2008. Multi-state negotiations had been progressing when
15 on or about October 13, 2008 TDS raised unspecified "concerns" about Comcast
16 Phone's telecommunications carrier status and temporarily suspended negotiations
17 with Comcast based on the unsupported contention that Comcast Phone is not a
18 telecommunications carrier entitled to interconnection. TDS subsequently agreed to
19 continue negotiations but stated it would not execute the resulting agreements. Via
20 letter dated November 7, 2008, the parties agreed to extend the arbitration window to

¹ The disputed redlined language inserted at Section 3.1 of the attached interconnection agreement reflects TDS' concern regarding Comcast's status as a telecommunications carrier.

1 provide additional time to resolve the final outstanding issues. Comcast Phone and
2 TDS have resolved all issues and all that remains is for the Parties to execute the
3 proposed fully-negotiated Interconnection Agreement, attached to the Petition as
4 Exhibit C.

5 **Q. WHY HAS TDS REFUSED TO EXECUTE AND SUBMIT THE PROPOSED**
6 **INTERCONNECTION AGREEMENT TO THE COMMISSION PURSUANT**
7 **TO SECTION 252(e) OF THE ACT?**

8 A. As noted, Comcast Phone and TDS were able to resolve all disputed issues and
9 negotiated the proposed Interconnection Agreement attached to the Petition as
10 Exhibit C. TDS has refused, however, to execute the agreement based on unspecified
11 “concerns” about Comcast’s telecommunications carrier status, which has
12 necessitated the filing of this Petition.

13 **Q. IS COMCAST A TELECOMMUNICATIONS CARRIER?**

14 A. Yes. Comcast offers various wholesale and retail telecommunications services to the
15 public, including both telephone exchange and exchange access service offerings.
16 Both the Commission and the Federal Communications Commission have expressly
17 recognized that Comcast and its similarly situated affiliates operating in 37 other
18 states are telecommunications carriers that are entitled to interconnection under the
19 Act and other applicable state and federal laws. Comcast is registered to provide
20 telecommunications service in the FairPoint service area in New Hampshire.

21

22

1 **Q. HAS THIS COMMISSION ADDRESSED THE QUESTION WHETHER**
2 **COMCAST PHONE IS A TELECOMMUNICATIONS CARRIER?**

3 A. Yes, it has, and it has ruled that Comcast Phone is a telecommunications carrier. The
4 Commission issued an order approving the certification of Comcast Phone's
5 predecessor to provide service in what is now Fairpoint territory.² It is under this
6 authority that Comcast Phone offers service in that territory. In addition, the
7 Commission has approved a Section 251 Interconnection Agreement between
8 Comcast and FairPoint in the state.³ Comcast Phone recently registered for authority
9 to provide service in the service areas of the TDS entities subject to this Petition, and
10 that registration is currently pending before the Commission in Docket 08-013.⁴ TDS
11 has opposed Comcast Phone's entry into its territory. After technical conferences,
12 stipulations, and briefing by the parties, the Commission ruled in Order 24,887 that
13 the Business Local Services and Schools and Libraries Network Service Comcast

² The Commission's order in *Petition for Authority to Provide Local Telecommunications Services*, Order Nisi Granting Authorization, Order No. 23,088, DE 98-208 (NH PUC Dec. 15, 1998) authorized MediaOne Telecommunications of New Hampshire, Inc. to provide service in the Bell Atlantic service territory. By letter dated April 17, 2001, Media One Telecommunications of New Hampshire, Inc. notified the Commission of a name change to AT&T Broadband Phone of New Hampshire, LLC. By letter dated February 6, 2003, the Commission was informed that AT&T Broadband Phone of New Hampshire, LLC was changing its name to Comcast Phone of New Hampshire, LLC d/b/a Comcast Digital Phone as a result of the merger transaction whereby Comcast Corporate acquired AT&T broadband Corp.

³ See *Re Verizon New Hampshire*, Order No. 24,141, DT 03-012 (NH PUC March 17, 2003).

⁴ Comcast filed an application for authority to provide local exchange telecommunications services in each of the TDS entities' service territories. The Commission granted Comcast's application in its Order No. 24,843, DT 08-013, dated April 4, 2008. On April 16, 2008, TDS filed a motion to suspend the order until issuance of an order approving a settlement in Docket No. DT 07-027, concerning TDS' request for an alternative form of regulation pursuant to RSA 374:3-b. In its Order No. 24,854, dated May 2, 2008, the Commission suspended Comcast's CLEC authority pursuant to Order No. 24,843. On August 18, 2008, the Commission ordered that Comcast's petition for authority is complete and complies with the Commission rules governing CLEC applications, and directed hearing on the question whether offering these services in TDS territory is consistent with the public good. Order No. 24,887, DT 08-013.

1 Phone proposes to offer in the TDS territories are “retail telecommunications
2 services” and that Comcast “has met the requirements of our CLEC registration rules
3 as we interpret them.”

4 **Q. HAS COMCAST DISCONTINUED ITS TELECOMMUNICATIONS**
5 **SERVICE OFFERINGS?**

6 A. No. While TDS may suggest that Comcast’s discontinuance of one of its service
7 offerings – the legacy, circuit switched local exchange product marketed to
8 consumers under the brand name Comcast Digital Phone – constituted a
9 discontinuance of all telecommunications service offerings in the state, that is clearly
10 not the case.⁵ To the contrary, Comcast continues to offer telecommunications
11 services in the state – both wholesale services as well as its retail offerings to schools
12 and libraries and small businesses. Comcast has not surrendered its regulatory
13 authority to provide service in New Hampshire, nor has Comcast surrendered its
14 international section 214 authority granted by the FCC.

⁵ Comcast filed its petition to discontinue interstate service on or after April 29, 2008, with the Federal Communications Commission (“FCC”) on February 20, 2008. *See* Section 63.71 Application of Comcast Phone of Massachusetts, Inc., Comcast Phone of New Hampshire, LLC, Comcast Phone of Ohio, LLC, and Comcast Phone of Pennsylvania, LLC, for Authority Pursuant to Section 214 of the Communications Act to Discontinue the Provision of Comcast Digital Phone Telecommunications Service in Massachusetts, New Hampshire, Ohio and Pennsylvania (*filed* February 20, 2008) (approval granted by operation of law April 29, 2008, pursuant to FCC WC Docket No. 08-45, Comp. Pol. File No. 857). Comcast subsequently learned that certain customers in Massachusetts and New Hampshire did not receive the FCC notice of the April 29 discontinuance, and accordingly, sent notice to these customers and on April 3, 2008, filed another petition for discontinuance with the FCC for authority to discontinue service on May 15, 2008 for these certain customers only. *See* Section 63.71 Application of Comcast Phone of Massachusetts, Inc. and Comcast Phone of New Hampshire, LLC, for Authority Pursuant to Section 214 of the Communications Act to Discontinue the Provision of Comcast Digital Phone Telecommunications Service in Massachusetts and New Hampshire (*filed* April 3, 2008) (approval granted by operation of law May 15, 2008, pursuant to FCC WC Docket No. 08-52, Comp. Pol. File No. 861).

1 **Q. DOES COMCAST HAVE RATE SCHEDULES ON FILE WITH THE**
2 **COMMISSION FOR ITS TELECOMMUNICATIONS SERVICE**
3 **OFFERINGS?**

4 A. Yes. Comcast Phone has filed rate schedules for Business Local Service (Revised
5 Rate Schedule No. 1, filed June 9, 2008; effective June 9, 2008) and Schools and
6 Libraries Network Service (Revised Rate Schedule No. 1, filed Dec. 8, 2008;
7 effective Dec. 9, 2008).⁶ Comcast Phone understands that the Commission does not
8 expect the filing of wholesale rates and therefore has not filed a rate schedule for
9 Local Interconnection Service. This service offering is made available to New
10 Hampshire prospective customers through a Service Guide, published on Comcast's
11 website.⁷

12 **Q. HAS TDS PREVIOUSLY RECOGNIZED COMCAST AS A**
13 **TELECOMMUNICATIONS CARRIER FOR PURPOSES OF SECTION 251**
14 **INTERCONNECTION AGREEMENT NEGOTIATIONS?**

15 A. Yes, TDS has recognized Comcast Phone's status as a telecommunications carrier.
16 Comcast Phone requested interconnection with TDS pursuant to Section 251 of the
17 Act, and TDS participated in Interconnection Agreement negotiations under the Act.
18 Indeed, in the letters attached to the Petition as Exhibit A and B, TDS agreed that it

⁶ Comcast's New Hampshire rate schedule and uniform tariff are available for viewing at:
<http://www.comcast.com/corporate/about/phonetermsofservice/circuit-switched/statetariffs/newhampshire.html>. Comcast's federal tariffs are available at:
<http://www.comcast.com/corporate/about/phonetermsofservice/circuit-switched/cdpfederaltariffs.html>.

⁷ The Local Interconnection Service offering is available for viewing at
http://www.comcast.com/MediaLibrary/1/1/About/PhoneTermsOfService/PDF/interconnection/Local_Interconnection_Service.pdf.

1 was engaging in negotiations with Comcast Phone for purposes of establishing an
2 Interconnection Agreement under Section 251 of the Act pursuant to the process
3 outlined in Section 252. Likewise, TDS affiliates have entered into Interconnection
4 Agreements with Comcast Phone's competitive local exchange carrier affiliates in
5 Tennessee, Indiana, and most recently in Vermont. The Vermont agreement, which
6 the Vermont Public Service Board approved in August 2008, states expressly that it
7 was entered into pursuant to Section 251 of the Act. Thus, TDS has already
8 stipulated that Comcast Phone is a telecommunications carrier entitled to
9 interconnection and Comcast Phone has taken actions in reliance on that stipulation.

10 **Q. PLEASE PROVIDE ADDITIONAL INFORMATION ON COMCAST**
11 **PHONE'S LOCAL INTERCONNECTION SERVICE OFFERING IN NEW**
12 **HAMPSHIRE.**

13 A. Local Interconnection Service ("LIS") is available to qualified providers of
14 interconnected Voice over Internet Protocol ("VoIP") services. As the LIS service
15 guide explains, LIS is a public offering available to qualified providers of
16 interconnected VoIP services, as defined in 47 CFR § 9.3. Comcast's LIS
17 telecommunications service offering makes it possible for interconnected VoIP
18 providers to make and receive calls to and from the PSTN and otherwise serve their
19 customers. Comcast Phone has received several inquiries about the service and
20 Comcast recently offered the service to a prospective customer in Vermont. Comcast
21 Phone has not received a single complaint alleging that it refused to consider a
22 request for the service from a prospective customer.

1 **Q. WHAT OTHER SERVICES DOES COMCAST PHONE PROVIDE?**

2 A. In addition to its retail Business Local Service and Schools and Libraries Network
3 Service, Comcast Phone and its similarly situated operating affiliates around the
4 country provide exchange access services pursuant to its federal and state tariffs to
5 interexchange carriers (“IXCs”) that request the service. Comcast Phone has
6 approximately 35 exchange access service customers in New Hampshire who
7 purchase either intrastate or interstate terminating access services from Comcast
8 Phone.⁸ Moreover, Comcast Phone pays terminating access charges to numerous
9 other carriers, including TDS, in New Hampshire and elsewhere. Likewise, Comcast
10 Phone makes and receives reciprocal compensation payments to FairPoint pursuant to
11 its Section 251 Interconnection Agreement in the state.⁹ And Comcast Phone may
12 unveil yet other telecommunications service offerings in the future in response to
13 developments in technology and market conditions. Clearly, Comcast requires all of
14 its rights under Section 251(a)-(b) to bring the full benefits of these offerings to New
15 Hampshire consumers.

⁸ Upon request, Comcast Phone will submit evidence of its CABs bills into the record of this case, under seal, following the execution of an appropriate protective order with TDS.

⁹ See *supra* note 8 Comcast is prepared to submit additional evidence of its reciprocal compensation bills and receipts upon request, subject to the execution of an appropriate protective order with TDS.

1 **Q. HAS THE FEDERAL COMMUNICATIONS COMMISSION RECOGNIZED**
2 **LOCAL INTERCONNECTION SERVICE AS A TELECOMMUNICATIONS**
3 **SERVICE?**

4 A. Yes it has. The FCC has recognized this type of arrangement, in which a state-
5 licensed CLEC “partner” provides telecommunications services to an interconnected
6 VoIP provider and has previously concluded that a CLEC has full interconnection
7 rights and obligations to provide PSTN connectivity to such providers.¹⁰ In fact, in its
8 recent order extending FCC numbering obligations to interconnected VoIP providers,
9 the FCC noted that such action “may spur consumer demand for [VoIP] service, in
10 turn driving demand for broadband connections and consequently encouraging more
11 broadband investment and deployment.”¹¹ Moreover, the FCC recently recognized
12 that Comcast Phone’s provision of its interconnection services to its Interconnected
13 VoIP affiliate qualified it as a telecommunications carrier under Section 222(b) of the
14 Act.¹²

15 The LIS service that Comcast Phone provides to its interconnected VoIP
16 service provider customers is identical to that which Sprint, MCI and other CLECs
17 provide to interconnected VoIP service providers such as Time Warner Cable. At

¹⁰ *Time Warner Cable Request for Declaratory Ruling that Competitive Local Exchange Carriers May Obtain Interconnection Under Section 251 of the Communications Act of 1934, as Amended, to Provide Wholesale Telecommunications Services to VoIP Providers*, Memorandum Opinion and Order, 22 FCC Rcd 3513 (2007).

¹¹ *In re Telephone Number Requirements for IP-Enabled Services Providers*, 22 FCC Rcd 19531, 19548 at ¶ 29 n.102 (2007).

¹² *Bright House Networks, LLC v Verizon California, Inc*, Memorandum Opinion and Order, 23 FCC Rcd 10704 at ¶¶ 37-41(2008).

1 least one-half dozen states have affirmed the telecommunications carrier status of
2 such service offerings and affirmed these CLECs' interconnection rights in order to
3 provide interconnection services to interconnected VoIP service providers.¹³
4 Comcast Phone seeks affirmance of the same rights in addition to its rights as a
5 carrier of the retail services this Commission has held are telecommunications
6 services.

7 **Q. DO YOU HAVE ANY FURTHER COMMENTS FOR THE COMMISSION?**

8 A. Comcast Phone seeks an Interconnection Agreement that addresses rates, terms and
9 conditions for direct and indirect connection, reciprocal compensation terms and
10 certain duties contained in Sections 251(a)-(b) of the Act – an Interconnection
11 Agreement that we thought we had already negotiated with TDS. Thus, Comcast
12 Phone is only seeking that which TDS affiliates have already agreed to provide to
13 Comcast Phone's competitive local exchange carrier affiliates in Tennessee, Indiana,
14 and Vermont. Comcast Phone has an interconnection agreement with Fairpoint in
15 New Hampshire, and approximately 150 similar arrangements around the country.
16 TDS' eleventh hour refusal to enter into an agreement with Comcast Phone while

¹³ See, *Consolidated Comm Of Fort Bend Co v Public Utility Commission of Texas*, Memorandum Opinion and Order, 497 F Supp 2d 836 (WD Tex 2007), *aff'g* *Petition of Sprint Comm Co LP*, Order, Docket No. 32582, 2006 WL 2366391 (Tex PUC, Aug 14, 2006); *Sprint Comm Co LP*, Order, App No. 310183F0002AMA, *et al*, 101 PaPUC 895, 2006 WL 3675279 (Pa PUC, Nov 30, 2006); *Sprint Comm Co LP v ACE Comm Group, et al*, Order on Rehearing, Docket No. ARB-05-2, 2005 WL 3624405 (Iowa Util Bd, Nov 28, 2005); *Re Sprint Comm Co LP*, Opinion and Findings, Appl No. C-3429, 2005 WL 3824447 (Neb PSC, Sept 13, 2005); *Cambridge Telephone Company, et al*, Order, Docket No. 05-0259, *et al*, 2005 WL 1863370 (Ill CC, July 15, 2005); *Re The Champaign Tel Co*, Case No. 04-1494-TP-UNC (Ohio PUC April 13, 2005); See *Berkshire Tel Corp v Sprint*, 2006 WL 3095665 (WDNY) (affirming *Order Resolving Arbitration Issues* (NY PSC Cases 05-C-0170, 0183) (May 24, 2005) and *Order Denying Rehearing* (NY PSC Cases 05-C-0170, 0183) (Aug 24, 2005)

1 entering into, and seeking to enter into, similar agreements with other
2 telecommunications carriers violates both state and federal laws. Therefore, TDS
3 should be ordered to execute the Interconnection Agreement it negotiated with
4 Comcast Phone and to open the door to competition in its territory.

5 **Q. DOES THAT CONCLUDE YOUR DIRECT TESTIMONY?**

6 A. Yes it does.

7