

**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. 08-162
Telecom and Wilton Telephone Company, Inc. d/b/a	)	
TDS Telecom Pursuant to the Communications Act	)	
of 1934, as Amended	)	

**COMCAST PHONE OF NEW HAMPSHIRE, LLC NOTICE OF RECENTLY  
DISCOVERED AND SUPPLEMENTAL AUTHORITY**

Comcast Phone of New Hampshire, LLC (“Comcast”) submits this Notice of Recently Discovered and Supplemental Authority in the above-captioned proceeding. Copies of all of the cases discussed below are attached.

**DISCUSSION**

In its previous briefs, Comcast noted that decisions of state regulators and reviewing courts in 10 states – Michigan, Vermont, Texas, New York, Pennsylvania, Iowa, Nebraska, Illinois, Ohio, Washington as well as a recent decision from the United States Court of Appeals for the Eighth Circuit – supported the Section 251 interconnection rights of carriers like Comcast seeking to serve interconnected VoIP service provider customers. In addition, the FCC, and the United States Court of Appeals for District of Columbia Circuit, in a ruling affirming the FCC, have found that Comcast’s “PSTN interconnection” offering qualifies Comcast as a telecommunications carrier under Section 222 of the Communications Act.

We do not file this Notice to revisit that authority, but to inform the Commission that we missed decisions from two states and to call the Commission’s attention to recent action in the Washington state proceeding between the parties. Comcast recently discovered a 2006 decision

from the Indiana Utility Regulatory Commission,<sup>1</sup> and a December 2008 decision from the North Carolina Utilities Commission,<sup>2</sup> each of which provide further persuasive authority in this proceeding. They are substantively identical to the other Sprint cases that Comcast has addressed in its previous briefs. Comcast regrets the oversight in not bringing these authorities to the Commission's attention earlier.

We also bring to the Commission's attention the recently issued Report and Recommendation of the ALJ in the Washington "version" of this proceeding.<sup>3</sup> Assuming that the Washington ALJ's recommendation is adopted by the full Washington commission, it will be the third state commission (after Michigan and Vermont) that has expressly recognized that similarly situated Comcast affiliates are entitled to Section 251 interconnection. No state has denied Comcast interconnection request.

The *Washington Recommendation* is similar to the Michigan Order. TDS made all of the same arguments in the Washington proceeding that it has made here. The ALJ considered and

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<sup>1</sup> *In the Matter of Sprint Communications Co. L.P.'s Petition for Arbitration Pursuant to Section 252(B) of the Communications Act of 1934, as Amended by the Telecommunications Act of 1996, and the Applicable State Laws for Rates, Terms and Conditions of Interconnection with Ligonier Telephone Company, Inc.*, Cause No. 43052-INT-01 (consolidated with 43053-INT-01 and 43055-INT-01) (IURC, Sept. 6, 2006), available at 2006 WL 2663730.

<sup>2</sup> *Sprint Communications Company, L.P.*, Order Ruling on Objections and Requiring the Filing of a Composite Agreement, Docket No. P-294, Sub 30 (North Carolina Util. Comm., Dec. 31, 2008), *av'l at* 2008 WL 5456090 (N.C.U.C.), *adopting in relevant part Sprint Communications Company, L.P.*, Recommended Arbitration Order, Docket No. P-294, Sub 30 (North Carolina Util. Comm., August 29, 2008), *available at* 2008 WL 4123656.

<sup>3</sup> Arbitrator's Report and Decision, *Petition for Arbitration of an Interconnection Agreement Between Comcast Phone of Washington, LLC and Lewis River Tel. Co. d/b/a TDS Telecom Pursuant to 47 U.S.C. Section 252(b)*, Docket UT-083055 (Washington State Utilities and Transportation Commission July 20, 2009) ("*Washington Recommendation*") (copy attached). As the Commission is aware, in addition to New Hampshire, Comcast and TDS affiliates are litigating Comcast's Section 251 interconnection rights in Indiana, Michigan, Washington, Georgia and Florida. The Michigan commission granted Comcast Phone's Petition seeking interconnection in March 2009, as Comcast Phone has noted. The Vermont proceeding involved an arbitration with a different ILEC.

ruled in Comcast's favor on each. Comcast believes that the *Washington Recommendation* contains thorough and persuasive analysis of all of the issues in this case.

**CONCLUSION**

Comcast Phone respectfully requests that the Commission take notice of the above cited authorities.

Respectfully submitted,



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ATTORNEYS FOR COMCAST PHONE OF  
NEW HAMPSHIRE, LLC

July 27, 2009

**CERTIFICATE OF SERVICE**

I, Paul D. Abbott, hereby certify that I have, this 27<sup>th</sup> day of July, 2009, served the foregoing document, by email, on all parties of record.



Paul D. Abbott