

STATE OF ILLINOIS

ILLINOIS COMMERCE COMMISSION

Citizens Telecommunications Company of :
Illinois d/b/a Frontier Citizens :
Communications of Illinois and New :
Windsor Cable TV, Inc. :
: **10-0652**
Joint Petition for Approval of an :
Interconnection Agreement pursuant :
to 47 U.S.C. § 252. :

ORDER

By the Commission:

I. **PROCEDURAL HISTORY**

On November 15, 2010, pursuant to 83 Illinois Administrative Code Part 763, Citizens Telecommunications Company of Illinois d/b/a Frontier Citizens Communications of Illinois (“Citizens”) and New Windsor Cable TV, Inc. (“New Windsor”) filed a joint petition for approval of the Interconnection Agreement under Section 252 of the Telecommunications Act of 1996 (47 U.S.C. §§ 151 et seq.) (“the Act”). The Agreement was submitted with the petition. A statement in support of the petition was filed along with verifications sworn to by Gregg C. Sayre on behalf of Citizens and by Richard W. Ristau on behalf of New Windsor, stating that the facts contained in the petition are true and correct to the best of their knowledge, information, and belief.

Pursuant to notice as required by law and the rules and regulations of the Commission, this matter came on for hearing by a duly authorized Administrative Law Judge of the Commission at its offices in Chicago, Illinois on December 8, 2010. Staff filed the Verified Statement of A. Olusanjo Omoniyi of the Commission’s Telecommunications Division. At the hearing Citizens and Staff appeared and agreed that there were no unresolved issues in this proceeding. Mr. Omoniyi’s Verified Statement was admitted into evidence and the record was marked “Heard and Taken.”

II. **SECTION 252 OF THE TELECOMMUNICATIONS ACT**

Section 252(a)(1) of the Act allows parties to enter into negotiated agreements regarding requests for interconnection services or network elements. Citizens and New Windsor have negotiated such an Agreement and submitted it for approval in this proceeding.

Section 252(e)(1) of the Act provides, in part, that "[a]ny interconnection agreement adopted by negotiation...shall be submitted for approval to the State Commission." This Section further provides that a State Commission to which such an agreement is submitted "shall approve or reject the agreement, with written findings as to any deficiencies." Section 252(e)(2) provides that the State Commission may only reject the negotiated agreement if it finds that "the agreement (or portion thereof) discriminates against a telecommunications carrier not a party to the agreement" or that "the implementation of such agreement or portion is not consistent with the public interest, convenience, and necessity."

Section 252(e)(4) provides that the agreement shall be deemed approved if the State Commission fails to act within 90 days after submission by the parties. This provision further states that "(n)o State court shall have jurisdiction to review the action of a State Commission in approving or rejecting an agreement under this section". Section 252(e)(5) provides for preemption by the Federal Communications Commission if a State Commission fails to carry out its responsibility, and Section 252(e)(6) provides that any party aggrieved by a State Commission's determination on a negotiated agreement may bring an action in the appropriate Federal District Court.

Section 252(h) requires a State Commission to make a copy of each agreement approved under subsection (3) "available for public inspection and copying within 10 days after the agreement or statement is approved." Section 252(i) requires a local exchange carrier to "make available any interconnection, service, or network element provided under an agreement approved under this section to which it is a party to any other requesting telecommunications carrier upon the same terms and conditions as those provided in the agreement."

III. THE AGREEMENT

In accordance with Section 252(i) of the Act, New Winsor adopted the terms of an agreement between Citizens and Diverse, dated September 14, 2005. The Agreement establishes the financial and operational terms for the transport and termination of local traffic between Citizens and New Windsor networks based on mutual and reciprocal compensation.

IV. POSITIONS OF THE PARTIES

No party contended that the Agreement is discriminatory or contrary to the public interest. Staff reviewed the Agreement in the context of the criteria contained in Section 252(e)(2)(A) of the Act and determined that it met the necessary requirements. Under this Section, the Commission may reject an agreement, or any portion thereof, adopted by negotiation under Subsection (a) only if it finds that (i) the agreement, or a portion thereof, discriminates against as telecommunications carrier not a party to the agreement; or (ii) the implementation of such an agreement, or a portion thereof, is not consistent with the public interest, convenience and necessity.

Mr. Omoniyi stated that the Agreement meets the standards set forth in the Telecommunications Act of 1996 and is consistent with the public interest, convenience and necessity. There are no contested issues in this docket. Staff recommended that the Commission approve the Agreement for the reasons set forth in the Verified Statement of Mr. Omoniyi. Staff also recommended that the Commission require New Windsor to file with the Office of the Chief Clerk, within five (5) days from the date upon which the Agreement is approved, a verified statement that the approved Agreement is the same as the Agreement filed in this Docket with the Verified Petition, as amended by the Joint Petitioners' stipulation.

V. FINDINGS AND ORDERING PARAGRAPHS

The Commission, having considered the entire record herein and being fully advised in the premises, is of the opinion and finds that:

- (1) Citizens and New Windsor are telecommunications carriers as defined in Section 13-202 of the Public Utilities Act;
- (2) Citizens and New Winsor have entered into an Interconnection Agreement on November 15, 2010, which has been submitted to the Commission for approval under Section 252(e) of the Telecommunications Act of 1996;
- (3) the Commission has jurisdiction of the parties hereto and the subject matter hereof;
- (4) the recitals of fact and conclusions reached in the prefatory portion of this Order are supported by the record and are hereby adopted as findings of fact;
- (5) the Agreement between Citizens and New Windsor does not discriminate against a telecommunications carrier not a party to the Agreement;
- (6) in order to assure that the Agreement is in the public interest, Citizens should implement the Agreement by filing a verified statement with the Chief Clerk of the Commission, within five (5) days of approval by the Commission, that the approved Agreement is the same as the Agreement filed in this docket with the verified petition, as amended by the Joint Petitioners' stipulation. The Chief Clerk shall place the Agreement on the Commission's website under Interconnection Agreements;
- (7) Citizens should also place replacement sheets in its tariffs at the following location: Ill.C.C. No. 5 Section 18;
- (8) the Agreement should be approved as hereinafter set forth;

- (9) approval of the Agreement does not have any precedential effect on any future negotiated agreements or Commission Orders.

IT IS THEREFORE ORDERED by the Illinois Commerce Commission that the Interconnection Agreement dated November 15, 2010, between Citizens Telecommunications Company of Illinois d/b/a Frontier Citizens Communications of Illinois and New Windsor Cable TV, Inc. is approved pursuant to Section 252(e) of the Telecommunications Act of 1996.

IT IS FURTHER ORDERED that Citizens shall comply with findings (6) and (7) of this Order within five days of the date of this Order.

IT IS FURTHER ORDERED that this Order is final; it is not subject to the Administrative Review Law.

By Order of the Commission this 9th day of February, 2011.

(SIGNED) MANUEL FLORES

Acting Chairman