

STATE OF ILLINOIS

ILLINOIS COMMERCE COMMISSION

New Cingular Wireless PCS, LLC :
and TDS Metrocom, LLC :
 :
Joint Petition for Approval of :
Negotiated Interconnection : **12-0393**
Agreement dated and First :
Amendment pursuant to 47 U.S.C. § :
252(e). :

ORDER

By the Commission:

I. PROCEDURAL HISTORY

On June 15, 2012, New Cingular Wireless PCS, LLC (“Cingular”) and TDS Metrocom, LLC (“TDS”) filed with the Illinois Commerce Commission (“Commission”) a verified joint petition seeking the Commission’s approval of a Negotiated Interconnection agreement (“Agreement”) and First Amendment entered into on or about May 9, 2005, and May 29, 2012 respectively pursuant to Sections 252(a)(1) and 252(e) of the federal Telecommunications Act of 1996 (“TA96”), 47 U.S.C. 151 et seq. The Agreement and Amendment were filed with the joint petition and verified by Paul E Pederson on behalf of TDS and Jerry Hicks on behalf of Cingular.

Pursuant to due notice, hearings were held in this matter before a duly authorized Administrative Law Judge of the Commission at its offices in Chicago, Illinois on July 25, 2012. Appearances were entered by counsel on behalf of TDS and Commission Staff (“Staff”). The Verified Statement of A. Olusanjo Omoniyi, a Policy Analyst in the Commission’s Telecommunication’s Division, was admitted into the record as Staff Exhibit 1. In the Verified Statement, Mr. Omoniyi recommends approval of the Agreement and Amendment. At the conclusion of the hearing the record was marked “Heard and Taken.” No petitions to intervene were received. Nor are there any contested issues in this proceeding.

II. SECTION 252 OF TA96

Section 252(a)(1) of TA96 allows parties to enter into negotiated agreements regarding requests for interconnection, services, or network elements pursuant to Section 251. Section 252(a) of TA96 provides, in part, that “[a]ny interconnection agreement adopted by negotiation . . . shall be submitted for approval to the State commission.” Section 252(e)(1) 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 thereof) is not consistent with the public interest, convenience, and necessity.” Section 252(e)(3) adds, however, that nothing in paragraph (2) “shall prohibit a State commission from establishing or enforcing other requirements of State law in its review of an agreement, including requiring compliance with intrastate telecommunications service quality standards or requirements.”

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 an appropriate federal district court.

Section 252(h) requires a state commission to make a copy of each agreement approved under subsection (e) “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

The Agreement establishes the financial and operational terms for the transport and termination of local traffic between Cingular and TDS networks based on mutual and reciprocal compensation. Additionally, the First Amendment amends paragraph V-B of the interconnection agreement to provide for intercarrier compensation for non-access traffic exchanged between local exchange carriers and commercial mobile radio service providers. It will be subject to default bill-and-keep methodology for traffic exchanges on or after July 1, 2012. Also, the First Amendment amends Section 3, Third-Party Billing, of the Interconnection Agreement to add a provision relating to compensation for “Intermediary Traffic.”

IV. POSITION OF STAFF AND COMMISSION CONCLUSION

Staff reviewed the Agreement and Amendment for consistency with the requirements of the Public Utilities Act (“Act”), 220 ILCS 5/1-101 et seq., and regulations, rules, and orders adopted pursuant to the Act. Staff also reviewed the Agreement and Amendment in light of the criteria contained in Section 252(e)(2)(A) of TA96. Under this section, the Commission may only reject an agreement, or any portion thereof, adopted by negotiation under subsection (a) if it finds that (i) the

agreement, or a portion thereof, discriminates against a telecommunications carrier not a party to the agreement; or (ii) the implementation of such agreement, or a portion thereof, is not consistent with the public interest, convenience, and necessity. Staff concludes that the Agreement and Amendment does not discriminate against a telecommunications carrier not a party to the Agreement and Amendment. Nor does anything in the Agreement or Amendment lead Staff to the conclusion that the Agreement or Amendment is inequitable, inconsistent with past Commission orders, or in violation of state or federal law. The Commission concurs with Staff's position.

Concerning the implementation of the Agreement and Amendment, Staff recommends that the Commission require TDS to, within five days from the date the Agreement is approved, create and file with the Chief Clerk a document entitled "Current List of Valid Interconnection Agreement." Staff recommends that the document be filed in this docket and specifically reference the Agreement between Petitioners and the docket number of this proceeding. If TDS enters into additional negotiated agreements in the future, Staff states that such agreements can be added to the list and the document can be re-filed in the most recent docket. This only applies to agreements in which TDS received a request for interconnection. Staff asserts that this requirement for telephone cooperatives is consistent with the Commission's orders in previous negotiated agreement dockets and allows interested parties access to such agreements with Hamilton. Staff also recommends that the Commission make this list available to the public by creating an electronic link to the document on the Commission's web site.

In addition, Staff recommends that the Commission require TDS to file a verified statement with the Chief Clerk of the Commission, within five days of approval by the Commission, that the approved Agreement and Amendment is the same as the Agreement and Amendment filed in this docket with the verified joint petition. Staff further recommends that the Commission direct the Chief Clerk to place the Agreement on the Commission's web site under "Interconnection Agreements." The Commission concludes that Staff's recommendations regarding implementation of the Agreement and Amendment are reasonable and should be adopted.

V. FINDINGS AND ORDERING PARAGRAPHS

The Commission, having considered the entire record herein, is of the opinion and finds that:

- (1) and Cingular and TDS are telecommunications carriers as defined in Section 13-202 of the Act, which provide telecommunications services as defined in Section 13-203 of the Act;
- (2) the Commission has jurisdiction over the parties hereto and the subject matter hereof;

- (3) the facts recited and conclusions reached in the prefatory portion of this Order are supported by the record and are hereby adopted as findings of fact and law;
- (4) the Agreement and Amendment does not discriminate against a telecommunications carrier not a party to the Agreement or Amendment and is not contrary to the public interest, convenience, and necessity;
- (5) in order to assure that the implementation of the Agreement and Amendment is in the public interest, TDS should implement the Agreement and Amendment by filing a verified statement with the Chief Clerk of the Commission, within five days of approval by the Commission, that the approved Agreement and Amendment is the same as the Agreement and Amendment filed in this docket with the verified joint petition; the Chief Clerk should place the Agreement and Amendment on the Commission's web site under "Interconnection Agreements;"
- (6) within five days of the entry of this Order, TDS should make a "Compliance Filing" in this docket consisting of a list of the interconnection agreements that it has entered into, as described in the prefatory portion of this Order above; the Chief Clerk should place the list on the Commission's web site;
- (7) the Agreement and Amendment should be approved as hereinafter set forth; and
- (8) approval of this Agreement and Amendment does not have any precedential affect on any future negotiated agreements or Commission orders.

IT IS THEREFORE ORDERED by the Illinois Commerce Commission that the Agreement and Amendment between New Cingular Wireless PCS, LLC and TDS Metrocom, LLC is hereby approved pursuant to Section 252(e) of the Telecommunications Act of 1996.

IT IS FURTHER ORDERED that TDS Metrocom, LLC shall comply with Findings (5) and (6) hereinabove.

IT IS FURTHER ORDERED that subject to the provisions of 83 Ill. Adm. Code 200.880, this Order is final; it is not subject to the Administrative Review Law.

By order of the Commission this 15th day of August, 2012.

(SIGNED) DOUGLAS P. SCOTT

CHAIRMAN