

STATE OF ILLINOIS

ILLINOIS COMMERCE COMMISSION

USCOC of Illinois RSA #1, LLC, :
USCOC of Central Illinois, LLC, :
United States Cellular Operating Company :
of Chicago, LLC, :
USCOC of Illinois RSA #4, LLC, : 12-0676
Davenport Cellular Telephone Company, :
USCOC of Rockford, LLC, :
and TDS Metrocom, LLC :
:
:
Joint Petition for Approval of Negotiated :
Interconnection Agreement and First :
Amendment to Agreement pursuant to :
47 U.S.C. §252(e). :

ORDER

By the Commission:

I. Procedural History

On December 17, 2012, pursuant to 83 Illinois Administrative Code Part 763, USCOC of Illinois RSA #1, LLC, USCOC of Central Illinois, LLC, United States Cellular Operating Company of Chicago, LLC, USCOC of Illinois RSA #4, LLC Davenport Cellular Telephone Company, USCOC of Rockford, LLC (“USCOC”) and TDS Metrocom, LLC, (“TDS”) filed a joint petition for approval of the Negotiated Interconnection Agreement (“Agreement”) and the First Amendment under Section 252 of the Telecommunications Act of 1996 (47 U.S.C. §§ 151 et seq.) (“the Act”). The Agreement and the Amendment were submitted with the petition. A statement in support of the petition was filed along with verifications sworn to by David Fiala on behalf of USCOC and by Jeni L. White on behalf of TDS, 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 the rules and regulations of the Commission, this matter came on for hearing by a duly authorized Administrative Law Judge (“ALJ”) of the Commission at its offices in Chicago, Illinois, on January 17, 2013. This matter was continued to January 25, 2013 granting Staff additional time to file a Verified Statement. On January 24, 2103, Staff filed the Verified Statement of A. Olusanjo Omoniyi of the Commission’s Telecommunications Division. On January 24, 2013, the ALJ admitted the Verified Statement into evidence, canceled the hearing scheduled for January 25, 2013 and marked the record “Heard and Taken.”

No petitions for leave to intervene were filed in this matter and there are no unresolved issues.

II. Section 252 of the Telecommunications Act

Section 252(a)(1) of the Act allows parties to enter into negotiated agreements, and amendments to such agreements, regarding requests for interconnection services or network elements,. McDonough and USCOC have negotiated such an Amendment 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

The underlying Agreement is for a one-year term with provisions for automatic renewal unless terminated by either party. It provides for the direct and indirect interconnection of facilities, the exchange of traffic between USCOC and TDS, and also establishes billing provisions. The Agreement includes other commercial terms typical of business-to-business agreements.

IV. The Amendment

USCOC and TDS negotiated the First Amendment to implement bill-and-keep compensation for Local Traffic, consistent with the FCC's recently adopted bill-and-keep methodology for Local Traffic exchanged between a LEC and a CMRS Provider in its Report and Order and Further Notice of Proposed Rulemaking released on November 18, 2011, and its Order on Reconsideration released on December 23, 2011 (collectively the "USF/ICC Transformation Order). Consistent with the USF/ICC Transformation Order, the Amendment is effective on July 1, 2012.

V. Positions of the Parties

No party contended that the Amendment is discriminatory or contrary to the public interest. Staff reviewed the Amendment 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 Amendment meets the standards set forth in the Telecommunications Act of 1996 and are consistent with the public interest, convenience and necessity. There are no contested issues in this Docket. Staff recommended that the Commission approve the Agreement and the Amendment for the reasons set forth in the Verified Statement of Mr. Omoniyi. Staff also recommended that, as TDS provides resold and facilities-based local exchange and interexchange telecommunications services, it should, within five (5) days from the date the Agreement and the Amendment are approved, file a "Current List of Valid Interconnection Agreements". The list should reference the USCOC-TDS Metrocom Agreement and First Amendment and Commission Docket 12-0676. Staff further recommended that, in order to assure that implementation of the Agreement and First Amendment is in the public interest, TDS should implement the Agreement and First Amendment by filing a verified statement with the Chief Clerk of the Commission, within five (5) days from the date this Agreement and the Amendment are approved, that the approved Agreement and First Amendment are the same as the Agreement and First Amendment filed in this Docket with the Verified Petition. The Chief Clerk should place the Agreement and the First Amendment on the Commission's website under Interconnection Agreements.

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) USCOC and TDS are telecommunications carriers as defined in Section 13-202 of the Public Utilities Act;

- (2) USCOC and TDS have entered into an Interconnection Agreement and a First Amendment, which have 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 and the First Amendment between USCOC and TDS does not discriminate against a telecommunications carrier not a party to the Agreement;
- (6) as TDS provides resold and facilities-based local exchange and interexchange telecommunications services, it should, within five (5) days from the date the Agreement and First Amendment are approved, file a "Current List of Valid Agreements. The list should be filed in this Docket and should reference the Agreement and the First Amendment;
- (7) in order to assure that the Agreement and the First Amendment are in the public interest, TDS should implement the Agreement and the First Amendment 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 and the First Amendment are the same as the Agreement and the First Amendment filed in this Docket with the verified petition, as amended by the Joint Petitioners' stipulation. The Chief Clerk shall place the Agreement and the First Amendment on the Commission's website under Interconnection Agreements;
- (8) The Agreement and the First Amendment should be approved as hereinafter set forth;
- (9) approval of the Agreement and the First Amendment 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 Agreement and First Amendment between USCOC of Illinois RSA #1, LLC, USCOC of Central Illinois, LLC, United States Cellular Operating Company of Chicago, LLC, USCOC of Illinois RSA #4, LLC Davenport Cellular Telephone Company, USCOC of Rockford, LLC and TDS Metrocom, LLC, is approved pursuant to Section 252(e) of the Telecommunications Act of 1996.

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

IT IS FURTHER ORDERED that subject to the provisions of Section 10-113 of the Public Utilities Act and 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 14th day of February, 2013.

(SIGNED) DOUGLAS P. SCOTT

Chairman