

NORTH CAROLINA
RURAL ELECTRIFICATION AUTHORITY
RALEIGH
DOCKET NO. TMC 5, Sub 1

BEFORE THE NORTH CAROLINA RURAL ELECTRIFICATION AUTHORITY

In the Matter of

Petition of Time Warner Cable Information)
Services (North Carolina), LLC for Arbitration)
Pursuant to Section 252(b) of the Communications)
Act of 1934, as Amended, to Establish an)
Interconnection Agreement with)
Star Telephone Membership Corporation)

AND)

Petition of Time Warner Cable Information)
Services (North Carolina), LLC to Terminate)
Star Telephone Membership)
Corporation's Rural Telephone Company)
Exemption Pursuant to Section 251(f)(1) of the)
Communications Act of 1934, as Amended)

ORDER

BY THE NORTH CAROLINA RURAL ELECTRIFICATION AUTHORITY
("Authority"):

PROCEDURAL HISTORY

1. On October 5, 2005, Time Warner Cable Information Services (North Carolina) (hereinafter "TWCIS") sent a letter requesting that Star TMC (hereinafter "Star"), enter into negotiations for an interconnection agreement.

2. On March 14, 2006, after Star refused to negotiate concerning an interconnection agreement, TWCIS petitioned the North Carolina Rural Electrification Authority (hereinafter the "Authority") to arbitrate an interconnection agreement between TWCIS and Star.

3. Before the arbitration could move forward, Star sought dismissal of the proceeding on the ground that TWCIS was not a telecommunications carrier and therefore was not eligible for interconnection under the Act.

4. On July 19, 2006, the Authority issued an Order in which it agreed with Star and dismissed the proceeding.

5. After TWCIS's request to reconsider the petition was dismissed, TWCIS appealed to the United States Court for the Eastern District of North Carolina. On September 23, 2009 the Court remanded the proceedings back to the Authority for reconsideration.

6. On January 27, 2010 the Authority ordered that the case proceed in two phases: the first would consider whether Star's rural exemption under 47 USC §251(f)(1) should be terminated and the second (in the event the exemption would be terminated) would arbitrate any remaining open issues necessary for the parties to enter into an interconnection agreement.

7. On May 26, 2011, the FCC issued a Declaratory Ruling clarifying that local exchange carriers are obligated to fulfill all of the duties set forth in 47 USC §251(a) and (b) of the Act, including the duty to interconnect and exchange traffic, regardless of their rural exemption.

8. On October 21, 2011, the Arbitrator issued a Recommended Order to terminate the rural exemption phase of the proceeding.

9. On January 31, 2012, the Authority accepted and adopted the Recommended Order Terminating Phase 1 of the Proceeding without modification as the Final Decision of the Authority. The Order adopted by the Authority stated that Phase I of the Proceeding was terminated and that the parties should proceed to Phase II, arbitration of an interconnection agreement.

10. On February 24, 2012, the Authority proposed a procedural schedule to commence arbitration.

11. On February 29, 2012, prior to beginning the Phase II arbitration, Star filed a petition pursuant to 47 USC §251(f)(2) seeking suspension or modification of all requirements of 47 USC §251(b) and (c) implicated by the request for interconnection arrangements from TWCIS.

12. TWCIS is not seeking interconnection with Star under 47 USC §251(c) of the Act, therefore Star's Petition only implicates the obligations set forth under 47 USC §251(b).

13. On March 23, 2012, TWCIS filed a Motion to Dismiss Star's Petition.

14. On March 28, 2012, the Authority issued an Order consolidating TWCIS's Petition for Arbitration with Star's 47 USC §251(f)(2) Petition and TWCIS's Motion before proceeding to Phase II of the Arbitration. That Order further stated that "The hearing/arbitration officer shall submit a recommended decision to the Authority as to Star's Petition, TWCIS's Motion to Dismiss, and any response filed and as to whether to proceed to Phase II. The Authority will then allow the parties to file exceptions to that recommendation and will provide a time for oral argument before the Authority."

15. On April 23, 2012 Star filed a Response to TWCIS's Motion and TWCIS filed a Reply to Star's Response on May 7, 2012.

16. On August 23, 2012, an oral argument was held which was heard by Arbitrator Jo Anne Sanford.

17. On October 25, 2012, Arbitrator Sanford issued a Recommended Order “Granting TWCIS (NC)’s Motion to Dismiss”.

18. On October 31, 2012, the Authority issued an Order outlining the procedural schedule for objections and comments on the Recommended Decision filed on October 25, 2012.

19. The Order also called for the Authority to schedule an oral argument before rendering a final decision.

20. On November 26, 2012, the parties submitted Objections and Comments to the October 25, 2012 Recommended Order.

21. On December 21, 2012, the parties submitted Responses to Objections and Comments.

22. On January 10, 2013, TWCIS submitted a Reply to Star’s Response. Star requested an extension on the deadline to submit their reply which was granted through January 14, 2013.

23. On January 14, 2013, Star submitted a Reply to the Response filed by TWCIS.

24. On February 13, 2013, the parties presented oral arguments to the Authority.

DECISION

On February 13, 2013, the above-referenced matter came before the North Carolina Rural Electrification Authority for consideration. Authority members in attendance were L. Calvin Duncan – Chairman; Joseph G. Justice -Vice-Chairman; Edith C. Cox; and Buddy G. Creed. Prior to the discussions on the filings, Authority member J. Ronnie Alderman, who is also a board member of Star Telephone Membership Corporation, made a motion to recuse himself. After deliberating the motion, the Authority approved Authority member Alderman’s motion and Mr. Alderman withdrew from the proceeding. The remaining members of the Authority considered and discussed all filings by the parties and arguments presented by counsel regarding the above captioned matter.

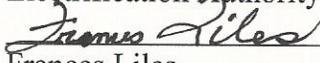
IT IS THEREFORE ORDERED as follows:

1. For the purposes of stating a claim upon which relief may be granted under 47 USC §251(f)(2), the Authority finds that in its petition, Star has sufficiently plead the elements necessary to request suspension or modification pursuant to 47 USC §251(f)(2).
2. The allegations in Star’s petition are sufficient to entitle Star to an opportunity to offer evidence in an effort to meet its burden of proof under 47 USC §251(f)(2).

3. Pursuant to the power vested in the Authority by N.C. Gen. Stat. § 117-2(12), the Authority directs that the Arbitrator determine if any of the obligations of 47 USC §251(b) should be suspended or modified, for any duration, as to Star.
4. Such hearing/arbitration shall be conducted in two (2) phases. First, the Arbitrator shall determine whether a suspension or modification of any of Star's 47 USC §251(b) obligations is necessary to avoid a significant adverse economic impact on users of Star's telecommunications services; or if the suspension is necessary to avoid imposing requirements on Star that are unduly economically burdensome; and, is consistent with the public interest, convenience, and necessity. After the initial determination on that issue, the Arbitrator shall submit a recommended decision to the Authority. The Authority will then allow the parties to file exceptions to that recommendation and will provide a time for oral argument to the Authority. After the exceptions are filed and oral argument is held, the Authority will make a final determination regarding whether suspension or modification of any of Star's 47 USC §251(b) obligations is necessary.
5. If the Authority determines that suspension or modification of any of Star's 47 USC §251(b) obligations is necessary, the Authority shall suspend or modify one or more of the obligations of 47 USC §251(b) to the extent that, and for such duration as, the Authority determines that suspension or modification is necessary to avoid a significant adverse economic impact on users of Star's telecommunications services or would impose requirements on Star TMC that are unduly economically burdensome and would be inconsistent with the public interest, convenience, and necessity.
6. Should the Authority determine that Star's 47 USC §251(b) obligations should not be suspended or modified, the parties shall proceed to Phase II. If they are unable to agree to the terms and conditions of an interconnection agreement, a Petition will be filed with the Authority requesting arbitration for the disputed issues. The Arbitrator will conduct an arbitration regarding an interconnection agreement between TWCIS (NC) and Star and shall submit a recommended decision to the Authority. The Authority will then allow the parties to file comments or objections to the recommended decision and will provide a time for oral argument before the Authority. After the comments or objections are filed and oral argument is held, the Authority will make a final determination regarding the interconnection agreement.

**IT IS SO ORDERED.
ISSUED BY THE ORDER OF THE AUTHORITY.**

This the 2nd day of April, 2013.

The North Carolina Rural
Electrification Authority


Frances Liles
Administrator

CERTIFICATE OF SERVICE

I hereby certify that a true and exact copy of the foregoing ORDER has been served to all addresses listed below via electronic mail and by U.S. Mail this the 2nd day of April, 2013.

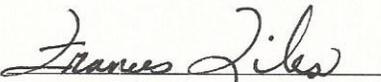
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This the 2nd day of April, 2013.

The North Carolina Rural
Electrification Authority


Frances Liles