

NORTH CAROLINA RURAL ELECTRIFICATION AUTHORITY

**RESOLUTION ON ARBITRATION POLICIES
FOR TELECOMMUNICATIONS
INTERCONNECTION AGREEMENTS**

WHEREAS, Section 252 of the 1996 Telecommunications Act (the "Act") requires incumbent local exchange carriers ("ILECs") to negotiate and enter into agreements with requesting telecommunication carriers for interconnection services or network elements pursuant to Section 251 of the Act; and

WHEREAS, certain providers of commercial mobile radio service ("CMRS providers") have agreed to submit interconnection disputes between CMRS providers and ILECs to the North Carolina Rural Electrification Authority ("NCREA") for resolution; and

WHEREAS, any party negotiating an interconnection agreement under Section 252 of the Act may petition a state commission, including the NCREA, to arbitrate any open issues between the parties or may contractually agree for the NCREA to arbitrate any such open issues; and

WHEREAS, the NCREA is authorized to arbitrate interconnection agreements between North Carolina telephone cooperatives and other telecommunication carriers; and

WHEREAS, members of the NCREA have determined that it is in the best interest of the public to develop a formal process for arbitrating such interconnection agreements;

NOW, THEREFORE, BE IT RESOLVED, that the NCREA hereby adopts a formal arbitration policy for interconnection agreements (the "Arbitration Policy") as follows:

1. Petition and Response. In the event the NCREA is requested to arbitrate an interconnection agreement pursuant to Section 252(b)(1) of the Act or pursuant to a valid contractual agreement between a North Carolina telephone cooperative and other telecommunication carrier, the petitioning party shall provide the NCREA with the information required under Section 252(b)(2) of the Act. The non-petitioning party shall have the opportunity to respond in accordance with Section 252(b)(3) of the Act.

2. Selection and Payment of Arbitrator. Following the NCREA's receipt of the petition for arbitration and the response, if any, of the non-petitioning party, the NCREA will send each party a list of approved arbitrators. The parties shall have fifteen (15) days to study the list of arbitrators, strike names to which they object, number the remaining names in the order of preference and return the list to the NCREA. The NCREA, or its designee, will then compare the indicated preferences and, if possible, select a mutually agreed upon arbitrator. In the event the parties do not designate a mutually agreed upon arbitrator, then the NCREA may submit additional lists to the parties for consideration. If the parties do not agree on an arbitrator from the supplemental list, the parties may submit the name of a mutually acceptable arbitrator to

the NCREA or, if no agreement is reached between the parties, the NCREA may appoint an arbitrator of its choosing.

Parties seeking arbitration will be held accountable for financial obligations, each being responsible for an equal portion of the arbitrator fee, regardless of the outcome of the recommendation submitted to the Authority. This fee shall be paid directly to the arbitrator.

3. Preliminary Hearing. At the request of any party, or at the discretion of the arbitrator, the arbitrator may schedule a preliminary hearing with the parties or the representatives. The preliminary hearing may be conducted by telephone, at the arbitrator's discretion. During the preliminary hearing, the parties and the arbitrator may discuss the future conduct of the case, including clarification of issues to be resolved, a schedule for the hearing, and any other preliminary matters.

4. Exchange of Information. At the request of any party, or at the discretion of the arbitrator, the arbitrator may direct (i) the production of documents and other information and (ii) the identification of any witnesses to be called at the arbitration hearing. Consistent with the requirements of Section 252(b)(4) of the Act, the arbitrator may require the parties to provide such information as may be necessary to reach a decision on the unresolved issues. If any party refuses or fails unreasonably to respond on a timely basis to any reasonable request, then the arbitrator may proceed on the basis of the best information available from whatever source derived.

5. Arbitration Hearing. At the request of either party, or at the discretion of the arbitrator, the arbitrator may order the parties to attend a formal arbitration hearing. The arbitrator is authorized to resolve any disputes concerning the exchange of information. The arbitrator shall set the date, time, and place for the arbitration hearing. The parties shall respond to requests for hearing dates in a timely manner, be cooperative in scheduling the earliest practical hearing date, and adhere to the established hearing schedule. The arbitrator shall send a notice of hearing to the parties at least twenty (20) calendar days in advance of the hearing date, unless otherwise agreed by the parties. Any party may be represented by counsel. At least five (5) business days prior to the arbitration hearing, the parties shall exchange copies of all exhibits each party intends to submit at the hearing.

The arbitrator shall limit consideration of any petition for arbitration to the issues set forth in the petition, and in the response, if any. The arbitrator shall resolve each issue set forth in the petition and the response, if any, by imposing appropriate conditions as required, and shall conclude the resolution of any unresolved issues not later than nine (9) months following the date on which the request for arbitration was originally received by the NCREA.

6. Conduct of Arbitration Proceedings. The petitioning party shall present evidence to support its petition. The non-petitioning party shall then present evidence in response. Witnesses for each party, if any, shall also submit to questions from the arbitrator and the adverse party. The arbitrator has the discretion to vary this procedure, provided that the parties are treated with equality and that each party has the right to be heard and is given a fair

opportunity to present its case. The arbitrator shall entertain motions, including motions that dispose of all or part of any open issue or that may expedite the proceedings.

The parties may offer such evidence as is relevant and material to the petition filed with the NCREA. The arbitrator shall determine the admissibility, relevance, and materiality of the evidence offered. The arbitrator may request offers of proof and may reject evidence deemed by the arbitrator to be cumulative, unreliable, or unnecessary.

7. Recommended Decision. The arbitrator shall make a decision on the open issues for arbitration that contains findings of fact and conclusions of law, as applicable, and forward this recommended decision to the NCREA. The arbitrator shall decide the issues in controversy based upon a preponderance of the evidence. The petitioning party shall have the burden of proof.

8. Final Decision by NCREA. The decision of the arbitrator shall be considered a recommendation and the NCREA shall make the final decision in any arbitration hearing and may order additional written or oral testimony from the parties. The NCREA retains the authority to accept the recommended decision from the arbitrator as its final decision, amend the recommended decision, or reject the recommended decision and render its own independent decision.

The NCREA shall limit consideration of any petition for arbitration to the issues set forth in the petition, and in the response, if any. The NCREA shall resolve each issue set forth in the petition and the response, if any, by imposing appropriate conditions as required, and shall conclude the resolution of any unresolved issues not later than nine (9) months following the date on which the request for arbitration was originally received by the NCREA.

IN WITNESS WHEREOF, the undersigned hereby certifies the members of the NCREA Board adopted this resolution on the 16th day of May, 2005.

**NORTH CAROLINA RURAL
ELECTRIFICATION AUTHORITY**

By: T. Scott Poole
Print Name: T. Scott Poole
Title: Administrator

