

July 3, 2017

Daniel P. Wolf  
Executive Secretary  
Minnesota Public Utilities Commission  
121 7th Place East, Suite 350  
St. Paul, Minnesota 55101-2147

**RE: Joint Application for Approval of Interconnection Agreement between Tekstar Communications, Inc. and Citizens Telecommunications Company of MN, LLC**  
Docket No. P5542, P407/IC-17-508

Dear Mr. Wolf:

Interconnection agreements and amendments to interconnection agreements that are not arbitrated under §252 of the Federal Telecommunications Act of 1996 may be approved without hearing under Minn. Stat. § 216A.03, subd. 7. The Public Utilities Commission's (Commission) Order designating interconnection agreements and amendments to interconnection agreements as subject to a standing order was issued on August 25, 2000 in Docket No. P999/CI-00-634. The use of a standing order is to apply to filings submitted on or after September 1, 2000.

As required by the Commission's August 25, 2000 Order, the Department of Commerce has reviewed and analyzed the current filing. Attached is the Minnesota Department of Commerce's Checklist for processing Interconnection Agreements. The Checklist reflects the Department's analysis of the issues and language that the Commission has established to meet the requirements that interconnection agreements not discriminate against third parties, harm the public interest or conflict with state law.

*The petition was filed on: June 28, 2017*

*Interconnection Agreement Type: Adopted*

*Wireless or Wireline: Wireline*

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*The Petition was filed by:*

Thomas G. Burns  
Consultant for Tekstar Communications, Inc.  
Olsen Thielen  
2675 Long Lake Road  
St. Paul, MN 55113-1117

*Conditions for approval:* None

The Department's analysis finds that the interconnection agreement complies with the Commission's requirements as indicated on the attached Checklist. The Department is submitting this memorandum recommending that the Commission **approve** the interconnection agreement either at a Commission hearing or by way of the standing order process ordered on August 25, 2000.

Sincerely,

/s/ BRUCE L. LINSCHIED  
FINANCIAL ANALYST

BLL/lt  
Attachment

## CHECKLIST FOR PROCESSING NEGOTIATED INTERCONNECTION AGREEMENTS

### ANALYTICAL PROCEDURES

#### A. NEGOTIATED INTERCONNECTION AGREEMENTS

1. Affected CLEC **has authority to provide operational facilities-based** local service. Identify the Docket and Order date: Docket No. P5542/NA-97-1081, October 31, 1997

2. Affected CLEC **has authority to provide operational local resale** service.  
Identify the Docket and Order date:

Place an "X" in the item that applies:

- UNEs and Collocation are not included in the interconnection agreement.  
 UNEs and Collocation are included in the interconnection agreement. (Operational facilities-based authority must be obtained prior to the CLEC obtaining UNEs or Collocation under the interconnection agreement, or the interconnection agreement must be withdrawn and a replacement agreement without UNEs or Collocation should be submitted.)

3. The Commission has **not yet granted operational local authority** and service under the interconnection agreement cannot be offered until such authority is obtained.

Choose one:

- The CLEC has not applied for local authority.  
 The CLEC is seeking local facilities-based authority.  
 The CLEC is seeking local resale authority and not facilities-based authority.

Place an "X" in the item that applies:

- UNEs and Collocation are not included in the interconnection agreement.  
 UNEs and Collocation are included in the interconnection agreement. (Operational facilities-based authority must be obtained prior to the CLEC obtaining UNEs or Collocation under the interconnection agreement, or the interconnection agreement must be withdrawn and a replacement agreement without UNEs or Collocation should be submitted.)

4. Affected carrier is a Commercial Mobile Radio Service (CMRS) provider.

5. Place an "X" in the item that applies:

- Agreement is negotiated.  
 Agreement is an adoption of another interconnection agreement. Identify the docket number and date of the adopted interconnection agreement: P575,407/IC-11-313, May 4, 2011 (Adopted agreements must be amended to contain Commission-required language if the underlying agreement does not have the Commission-required language-see Commission Order, Docket No. P5321,421/IC-04-1178, May 18, 2005, Ordering Paragraph 2, page 8.)

6. Agreement contains language required by the Commission to meet the requirements of 47 CFR 252(e)(2) and (3), which specifies that the interconnection agreements may be rejected for the following reasons: 1) they discriminate against a telecommunications carrier who is not a party to the agreement; 2) implementing them would be inconsistent with the public interest, convenience and necessity; and 3) they conflict with any valid state law, including any applicable intrastate service quality standards or requirements.

The language identified below was reviewed and satisfies Commission precedent in the following sections of the Agreement.

- a. *Amendments.* No amendment, waiver, or consent or default under this Agreement shall be effective without approval of the Commission.<sup>1</sup> Indicate the section and page where this language is found: Section 30.2, page 18 filed April 13, 2011
- b. *Assignment.* The Party making the assignment shall notify the Commission sixty (60) days in advance of the effective date of the assignment.<sup>2</sup> Indicate the section and page where this language is found: Section 30.3, page 18 filed April 13, 2011
- c. Default.
- 1) The Commission must be notified of any pending default in writing in order to protect the public interest.<sup>3</sup> Indicate the section and page where this language is found: Section 30.4 page 18 filed April 13, 2011
- 2) Neither Party shall disconnect service to the other Party without first obtaining Commission approval.<sup>4</sup> Indicate the section and page where this language is found: Sections 30.1 and 30.3, page 18 filed April 13, 2011
- d. *Dispute Resolution.* If the dispute has been assigned to an arbitrator for resolution, and the language of the interconnection agreement provides that the decision of the arbitrator is final and binding, the Parties shall submit a copy of each arbitration opinion to the Commission, the Department of Commerce, and the Office of the Attorney General, Residential and Small Business Utilities Division. The arbitrator's decision shall remain in effect unless the Commission acts to suspend, modify, or reject the decision within 45 days.<sup>5</sup>  
Indicate the section and page where this language is found: Section 30.5, page 18 filed April 13, 2011

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<sup>1</sup> In the Matter of an Application for Approval of a Type 2 Wireless Interconnection Agreement Between Minnesota PCS, L.P. and U S WEST Communications, Inc. Under the Federal Telecommunications Act of 1996, Docket No. P421/EM-98-554, ORDER REJECTING AGREEMENT AND DIRECTING FURTHER FILING, June 22, 1998 at page 7.

<sup>2</sup> *Id.* at page 3.

<sup>3</sup> *Id.* at page 4.

<sup>4</sup> In the Matter of the Application by Dakota Services, Ltd. and U S WEST Communications, Inc. for Approval of an Interconnection Agreement Pursuant to Section 252(e) of the Federal Telecommunications Act of 1996, Docket No. P5669,421/M-98-1342, ORDER REJECTING AGREEMENT AND REQUIRING REVISED FILING, November 24, 1998, at page 7.

<sup>5</sup> Docket No. P421/EM-98-554 at pages 5 and 6 (wireless) and Docket No. P5669,421/M-98-1342, pages 4 and 5 (wireline).

Interconnection agreements that do not provide for third-party arbitrations, but do provide for relief through a court or administrative agency, shall submit a copy of each such order or decision to the Commission, the Department of Commerce, and the Office of Attorney General, Residential and Small Business Utilities Division for the purpose of determining any filing and or review obligation under federal or state law.<sup>6</sup> Interconnection agreements that do not provide for third-party arbitrations, but do provide for relief through a court or administrative agency:

- 1) the parties may choose to go to another jurisdiction for any specific dispute, but another jurisdiction may not be the default for specific disputes. Indicate the section and page where this language is found: N/A
- 2) the parties shall submit a copy of each such order or decision to the Commission, the Department of Commerce, and the Office of Attorney General, Residential and Small Business Utilities Division for the purpose of determining any filing and or review obligation under federal or state law. Indicate the section and page where this language is found: N/A
- 3) The Minnesota Commission retains its authority to approve or reject the outcome of the dispute.<sup>7</sup> Indicate the section and page where this language is found: N/A

e. *Third Party Beneficiaries.* The parties agree to give notice to the Commission of any lawsuits or other proceedings that involve or arise under this Agreement to ensure that the Commission has the opportunity to seek to intervene in these proceedings on behalf of the public interest.<sup>8</sup> Indicate the section and page where this language is found: Section 30.6, page 18 filed April 13, 2011

f. *Number Portability.* The Commission has opposed language stating that parties will not port telephone numbers of customers who have past due balances. The Commission has determined that it was inappropriate to use withholding number portability as a collection tool.<sup>9</sup> If language exists that allows porting when there are past due balances, indicate the section and page where this language is found: This issue does not appear in Attachment 4 filed April 13, 2011

7. Other Issues. If the Parties have agreed to a position that is different than how the Commission resolved a disputed item, the Department does not object to the agreement if the language does not conflict with the law and the Parties do not dispute the Commission's jurisdiction. If

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<sup>6</sup> In the Matter of the Joint Application for Approval of a Negotiated Agreement for Interconnection and Resale between American Telco, LLP and Qwest Corporation, Docket No. P6594,421/IC-06-1452, Commission Order, January 17, 2007.

<sup>7</sup> In the Matter of the Joint Application for Approval of a Negotiated Agreement for Interconnection and Resale between American Telco, LLP and Qwest Corporation, Docket No. P6594,421/IC-06-1452, Commission Order, January 17, 2007.

<sup>8</sup> In the Matter of a Joint Application for Approval of the Master Interconnection and Resale Agreement Between Rhythms Links, Inc. and Sprint Minnesota, Inc., Under the Federal Telecommunications Act of 1996, ORDER REJECTING INTERCONNECTION AGREEMENT AND DIRECTING REVISED FILING, Docket No. P5670,430/M-00-499, July 21, 2000 at pages 3 and 4.

<sup>9</sup> OCI/USWC agreement, Docket No. P5478,421/M-97-522, July 22 1997 Order.

unilateral conditions are imposed by one of the Parties to which the other Party has not agreed, the matter is not subject to the standing order.

- a. Reciprocal compensation for Internet Service Provider (ISP)-bound traffic.

The Commission has required reciprocal compensation for ISP-bound traffic in certain agreements.<sup>10</sup> However, based upon the FCC's April 18, 2001 ISP Remand Order,<sup>11</sup> the Commission found that the FCC has preempted this Commission's authority over reciprocal compensation rates for ISP-bound traffic and that the Commission should reinstate the FCC-approved rates that were in effect prior to the Commission's September 24, 2003 Order.<sup>12</sup> In the ISP Remand Order, the FCC adopted an interim compensation scheme for ISP-bound traffic pending completion of its Interim Compensation NPRM proceeding.<sup>13</sup> The Order established a gradually declining cap on intercarrier compensation rates, beginning at \$.0015 per minute of use, and declining to \$.0007 per minute of use. The Commission found that "the interim compensation scheme established in the ISP Remand Order and modified by the Core Forbearance Order was not intended to apply to calls routed across local calling area boundaries, whether by VNXX or otherwise."<sup>14</sup>

- 1) Issue does not appear in the interconnection agreement.
- 2) Issue is in the interconnection agreement.
- a) Language complies with the Commission's position. Indicate the section and page where this language is found: Attachment 1, Section 4.2, p. 25 and Attachment 5, Section 1.1.1, p.3 filed April 13, 2001 provide for bill and keep.

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<sup>10</sup> In the Matter of the Petition of U S WEST Communications, Inc. for a Determination That ISP Traffic Is Not Subject to Reciprocal Compensation Payments Under the MFS/U S WEST Interconnection Agreement, Docket No. P421/M-99-529, ORDER DENYING PETITION, August 17, 1999, pages 7 and 8. and In the Matter of the Petition of Sprint Communications Co. L.P. for Arbitration of an Interconnection Agreement with U S WEST Communications, Inc., Docket No. P-466,421/M-00-33, FINAL ARBITRATION ORDER UNDER MINN. RULES, PART 78122.17, SUBP. 21, June 27, 2000 at pages 5-7.

<sup>11</sup> Order on Remand and Report and Order, *In the Matter of Implementation of the Local Competition Provisions in the Telecommunications Act of 1996, Intercarrier Compensation for ISP-Bound Traffic*, CC Docket Nos. 96-98 & 99-68. FCC 01-131. 16 FCC Rcd 9151 (2001), or *ISP Remand Order (April 18, 2001 Order)* and FCC 04-241 on October 18, 2004, in *Petition of Core Communications, Inc. for Forbearance Under 47 U.S.C. 160(c) from Application of the ISP Remand Order*, WC Docket No. 03-171, effective October 8, 2004.

<sup>12</sup> ORDER ADJUSTING END-OFFICE SWITCHING COMPONENT OF RECIPROCAL COMPENSATION RATES, *In the Matter of an Investigation into Reciprocal Compensation Rates*, Docket No. P421/CI-03-384, September 24, 2003, page 8, Ordering Paragraph 1; and ORDER AFTER RECONSIDERATION, *In the Matter of an Investigation into Reciprocal Compensation Rates*, Docket no. P421/CI-03-384, December 24, 2003, pages 2 and 3, and Ordering paragraph 2.

<sup>13</sup> In the Matter of Developing a Unified Intercarrier Compensation Regime, CC Docket No. 01-92, 16 FCC Rcd 9610 (2001).

<sup>14</sup> *In the Matter of the Complaint of Level 3 Communications Against Qwest Corporation Regarding Compensation for ISP-Bound Traffic*, Docket No. P421/C-05-721, ORDER AMENDING INTERCONNECTION AGREEMENT AND ESTABLISHING EFFECTIVE DATE, December 18, 2006, Ordering Paragraph 2, page 6, and ORDER ADOPTING RECOMMENDATIONS AND REMANDING FOR FURTHER PROCEEDINGS, May 8, 2006, Ordering Paragraph 1, page 11; *In the Matter of the Petition of MCI metro Access Transmission Services d/b/a Verizon Access Transmission Services for Arbitration of an Interconnection Agreement with Embarq Minnesota, Inc. Pursuant to 47 U.S.C. § 252(b)*, ORDER ADOPTING INTERCONNECTION AGREEMENT WITH MODIFICATIONS AND ESTABLISHING EFFECTIVE DATE, P430,5321/M-07-611, February, 6, 2008, Ordering Paragraph 2, page 10.

- b) Language does not comply with the Commission's position, but was negotiated and, therefore, meets the statutory requirements.<sup>15</sup>  
Indicate the section and page where this language is found:

b. Inclusion of ISP traffic.

The Commission found that ISP traffic should be included in the calculation of the relative use factor for purposes of determining cost sharing for interconnection facilities.<sup>16</sup>

- 1) Issue does not appear in the interconnection agreement.
- 2) Issue is in the interconnection agreement.
- a) Language complies with the Commission's position. Indicate the section and page where this language is found:
- b) Language does not comply with the Commission's position, but was negotiated and, therefore, meets the statutory requirements.<sup>17</sup>  
Indicate the section and page where this language is found: \_\_\_\_\_

c. Unbundled Network Elements (UNEs).

The Federal Communications Commission (FCC) affirmed that incumbent local exchange companies (ILECs) are obligated to offer combinations of unbundled network elements that they currently combine.<sup>18</sup> The Minnesota Public Utilities Commission (Commission) affirmed its position on this aspect of unbundled network elements. The Commission objected to language that stated USWC shall have no obligation to combine or separate any network elements whether or not they are ordinarily combined in USWC's network.<sup>19</sup> The Commission has

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<sup>15</sup> In the Matter of the Federal Court Remand of Issues Proceeding from the Interconnection Agreements Between U S WEST Communications and Sprint Spectrum, Triad Minnesota, and Cellular Mobil Systems, ORDER AFTER REMAND APPROVING NEGOTIATED LANGUAGE, P5457,421/M-99-794 dated November 24, 1999 at pages 2 and 3.

<sup>16</sup> In the Matter of the Petition of Level 3 Communications, LLC for Arbitration of an Interconnection Agreement with Qwest Corporation Pursuant to 47 U.S.C. § 252(b), ORDER ACCEPTING THE ARBITRATOR'S RECOMMENDATION AND REQUIREING FILED INTERCONNECTION AGREEMENT; Docket No. P5733,421/IC-02-1372, December 23, 2002 at page 6; and **ARBITRATOR'S RECOMMENDED DECISION**, November 1, 2002 at pages 3 and 9.

<sup>17</sup> In the Matter of the Federal Court Remand of Issues Proceeding from the Interconnection Agreements Between U S WEST Communications and Sprint Spectrum, Triad Minnesota, and Cellular Mobil Systems, ORDER AFTER REMAND APPROVING NEGOTIATED LANGUAGE, P5457,421/M-99-794 dated November 24, 1999 at pages 2 and 3.

<sup>18</sup> In the Matter of Implementation of the Local Competition Provisions of the Telecommunications Act of 1996, Third Report and Order and Fourth Further Notice of Proposed Rulemaking, CC Docket No. 96-98 (62 FR 45611, August 28, 1997) FCC 99-238 Adopted September 15, 1999, and released November 5, 1999.

<sup>19</sup> In the Matter of the Joint Application for Approval of an Interconnection and Resale Agreement Between Prism Minnesota Operations, LLC and U S WEST communications, Inc. Under the Federal Telecommunications Act of 1996, Docket No. P421/M-99-1783 (February 24, 2000) at page 3.

subsequently issued an Order<sup>20</sup> clarifying some requirements that arose as the result of the FCC's Triennial Review Remand Order<sup>21</sup> that removed certain previously defined 251 UNEs.

- 1) Issue does not appear in the interconnection agreement.
- 2) Issue is in the interconnection agreement.
  - a) Language complies with the Commission's position. Indicate the section and page where this language is found: \_\_\_\_\_
  - b) Language does not comply with the Commission's position, but was negotiated and, therefore, meets the statutory requirements.<sup>22</sup> Indicate the section and page where this language is found: \_\_\_\_\_

d. Collocation.

The FCC strengthened its collocation rules to reduce the costs and delays faced by competitors that seek to collocate equipment in an ILEC's central office.<sup>23</sup> The Commission affirmed the FCC's "used or useful" definition in the collocation context for either interconnection or access to unbundled network elements, and found that language imposed by the Commission in reliance of that definition should remain in place.<sup>24</sup> The Commission later granted U S WEST's petition to reconsider its order, agreeing with the parties that it is reasonable to wait until the FCC issues further guidance on collocation of RSU's (remote switching) units before taking further action on this matter.<sup>25</sup> The FCC adopted rules concerning collocation requirement of ILECs stating that collocating equipment is "necessary for interconnection or access to unbundled network elements," and allowing requesting carriers to collocate switching and routing equipment.<sup>26</sup>

- 1) Issue does not appear in the interconnection agreement.
- 2) Issue is in the interconnection agreement.
  - a) Language complies with the Commission's position. Indicate the section and page where this language is found: \_\_\_\_\_

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<sup>20</sup> In the Matter of Qwest Corporation and MCI/metro Access Transmission Services Amendment to Interconnection Agreement, Docket No. P5321,421/IC-04-1178, ORDER AFTER RECONSIDERATION RELEASING MASTER SERVICE AGREEMENT FROM APPROVAL REVIEW, REQUIRING AMENDMENT TO INTERCONNECTION AGREEMENT, AND REQUIRING SUBMISSION OF FUTURE COMMERCIAL AGREEMENTS, May 18, 2005, pages 2-3.

<sup>21</sup> Triennial Review Remand Order (FCC 04-290, CC 01-338) released February 4, 2005 and effective March 11, 2005.

<sup>22</sup> In the Matter of the Federal Court Remand of Issues Proceeding from the Interconnection Agreements Between U S WEST Communications and Sprint Spectrum, Triad Minnesota, and Cellular Mobil Systems, ORDER AFTER REMAND APPROVING NEGOTIATED LANGUAGE, P5457,421/M-99-794 dated November 24, 1999 at pages 2 and 3.

<sup>23</sup> In the Matter of Deployment of Wireline Services Offering Advanced Telecommunications Capability, CC Docket 98-147, FCC 99-48, March 31, 1999 at pages 5-6.

<sup>24</sup> In the Matter of the Federal Court Remand of Issues Proceeding from the Interconnection Agreements Between U S WEST Communications, Inc. and AT&T, MCI, MFS, and AT&T Wireless, Docket No. P421/CI-99-786, ORDER AFTER REMAND, MARCH 14, 2000 at page 9.

<sup>25</sup> In the Matter of the Federal Court Remand of Issues Proceeding from the Interconnection Agreements Between U S WEST Communications, Inc. and AT&T, MCI, MFS, and AT&T Wireless, Docket No. P421/CI-99-786, ORDER ON RECONSIDERATION, JUNE 19, 2000 at page 5.

<sup>26</sup> Fourth Report and Order (FCC 01-204) July 12, 2001.



- b) Language does not comply with the Commission's position, but was negotiated and, therefore, meets the statutory requirements.<sup>27</sup>  
Indicate the section and page where this language is found: \_\_\_\_\_

e. Removal of automatic adoption language

The Commission objected to language that made any change in 251 obligations by any future action of governmental bodies applicable automatically and without an interconnection agreement amendment.<sup>28</sup> Does automatic adoption language appear in the interconnection agreement?

- 1) No.
- 2) Yes. (Checklist is not applicable for this docket. Rejection comments must be prepared.)

8. Specify conditions required for approval.

- a. Yes. (Identify)
- b. None

9. Other Comments.

**B. RECOMMENDATION OF THE DEPARTMENT**

1. Accept the interconnection agreement/amendment.

Conditions: None

2. Reject the interconnection agreement/amendment. (Not subject to the standing order.)

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<sup>27</sup> In the Matter of the Federal Court Remand of Issues Proceeding from the Interconnection Agreements Between U S WEST Communications and Sprint Spectrum, Triad Minnesota, and Cellular Mobil Systems, ORDER AFTER REMAND APPROVING NEGOTIATED LANGUAGE, P5457,421/M-99-794 dated November 24, 1999 at pages 2 and 3.

<sup>28</sup> In the Matter of the Joint Application for Approval of the Amendment to an Interconnection Agreement Between Southwestern Bell Communications Services d/b/a SBC Long Distance and Qwest Corporation, DOCKET NO. P5520,421/IC-04-1720, January 27, 2005.

## **CERTIFICATE OF SERVICE**

I, Sharon Ferguson, hereby certify that I have this day, served copies of the following document on the attached list of persons by electronic filing, certified mail, e-mail, or by depositing a true and correct copy thereof properly enveloped with postage paid in the United States Mail at St. Paul, Minnesota.

**Minnesota Department of Commerce  
Checklist - Comments**

**Docket No. P5542,407/IC-17-508**

**Dated this 3<sup>rd</sup> day of July 2017**

**/s/Sharon Ferguson**

First Name	Last Name	Email	Company Name	Address	Delivery Method	View Trade Secret	Service List Name
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Daniel P	Wolf	dan.wolf@state.mn.us	Public Utilities Commission	121 7th Place East Suite 350 St. Paul, MN 551012147	Electronic Service	Yes	OFF_SL_17-508_IC-17-508