

Before the
Federal Communications Commission
Washington, D.C. 20554

In the Matter of)
)
Petition of Time Warner Cable Inc. Pursuant to) WC Docket No. 13-204
Section 252(e)(5) of the Communications Act for)
Preemption of the Jurisdiction of the North)
Carolina Rural Electrification Authority Regarding)
Arbitration of an Interconnection Agreement with)
Star Telephone Membership Corporation)
)
)

ORDER

Adopted: December 3, 2014

Released: December 3, 2014

By the Chief, Wireline Competition Bureau:

1. On November 1, 2014, the parties to this interconnection arbitration proceeding, Time Warner Cable Information Services (North Carolina), LLC (TWCIS) and Star Telephone Membership Corporation (Star), negotiated an interconnection agreement that resolves the issues raised in the arbitration petition.1 This Order grants the parties' joint motion that we approve that agreement and terminate the captioned proceeding.

2. On August 8, 2013, Time Warner Cable Inc. (TWC) filed a petition, pursuant to section 252(e)(5) of the Communications Act of 1934, as amended (Act),2 requesting that the Commission preempt the jurisdiction of the North Carolina Rural Electrification Authority (NCREA) with respect to the arbitration of an interconnection agreement between TWC's telecommunications carrier subsidiary, TWCIS and Star.3 On November 1, 2013, the Wireline Competition Bureau (Bureau) released an order granting the TWC Petition and preempting NCREA's jurisdiction over the TWCIS/Star arbitration.4

3. On January 27, 2014, in accordance with the TWCIS/Star Preemption Order, TWCIS filed a petition for arbitration with the Commission.5 Star answered the petition on February 24, 2014.6

1 Joint Motion for Approval of Agreement, WC Docket No. 13-204 at 2 (filed Nov. 7, 2014), http://apps.fcc.gov/ecfs/document/view?id=60000979815 (TWCIS/Star Joint Motion).

2 47 U.S.C. § 252(e)(5).

3 Petition of Time Warner Cable Inc. for Preemption Pursuant to Section 252(e)(5) of the Communications Act, as Amended, of the North Carolina Rural Electrification Authority for Failure To Arbitrate an Interconnection Agreement with Star Telephone Membership Corporation, WC Docket No. 13-204 (filed Aug. 8, 2013), http://apps.fcc.gov/ecfs/document/view?id=7520937719 (TWC Petition).

4 Petition of Time Warner Cable Inc. Pursuant to Section 252(e)(5) of the Communications Act for Preemption of the Jurisdiction of the North Carolina Rural Electrification Authority Regarding Arbitration of an Interconnection Agreement with Star Telephone Membership Corporation, WC Docket No. 13-204, Memorandum Opinion and Order, 28 FCC Rcd 15086, 15091, para. 12 (Wireline Comp. Bur. 2013) (TWCIS/Star Preemption Order). The Commission has authorized the Chief of the Wireline Competition Bureau to serve as the arbitrator in section 252(e)(5) proceedings. Procedures for Arbitrations Conducted Pursuant to Section 252(e)(5) of the Communications Act of 1934, as amended, Order, 16 FCC Rcd 6231, 6233, para. 8 (2001).

5 Petition of Time Warner Cable Inc. for Preemption Pursuant to Section 252(e)(5) of the Communications Act, as Amended, of the North Carolina Rural Electrification Authority for Failure To Arbitrate an Interconnection

On April 28, 2014, the parties filed a joint letter updating the Commission on their ongoing discussions, describing the remaining unsolved issues, and proposing informal mediation as a potential path forward.⁷ On July 17, 2014, the Bureau issued a letter to the parties summarizing the process to mediate their remaining interconnection disputes through the Enforcement Bureau's Market Disputes Resolution Division (MDRD).⁸ On October 14, 2014, the parties met with MDRD staff for mediation and resolved the remaining open issues.⁹

4. On November 7, 2014, TWCIS and Star filed a Joint Motion for Approval of Agreement indicating that they had negotiated an interconnection agreement, effective November 1, 2014, that resolves all issues raised in the arbitration petition.¹⁰ The parties seek approval of the agreement and ask the Commission to terminate the arbitration proceeding.¹¹

5. Section 51.805(a) of the Commission's rules states that once the Commission has assumed jurisdiction over an arbitration proceeding pursuant to section 252(e)(5) of the Act, it "shall retain jurisdiction over such proceeding," and it shall, "[a]t a minimum . . . approve or reject any interconnection agreement adopted by negotiation, mediation or arbitration for which the Commission . . . has assumed the [state commission's] responsibilities."¹²

6. The Bureau has reviewed the agreement negotiated between TWCIS and Star.¹³ The interconnection agreement is consistent with the provisions set forth in sections 251(a) and (b) of the Act. The Bureau has determined that neither of the grounds for rejection of a negotiated agreement set forth in section 252(e)(2)(A) are present.¹⁴ We therefore approve the agreement and grant the TWCIS/Star Joint Motion. The Commission will no longer have jurisdiction over the TWCIS/Star arbitration upon release of this Order.¹⁵

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Agreement with Star Telephone Membership Corporation, WC Docket No. 13-204, Petition for Arbitration (filed Jan. 27, 2014), <http://apps.fcc.gov/ecfs/document/view?id=7521068433>.

⁶ See TWCIS/Star Joint Motion at 1.

⁷ See *id.* at 1-2.

⁸ Letter from Lisa S. Gelb, Deputy Chief, Wireline Competition Bureau, FCC, to Matthew A. Brill and Amanda E. Potter, Counsel to Time Warner Cable Inc., and Daniel C. Higgins, Counsel to Star Telephone Membership Corporation, WC Docket No. 13-204 (sent July 17, 2014).

⁹ See TWCIS/Star Joint Motion at 2.

¹⁰ See *id.* at 2-3.

¹¹ *Id.* at 1.

¹² 47 C.F.R. § 51.805(a).

¹³ TWCIS/Star Joint Motion at Attach.

¹⁴ 47 U.S.C. § 252(e)(2)(A) ("The State commission may only reject—(A) an agreement (or any portion thereof) adopted by negotiation under subsection (a) if it finds that—(i) the agreement (or portion thereof) discriminates against a telecommunications carrier not a party to the agreement; or (ii) the implementation of such agreement or portion is not consistent with the public interest, convenience, and necessity . . .").

¹⁵ Once the Commission has concluded an interconnection arbitration with approval of an agreement, it does not retain jurisdiction over any subsequent amendments to that agreement. *Petition of WorldCom, Inc. Pursuant to Section 252(e)(5) of the Communications Act for Preemption of the Jurisdiction of the Virginia State Corporation Commission Regarding Interconnection Disputes with Verizon Virginia Inc., and for Expedited Arbitration; Petition of AT&T Communications of Virginia Inc., Pursuant to Section 252(e)(5) of the Communications Act for Preemption of the Jurisdiction of the Virginia Corporation Commission Regarding Interconnection Disputes with Verizon Virginia Inc.*, CC Docket Nos. 00-218, 00-251, Memorandum Opinion and Order, 20 FCC Rcd 5279, 5297, para. 50 (Wireline Comp. Bur. 2005) (granting motion to strike filing of an amendment to an arbitrated interconnection agreement because the amendment had been negotiated subsequent to the arbitration's conclusion).

7. Accordingly, IT IS ORDERED that, pursuant to sections 4(i), 5(c) and 252 of the Communications Act of 1934, as amended, 47 U.S.C. §§ 154(i), 155(c), 252, and sections 0.91, 0.291, 51.805, and 51.807 of the Commission's rules, 47 C.F.R. §§ 0.91, 0.291, 51.805, and 51.807, the parties' Joint Motion for Approval of Agreement IS GRANTED.

8. IT IS FURTHER ORDERED that, pursuant to sections 0.91 and 0.291 of the Commission's rules, 47 C.F.R. §§ 0.91, 0.291, the proceeding in WC Docket No. 13-204 IS TERMINATED, and the docket is closed.

FEDERAL COMMUNICATIONS COMMISSION

Julie A. Veach
Chief
Wireline Competition Bureau