

COMMONWEALTH OF KENTUCKY

BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

PETITION OF BALLARD RURAL)
TELEPHONE COOPERATIVE CORPORATION,) CASE NO.
INC. FOR ARBITRATION OF CERTAIN TERMS) 2006-00215
AND CONDITIONS OF PROPOSED)
INTERCONNECTION AGREEMENT WITH)
AMERICAN CELLULAR F/K/A ACC KENTUCKY)
LICENSE LLC, PURSUANT TO THE)
COMMUNICATIONS ACT OF 1934, AS)
AMENDED BY THE TELECOMMUNICATIONS)
ACT OF 1996)

PETITION OF DUO COUNTY TELEPHONE)
COOPERATIVE CORPORATION, INC. FOR) CASE NO.
ARBITRATION OF CERTAIN TERMS AND) 2006-00217
CONDITIONS OF PROPOSED)
INTERCONNECTION AGREEMENT WITH)
CELLCO PARTNERSHIP D/B/A VERIZON)
WIRELESS, GTE WIRELESS OF THE)
MIDWEST INCORPORATED D/B/A VERIZON)
WIRELESS, AND KENTUCKY RSA NO. 1)
PARTNERSHIP D/B/A VERIZON WIRELESS,)
PURSUANT TO THE COMMUNICATIONS ACT)
OF 1934, AS AMENDED BY THE)
TELECOMMUNICATIONS ACT OF 1996)

PETITION OF LOGAN TELEPHONE)
COOPERATIVE, INC. FOR ARBITRATION OF) CASE NO.
CERTAIN TERMS AND CONDITIONS OF) 2006-00218
PROPOSED INTERCONNECTION)
AGREEMENT WITH AMERICAN CELLULAR)
CORPORATION F/K/A ACC KENTUCKY)
LICENSE LLC, PURSUANT TO THE)
COMMUNICATIONS ACT OF 1934, AS)
AMENDED BY THE TELECOMMUNICATIONS)
ACT OF 1996)

PETITION OF WEST KENTUCKY RURAL)
TELEPHONE COOPERATIVE CORPORATION,)
INC. FOR ARBITRATION OF CERTAIN TERMS)
AND CONDITIONS OF PROPOSED)
INTERCONNECTION AGREEMENT WITH)
AMERICAN CELLULAR CORPORATION F/K/A)
ACC KENTUCKY LICENSE LLC, PURSUANT)
TO THE COMMUNICATIONS ACT OF 1934, AS)
AMENDED BY THE TELECOMMUNICATIONS)
ACT OF 1996)

CASE NO.
2006-00220

PETITION OF NORTH CENTRAL TELEPHONE)
COOPERATIVE CORPORATION, FOR)
ARBITRATION OF CERTAIN TERMS AND)
CONDITIONS OF PROPOSED)
INTERCONNECTION AGREEMENT WITH)
AMERICAN CELLULAR CORPORATION)
F/K/A ACC KENTUCKY LICENSE LLC,)
PURSUANT TO THE COMMUNICATIONS ACT)
OF 1934, AS AMENDED BY THE)
TELECOMMUNICATIONS ACT OF 1996)

CASE NO.
2006-00252

PETITION OF SOUTH CENTRAL RURAL)
TELEPHONE COOPERATIVE CORPORATION,)
INC. FOR ARBITRATION OF CERTAIN TERMS)
AND CONDITIONS OF PROPOSED)
INTERCONNECTION AGREEMENT WITH)
CELLCO PARTNERSHIP D/B/A VERIZON)
WIRELESS, GTE WIRELESS OF THE)
MIDWEST INCORPORATED D/B/A VERIZON)
WIRELESS, AND KENTUCKY RSA NO. 1)
PARTNERSHIP D/B/A VERIZON WIRELESS,)
PURSUANT TO THE COMMUNICATIONS ACT)
OF 1934, AS AMENDED BY THE)
TELECOMMUNICATIONS ACT OF 1996)

CASE NO.
2006-00255

PETITION OF BRANDENBURG TELEPHONE)
COMPANY FOR ARBITRATION OF CERTAIN)
TERMS AND CONDITIONS OF PROPOSED)
INTERCONNECTION AGREEMENT WITH)
CELLCO PARTNERSHIP D/B/A VERIZON)
WIRELESS, GTE WIRELESS OF THE MIDWEST)
INCORPORATED D/B/A VERIZON WIRELESS,)
AND KENTUCKY RSA NO. 1 PARTNERSHIP)
D/B/A VERIZON WIRELESS, PURSUANT TO)
THE COMMUNICATIONS ACT OF 1934, AS)
AMENDED BY THE TELECOMMUNICATIONS)
ACT OF 1996)

CASE NO.
2006-00288

PETITION OF FOOTHILLS RURAL)
TELEPHONE COOPERATIVE CORPORATION,)
INC., FOR ARBITRATION OF CERTAIN TERMS)
AND CONDITIONS OF PROPOSED)
INTERCONNECTION AGREEMENT WITH)
CELLCO PARTNERSHIP D/B/A VERIZON)
WIRELESS, GTE WIRELESS OF THE)
MIDWEST INCORPORATED D/B/A VERIZON)
WIRELESS, AND KENTUCKY RSA NO. 1)
PARTNERSHIP D/B/A VERIZON WIRELESS,)
PURSUANT TO THE COMMUNICATIONS ACT)
OF 1934, AS AMENDED BY THE)
TELECOMMUNICATIONS ACT OF 1996)

CASE NO.
2006-00292

PETITION OF GEARHEART)
COMMUNICATIONS INC. D/B/A COALFIELDS)
TELEPHONE COMPANY, FOR ARBITRATION)
OF CERTAIN TERMS AND CONDITIONS OF)
PROPOSED INTERCONNECTION AGREEMENT)
WITH CELLCO PARTNERSHIP D/B/A VERIZON)
WIRELESS, GTE WIRELESS OF THE MIDWEST)
INCORPORATED D/B/A VERIZON WIRELESS,)
AND KENTUCKY RSA NO. 1 PARTNERSHIP)
D/B/A VERIZON WIRELESS, PURSUANT TO)
THE COMMUNICATIONS ACT OF 1934, AS)
AMENDED BY THE TELECOMMUNICATIONS)
ACT OF 1996)

CASE NO.
2006-00294

PETITION OF MOUNTAIN RURAL)
TELEPHONE COOPERATIVE CORPORATION,)
INC.; FOR ARBITRATION OF CERTAIN TERMS)
AND CONDITIONS OF PROPOSED)
INTERCONNECTION AGREEMENT WITH)
CELLCO PARTNERSHIP D/B/A VERIZON)
WIRELESS, GTE WIRELESS OF THE MIDWEST)
INCORPORATED D/B/A VERIZON WIRELESS,)
AND KENTUCKY RSA NO 1 PARTNERSHIP)
D/B/A VERIZON WIRELESS, PURSUANT TO)
THE COMMUNICATIONS ACT OF 1934, AS)
AMENDED BY THE TELECOMMUNICATIONS)
ACT OF 1996)

CASE NO.
2006-00296

PETITION OF PEOPLES RURAL TELEPHONE)
COOPERATIVE CORPORATION, INC., FOR)
ARBITRATION OF CERTAIN TERMS AND)
CONDITIONS OF PROPOSED)
INTERCONNECTION AGREEMENT WITH)
CELLCO PARTNERSHIP D/B/A VERIZON)
WIRELESS, GTE WIRELESS OF THE)
MIDWEST INCORPORATED D/B/A VERIZON)
WIRELESS, AND KENTUCKY RSA NO. 1)
PARTNERSHIP D/B/A VERIZON WIRELESS,)
PURSUANT TO THE COMMUNICATIONS ACT)
OF 1934, AS AMENDED BY THE)
TELECOMMUNICATIONS ACT OF 1996)

CASE NO.
2006-00298

PETITION OF THACKER-GRIGSBY)
TELEPHONE COMPANY, INC., FOR)
ARBITRATION OF CERTAIN TERMS AND)
CONDITIONS OF PROPOSED)
INTERCONNECTION AGREEMENT WITH)
CELLCO PARTNERSHIP D/B/A VERIZON)
WIRELESS, GTE WIRELESS OF THE)
MIDWEST INCORPORATED D/B/A VERIZON)
WIRELESS, AND KENTUCKY RSA NO. 1)
PARTNERSHIP D/B/A VERIZON WIRELESS,)
PURSUANT TO THE COMMUNICATIONS)
ACT OF 1934, AS AMENDED BY THE)
TELECOMMUNICATIONS ACT OF 1996)

CASE NO.
2006-00300

O R D E R

On August 4, 2006, each of the 12 rural local exchange carriers (“RLECs”) that are the subject of these proceedings petitioned the Commission for suspension of or modification to any requirement to conduct and file total element long run incremental cost (“TELRIC”) studies. The RLECs contend that to the extent the Commission believes that they are individually subject to 47 U.S.C. § 251 requirements to price interconnection at TELRIC rates, the Commission should now suspend or modify this requirement. In support of their motions, the RLECs contend that they have never conducted TELRIC studies and that if they are compelled to do so, significant adverse

economic impact on the customers and the utilities will occur. Moreover, the RLECs assert that TELRIC studies cannot be conducted during the course of this brief arbitration proceeding.

The CMRS Providers¹ responded to the RLECs' motions for suspension of or modification to the requirement to file TELRIC studies by filing a consolidated motion to dismiss the RLECs' petitions. The CMRS Providers note that the RLECs may provide such studies if they so choose. If they do not so choose, then they may not have met their burden for proving the costs in these arbitration proceedings. The CMRS Providers argue that the RLECs' petitions for suspension or modification under 47 U.S.C. § 251(f)(2) are untimely and at odds with the Commission's prior rulings. The Commission has previously determined that a Section 251(f)(2) petition is inappropriate in the context of a pending arbitration proceeding.² The RLECs filed these petitions for arbitration in order to establish reciprocal compensation rates with the CMRS Providers. As the CMRS Providers note, the RLECs now seek a suspension or modification of the rate methodology used for determining reciprocal compensation. Moreover, they do so by filing a petition which, under law, the Commission has only 180 days to decide. Ruling on such petitions for suspension or modification in the context of arbitration proceedings filed by the utility requesting the suspension or modification and doing so

¹ ALLTEL Communications, Inc., American Cellular Corporation, New Cingular Wireless PCS, LLC, d/b/a Cingular Wireless, Sprint Spectrum LP, d/b/a Sprint PCS, T-Mobile USA, Inc. and Cellco Partnership d/b/a Verizon Wireless.

² Case No. 2003-00115, Petition of SouthEast Telephone, Inc. for Arbitration of Certain Terms and Conditions of the Proposed Agreement with Kentucky ALLTEL, Inc. Pursuant to the Communications Act of 1934, as Amended by the Telecommunications Act of 1996, Order dated December 19, 2003.

within the time authorized for completion of an arbitration proceeding is inappropriate, the CMRS Providers contend.

Moreover, a petition for suspension or modification under Section 251(f)(2) requires a substantial amount of evidence on the part of the applicant. The CMRS Providers contend that such evidence has not been provided with the petitions.

Finally, the CMRS Providers assert that this Commission has already addressed the issue of what proof must be provided by the RLECs. According to the Commission's August 18, 2006 Order in this proceeding, "the RLECs must prove that the rates for each element do not exceed the forward looking economic cost per unit of providing the element. 47 C.F.R. 51.505(e). The RLECs have not demonstrated that they are relieved from this requirement."

On September 22, 2006, after the informal conference held with all parties, the RLECs filed a letter indicating that, based on discussions at the informal conference and "consistent with 47 U.S.C. § 252(4)(b) and the laws of the Commonwealth of Kentucky," they would provide the Commission with the "best information available" to make a determination that the proposed rates comply with the applicable statutory standards.

Having considered the RLECs' motion for suspension and the CMRS Providers' motion in response to dismiss the petitions for suspension or modification and other filings in this proceeding, the Commission finds that the RLECs' petitions for suspension of or modification to any requirement to conduct TELRIC studies should be denied and the CMRS Providers' motion to dismiss these petitions should be granted. These 12 proceedings were initiated by the filing of petitions by the RLECs. According to the statutory standards for action by the Commission on petitions for arbitration, this

Commission will timely respond to each issue pending in these proceedings and will do so on the basis of the best information available to it from whatever source derived.³ Whether the best information available from the RLECs in support of their petitions for arbitration is TELRIC studies or is other information based on forward-looking costs is the choice of the RLECs. But the RLECs' petitions for modification or suspension of filing TELRIC studies should be dismissed without prejudice to the RLECs' filings such petitions in the future that comply with the statutory procedures.

Also pending Commission review are motions filed by each of the 12 RLECs to bifurcate this proceeding into two separate procedural tracts. In support of their motions, the RLECs argue that there are two types of issues pending in these arbitration proceedings, non-cost and non-pricing issues and cost or pricing issues. They ask that these be addressed on two tracks.

In response to these motions to bifurcate, the CMRS Providers argue that the RLECs have presented nothing more than a second request for rehearing of the Commission's Order establishing the procedural schedule in these proceedings. The CMRS Providers assert that there is no justification for bifurcating the proceedings. Moreover, the Commission should address all pending matters within the statutory time provided for arbitration proceedings. According to the CMRS Providers, if the RLECs refuse to file their TELRIC studies in a timely fashion, then the Commission should establish reciprocal compensation based on bill-and-keep principles or the Federal Communications Commission's proxy rates or any other methodology which is consistent with forward-looking costing principles.

³ 47 U.S.C. § 252(b)(4).

The Commission finds that the RLECs' motions to bifurcate these proceedings should be denied. The Commission cannot comply with federal law which requires arbitrations to be completed within a specified period of time if these motions are granted. Moreover, the primary issues in these proceedings appear to be ones related to costing and pricing. The Commission will therefore make its determinations on the best information available from whatever source and complete these proceedings in the time provided by law.

Also pending are motions for a one-day extension of time in which to file rebuttal testimony. The Commission finds that such motions are reasonable and should be granted to all parties.


IT IS THEREFORE ORDERED that:

1. The RLECs' motions for suspension of or modification to the requirement to provide TELRIC studies are hereby denied without prejudice as set forth herein.
2. The CMRS Providers' motion to dismiss the RLECs' petitions for suspension or modification of the requirement to file TELRIC studies is hereby granted.
3. The RLECs' motions to bifurcate these proceedings are hereby denied.
4. The RLECs' and the CLECs' motions for a one-day extension of time in which to file rebuttal testimony are hereby granted.

Done at Frankfort, Kentucky, this 11th day of October, 2006.

By the Commission

ATTEST:



Executive Director *for Beth O'Donnell*

Case No. 2006-00215, et al.