COMMONWEALTH OF KENTUCKY

BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

PETITION OF BALLARD RURAL TELEPHONE COOPERATIVE CORPORATION, INC. FOR ARBITRATION OF CERTAIN TERMS 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	)	CASE NO. 2006-00215
PETITION OF DUO COUNTY 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. 2006-00217
PETITION OF LOGAN TELEPHONE COOPERATIVE, 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. 2006-00218

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 December 22, 2006, the Commission by Order addressed all unresolved issues among the parties in this arbitration proceeding. On February 5, 2007, the Commission entered an Order pursuant to the petition of the commercial mobile radio service providers ("CMRS Providers")[1] for a rehearing of Issues 1 and 9, 2,

[1] Alltel Communications, Inc.; New Cingular Wireless PCS, LLC, successor to BellSouth Mobility LLC, BellSouth Personal Communications LLC and Cincinnati SMSA Limited Partnership d/b/a Cingular Wireless; Sprint Spectrum L.P., on behalf of itself and SprintCom, Inc., d/b/a Sprint PCS; T-Mobile USA, Inc., Powertel/Memphis, Inc., and T-Mobile Central LLC; and Cellco Partnership d/b/a Verizon Wireless, GTE Wireless of the Midwest Incorporated, and Kentucky RSA No. 1 Partnership.

5 and 6, and 7 and 8, and rural local exchange carriers' ("RLECs")[2] motion for clarification on Issue 11, regarding total element long run incremental cost ("TELRIC") studies, contained in the Commission's Order dated December 22, 2006. The parties were ordered, per the December 22, 2006 Order, to file their respective interconnection agreements within 30 days, incorporating the decisions contained in the Commission's December 22, 2006 and February 5, 2007 Orders and the clarifications specified in the Commission's March 19, 2007 Order. However, the parties remain in dispute regarding the issues enumerated below. After review of each matter, the Commission herein determines the parties' relevant contract language.

INDIRECT INTERCONNECTION AND BILLING RECORDS

The parties disagree over language to be contained in Sections 4.1.2 and 4.1.3 of their interconnection agreements. According to the RLECs, the CMRS Providers fail to recognize that the Commission had determined that the RLECs must receive adequate industry standard billing records for an indirect non-dedicated trunking transit interconnection arrangement.

On the other hand, CMRS Providers note that the Commission's March 19, 2006 Order confirmed that "at no point did the Commission intend to restrict a CMRS provider's ability to interconnect indirectly."[3] According to the CMRS Providers, the

[2] Ballard Rural Telephone Cooperative Corporation, Inc.; Duo County Telephone Cooperative Corporation, Inc.; Logan Telephone Cooperative, Inc.; West Kentucky Rural Telephone Cooperative Corporation, Inc.; North Central Telephone Cooperative Corporation; South Central Rural Telephone Cooperative Corporation, Inc.; Brandenburg Telephone Company; Foothills Rural Telephone Cooperative Corporation, Inc.; Gearheart Communications, Inc. d/b/a Coalfields Telephone Company; Mountain Rural Telephone Cooperative Corporation, Inc.; Peoples Rural Telephone Cooperative Corporation, Inc.; and Thacker-Grigsby Telephone Company, Inc.

[3] March 19, 2006 Order at 15.

Commission also required RLECs to use industry standard records to measure and bill CMRS Providers for terminating mobile-originated traffic in an indirect interconnection scenario.[4] Despite these holdings of the Commission, the RLECs have proposed what the CMRS Providers call "significant restrictions" on the CMRS Providers' ability to exchange traffic indirectly.

Having reviewed the parties' proposals, the Commission finds that the RLECs have attempted to overly restrict the CMRS Providers' opportunities to indirectly interconnect. Accordingly, the CMRS Providers' proposed language for Sections 4.1.2 and 4.1.3 should be used in the parties' interconnection agreements. It reads as follows:

> 4.1.2 CMRS Provider shall be permitted to use a third party carrier's facilities for purposes of establishing interconnection indirectly with LEC at the IP(s) and the exchange of traffic that is within the scope of this Agreement between the Parties. Traffic exchanged indirectly will be subject to the compensation stated in Appendix B. CMRS Provider shall be responsible for the payment to any third party carrier for any charge associated with the Indirect Interconnection scenario contemplated herein and with any functions provided by the third party that allows for the exchange of traffic between the Parties as contemplated herein.
>
> 4.1.3 The Indirect Interconnection arrangement described in section 4.1.2, above, shall only be available to CMRS Provider so long as: (i) the total volume of traffic exchanged (pursuant to the terms of this Agreement) between CMRS Provider and LEC does not exceed the reasonable operating capacity of a DS1; for purposes of establishing the reasonable operating capacity threshold, if the total monthly volume of traffic exchanged between the parties exceeds 300,000 minutes of usage for three (3) consecutive months, a dedicated trunk group shall be required for the exchange of traffic pursuant to this Agreement, and such trunk group shall be established pursuant to the terms and conditions set forth in Section 4.1.4, below.

The RLECs propose that the use of a third-party carrier by the CMRS Provider be expressly conditioned upon the CMRS Provider ensuring that the third-party carrier

[4] Id. at 17 and 18.

delivers the CMRS Provider's traffic to the local exchange carrier ("LEC") at no charge to the LEC and in a manner that includes complete and accurate industry standard call detail records. This proposal is more restrictive than the Commission's determinations in this proceeding. The CMRS Providers are not in a position to ensure appropriateness of the transit provider's records. Instead, the RLECs are to continue to rely on the EMI 11-01-01 records that they currently use. Thus, the CMRS Providers' language should be adopted.

DIALING PARITY

The parties disagree about appropriate language to implement the Commission's decisions regarding dialing parity. The Commission held that "parity does not exist when the CLEC's [competitive LEC] customers must dial 10 digits and incur toll charges to reach a 'local' number an ILEC's [incumbent LEC] customers may reach by dialing 7 digits without a toll charge."[5] Having considered both parties' proposals, the Commission finds that the RLECs' language should be utilized. Accordingly, the following language should appear in the parties' interconnection agreement as Section 4.4:

> The Parties shall comply with Local Dialing Parity and Toll Dialing Parity as required by applicable law. When a CMRS Provider end-user has a telephone number that is assigned (as recorded in the Local Exchange Routing Guide) to a rate center within the non-optional local calling area of LEC's originating end-user, LEC shall provide local dialing and rating parity for calls originated by its end-user(s) to such telephone number(s) of CMRS Provider end-user(s).

The Commission believes that language proposed by the CMRS Providers could be read to expand the dialing parity issue beyond the Commission's mandates. By

[5] December 22, 2006 Order at 20, quoting Case No. 2002-00143, Brandenburg Telecom, LLC vs. Verizon South, Inc., Order dated May 23, 2002 at 4.

stating that parity equals "without paying extra charges," the CMRS Providers could add confusion to the contract. The requirement to have no extra charges may be different than the requirement to have rate parity. The focus should be that whatever charges the LEC assesses to call its own customers may also be assessed to call CMRS Providers' customers. Thus, the RLECs' proposal tracks the Commission's determinations more appropriately than does the CMRS Providers' proposal.

CMRS BILLING AND USE OF TRAFFIC FACTORS

In its December 22, 2006 Order, the Commission found that:

> The use of traffic factors is reasonable where the carriers do not have equipment in place to measure their traffic. The use of traffic factors appears to be standard practice. The Commission, therefore, adopts the measurement methodology for developing traffic factors proposed by the CMRS providers.[6]

To implement this decision, the CMRS Providers propose the following as Section 5.5 of the parties' interconnection agreement:

> To the extent a Party has the ability to adequately measure, bill and verify terminating traffic, the Party may utilize its own actual terminating measurement of usage for purposes of billing pursuant to this Agreement. In addition, either party may obtain industry-standard records (e.g. EMI 11-01-01 records). However, in the event that CMRS Provider may not be capable of measuring traffic, then the Parties agree to use the default percentages set forth in Section 2 of Appendix A for the application of charges pursuant to this Agreement.

The RLECs, on the other hand, propose the following series of sections:

> 5.5 Billing.
>
> 5.5 Subject to Section 4, above, and consistent with the terms of this section 4.4, either Party may measure or utilize industry standard records (EMI 11-0101 records) to determine the amount of traffic within the scope of this Agreement that either Party terminates on its network. The parties intend to utilize actual terminating measurement of usage, where available, for purposes of billing pursuant to this Agreement.
>
> 5.5.1 Dedicated Interconnection.

[6] Id. at 18.

5.5.1.1 When the Parties have established dedicated trunk groups for the exchange of traffic this is within the scope of this Agreement, and either one party or both parties have actual measurement of such traffic either in one direction or both directions, then such actual available measurement, subject to the audit process set forth in this Agreement, shall be used for billing purposes for that portion of the traffic exchanged in one direction or in both directions for which there is actual measurement available.

5.5.1.2 When the Parties have established dedicated trunk group(s) for the exchange of traffic that is within the scope of this Agreement, and neither Party has actual measurement of such traffic either in one direction or in both directions, then the Parties will develop mutually acceptable and representative percent usage factors for the amount of Mobile-to-Land relative to Land-to-Mobile traffic that will be used for billing purposes for traffic exchanged over the dedicated facilities in conjunction with any actual measurement of traffic that may be available to the Parties. Such usage factors shall be set forth in Appendix A.

5.5.1.3 To the extent that the Parties cannot mutually agree on representative factors and/or the application of those factors to available actual measured minutes of use and the resulting billing based on those factors, any dispute regarding representative factors and the resulting billing process shall be resolved pursuant to the dispute resolution process described in this Agreement.

5.5.1.4 In those situations where the total amount of mobile-to land traffic terminated on the network of ABCx is measured, but the amount of land-to-mobile traffic terminated on the network of DEFx is not measured, then ABCx shall bill DEFx based on measured terminating usage, and the amount to be billed by DEFx to ABCx shall be based on the relative percentage factors set forth in Appendix A. Under this arrangement where the factors are applied to determine the amount that DEFx is to bill ABCx, the Parties shall mutually agree as to whether separate bills shall be prepared and sent by both Parties or whether ABCx shall prepare a bill which nets the charges between the Parties.

5.5.2 Indirect Interconnection.

5.5.2.1 When the Parties utilize an indirect arrangement without the use of a dedicated trunk group, the Parties shall, for billing purposes, utilize: (i) the industry standard usage records (EMI 11-0101 records) of the intermediary third-party carrier for either traffic terminating to ABCx, traffic terminating to DEFx, or both; or (ii) actual measurement of terminating usage, when available for either traffic terminating to ABCx, traffic terminating to DEFx, or both.

5.5.2.2 Where the Parties utilize an indirect arrangement for the exchange of traffic that is within the scope of this Agreement, and neither party has actual measurement of such traffic either in one direction or in both directions, then the Parties will develop mutually acceptable and representative percent usage factors for the amount of Mobile-to-Land relative to Land-to-Mobile traffic exchanged via the indirect arrangement

that will be used for billing purposes in conjunction with any actual measurement of traffic that may be available to the Parties. Such usage factors shall be set forth in Appendix A.

5.5.2.3 To the extent that the Parties cannot mutually agree on representative factors and/or the application of those factors to available actual measured minutes of use and the resulting billing based on those factors, any dispute regarding representative factors and the resulting billing process shall be resolved pursuant to the dispute resolution process described in this Agreement.

5.5.2.4 In those situations where the total amount of mobile-to-land traffic terminated on the network of ABCx is measured, but the amount of land-to-mobile traffic terminated on the network of DEFx is not measured, then ABCx shall bill DEFx based on measured terminating usage, and the amount to be billed by DEFx to ABCx shall be based on the relative percentage factors set forth in Appendix A. Under this arrangement where the factors are applied to determine the amount that DEFx is to bill ABCx, the Parties shall mutually agree as to whether separate bills shall be prepared and sent by both Parties or whether ABCx shall prepare a bill which nets the charges between the Parties.

5.5.3 Development of Traffic Factors.

5.5.3 The Parties will work together to develop measurement and usage information which shows, for the traffic exchanged between the Parties pursuant to this Agreement, the relative amounts of Mobile-to-Land and Land-to-Mobile traffic representative of the actual amounts of traffic exchanged between the Parties pursuant to this Agreement either via the indirect interconnection arrangement or the dedicated trunking arrangement. To the extent that measurement and usage information available on an ongoing basis indicates that a change in the Mobile-to-Land and Land-to-Mobile factors in [sic] necessary such that the factors are representative of the actual amounts of traffic exchanged between the Parties, such change shall be made consistent with this information, and Appendix A shall be amended to reflect these new percentages. In the event of a dispute regarding any adjustment to the factors, the dispute shall be resolved by the Commission.

The CMRS Providers contend that their proposal tracks the Commission's determinations regarding this issue and that the RLECs' proposed language is too complicated and deviates from the Commission's determinations. The CMRS Providers also argue that the RLECs' proposal would have the effect of rejecting the use of traffic factors and, therefore, is inconsistent with the Commission's determination. Moreover, the RLECs' language, according to the CMRS Providers, incorrectly states that the

CMRS Providers intend to use actual terminating measurement for intercarrier billing. The CMRS Providers lack the capability of measuring terminating RLEC usage, whether it is through direct or indirect interconnection.[7]

The CMRS Providers assert that the Commission ruled in their favor, allowing them to bill based on traffic factors. Thus, they contend that the Commission, having approved their methodology, necessarily intended for the parties to establish exact traffic factors.[8]

The RLECs' proposals, on the other hand, provide a way to establish traffic factors in the future. Also, the RLECs provide a system for dispute resolution regarding traffic factor determinations. According to the CMRS Providers, the Commission's decision was final and should be implemented at this time. It is unnecessary to create a system for later resolution.

Having reviewed the parties' proposals regarding use of traffic factors, the Commission finds that the CMRS Providers' proposal is more consistent with the Commission's previous mandates. The RLECs' proposal would preclude the use of traffic factors, even under circumstances where the Commission found their use permissible. However, the RLECs do correctly note that the CMRS Providers dispute that traffic factors may be adjusted during the course of an agreement to reflect actual traffic patterns.[9] The RLECs also point out that the Commission did not adopt actual traffic factors during the course of this proceeding. In response to these assertions, the

---

[7] CMRS Providers' filing in support of conformed interconnection agreement at 8.

[8] Id. at 10.

[9] RLECs' cover letter regarding conforming template interconnection agreement at 5.

Commission finds that the traffic factors proposed by the CMRS Providers should be utilized at this time. However, if either party has evidence that the traffic factors do not approximate actual traffic patterns, that evidence should be presented to the parties and brought to the Commission's attention.

T-MOBILE'S OBJECTION TO DEFINITION OF DS1 LEVEL

This final area of disagreement between the parties relates to only one CMRS Provider, T-Mobile. T-Mobile proposes that the contract language providing for parties to establish direct connections between them when their traffic exchanged exceeds a DS1 level should not define DS1 as a monthly volume of traffic exceeding 300,000 minutes of use. T-Mobile argues that the Commission did not set a specific threshold and that parties normally consider their particular network operations, traffic patterns, busy hour issues, miles of transport, transit factors, and other indicators before determining what would constitute a DS1 direct connection.[10]

The RLECs assert that T-Mobile's language would do nothing more than create a dispute at a later time.[11] The Commission agrees with the RLECs that a concrete definition of a DS1 level of traffic will prevent future disputes. The Commission also agrees that the proposal to define DS1 as a monthly volume of traffic exceeding 300,000 minutes of use is reasonable and should be adopted by the parties in the contract.

[10] CMRS Providers' filing in support of conformed interconnection agreement at 6.

[11] Cover letter to RLECs' conforming template interconnection agreement at 4, fn. 5.

IT IS THEREFORE ORDERED that:

1. The CMRS Providers' proposed language for Sections 4.1.2 and 4.1.3 shall be used in the parties' interconnection agreements.

2. The RLECs' proposed language for Section 4.4 shall be used in the parties' interconnection agreements.

3. The CMRS Providers' proposed language for Section 5.5 shall be used in the parties' interconnection agreements.

4. The RLECs' proposal regarding determination of DS1 levels of traffic shall be used by T-Mobile.

5. Within 20 days of the date of this Order, the parties shall file their respective interconnection agreements, to be effective January 1, 2007, incorporating decisions contained in the December 22, 2006 Order, the February 5, 2007 Order, the March 19, 2007 Order, and the determinations contained herein.

Done at Frankfort, Kentucky, this 9th day of November, 2007.

By the Commission

Commissioner Clark Abstains.

ATTEST:

Executive Director