BEFORE THE TENNESSEE REGULATORY AUTHORITY
NASHVILLE, TENNESSEE

Re: Notice of US LEC Corp. of "Bona Fide Request" for an Interconnection Agreement with TDS Local Exchange Carriers Pursuant to 47 U.S.C. § 251	))))	Docket No. 00-00026

REPLY OF US LEC CORP.

On February 15, 2002, US LEC Corp. ("US LEC") sent to TDS[1] a proposed interconnection agreement and, at the same time, notified the Tennessee Regulatory Authority ("TRA") of the interconnection request.[2] That filing triggered the 120 day period within which the TRA must decide whether the service area of TDS should be opened to competition. *See* 47 U.S.C. § 251(f)(B).

On March 13, 2003, TDS filed a "Response" to the request for interconnection in which TDS argued, for various reasons, that the interconnection request of US LEC "should be rejected" or, in the alternative, indefinitely postponed. Response at 1, 6.

US LEC submits the following reply to those arguments.

1. US LEC has complied with the Hearing Officer's Order of January 17, 2002, which declared that all activity in this docket would be suspended "until such time as US LEC

[1] TDS refers collectively to Concord Telephone Exchange, Inc., Humphreys County Telephone Company, Tellico Telephone Company and Tennessee Telephone Company.

[2] The cover letter proposed that the parties begin negotiations pursuant to Section 252 of the federal Telecommunications Act, 47 U.S.C. § 252. A subsequent letter, dated February 18, 2002, clarified that the above-captioned docket is the controlling factor in these negotiations. US LEC recognizes that TDS is not legally required to comply with the interconnection requirements set forth in § 251(c) until the TRA has made a ruling in this docket. Although not required by federal law to do so, US LEC submitted the proposed interconnection agreement at the request of TDS so that TDS, which apparently has had no direct experience with the interconnection process, would have a better understanding of US LEC's request for interconnection.

files a new request for interconnection in this docket." Order at 3. As the parties agreed, "the new request will restart the 120 day period." *Id.*

2. TDS claims that the proposed interconnection agreement should be "rejected" because it does not include "the following important information" which TDS claims is "crucial to the necessary evaluation of the request and its technical feasibility, economic impact, and the implications for universal service."

a. specific exchanges and point(s) within those exchanges where interconnection is desired.

b. any desired interface or technical specifications of such interconnection;

c. information concerning the type and quantity of unbundled elements requested;

d. specific locations of any collocation requested; or

e. identification of any switches for which number portability is requested.

US LEC employees have already been in communications with TDS to discuss, more specifically, the type of interconnection typically used by US LEC and the anticipated locations of those interconnections. More importantly, however, the claims of TDS that this docket cannot move forward until these questions are answered indicates a fundamental misunderstanding of the purpose of this docket and the nature of an interconnection agreement.

First, the purpose of this docket is to initiate, not finalize, the interconnection process. US LEC has repeatedly indicated its desire to compete for customers in the service are of TDS. At the same time, TDS has steadfastly asserted its opposition to competition and its right to refuse to engage in negotiations for as long as possible. The purpose of this docket is to force TDS to the bargaining table; not to arrive at a final interconnection agreement. This is a proceeding to lift TDS's rural exemption, not an arbitration proceeding. Once the TRA decides

that the customers of TDS deserve a competitive alternative, then the parties will negotiate and, if necessary, arbitrate an interconnection agreement.

Second, TDS arguments imply that the company does not understand what an interconnection agreement is supposed to contain. The agreement proposed by US LEC contains standard language taken from other, existing agreements. But it is not, nor is it intended to be, limited to specific customer locations, points of interconnection, or types of facilities. It is intended to be a generic agreement that the parties can use to provide a variety of interconnection services and to reach customers who may be located anywhere in the TDS area.

At this time, for example, US LEC has no plans to collocate in any TDS central office. That does not mean, however, that US LEC may not need to collocate at some time in the future. The proposed agreement therefore provides that US LEC may request additional interconnection services as needed. It is even more obvious that an interconnection agreement should not be limited to "specific exchanges and points within those exchanges where interconnection is desired." US LEC has already identified those exchanges where US LEC initially plans to interconnect. *See* Pre-Hearing Order of January 17, 2002. But that does not mean that those locations should be listed in the interconnection agreement or that the agreement should be limited to those locations. If that were the case, the parties would have to amend the agreement (and file the amendment with the TRA) each time US LEC wished to serve a customer in a new exchange. That is not consistent with federal law[3] or the language of other agreements approved by the agency.

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[3] Section 251(c) (2) (B) requires an incumbent carriers to offer interconnection "at any technically feasible point within the carrier's network."

Third, TDS's arguments overlook the Authority's role in the process of arriving at an interconnection agreement. Under Section 252(e)(2)(A) of the federal Act, the Authority is required to approve a negotiated agreement and to determine whether the agreement is "consistent with the public interest, convenience, and necessity." If the agreement is adopted following an arbitration, the Authority's duty is to insure that the agreement is consistent with the pricing standards and unbundling obligations set forth in the Act and the rules and orders of the FCC. 47 U.S.C. § 252(e)(2)(B). In either circumstance, the Authority's responsibility is to balance the pro-competitive policies underlying the Act with the interests of incumbent carriers and their customers. Tennessee law similarly declares that it is the policy of this state to "permit. . . . .competition in all telecommunications services markets" while, at the same time, "protect the interests of consumers" and maintain universal service. T.C.A. § 65-4-113.

In other words, the sky-is-falling arguments offered by TDS in an effort to maintain its monopoly status are, to say the least, premature. No interconnection prices have been set; no unbundling requirements have been established. That will be accomplished, as necessary, at a later date, either by agreement or through an arbitration, and the resulting terms and conditions of interconnection will be reviewed by the TRA in accordance with federal and state law. At that time, the TRA can and will exercise its power to insure that the final agreement fosters competition while balancing the legitimate interests of TDS and its customers. TDS's arguments boil down to this: the company presumes that no such balance can be struck and, therefore, that the process should be aborted before it begins. Six years of competitive experience in Tennessee demonstrate that TDS is wrong.

3. TDS also argues, at page 4, that this proceeding should be delayed pending a final decision by the TRA in the Rural Universal Services docket (00-00523). The Hearing Officer has already rejected this request, noting that "US LEC did not agree . . . to waive federal

statutory deadlines and postpone TRA Docket No. 00-00026 until the completion of the Rural Universal Services Docket." Order of October 4, 2001, in Docket 94-00613. TDS's attempt to re-litigate this request is not appropriate.

CONCLUSION

For these reasons, US LEC submits that the statutory deadline began running on February 15, 2002, and that the continued efforts of TDS to derail this proceeding have no legal or logical basis.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing has been forwarded via U.S. Mail, postage prepaid, to the following on this the 20th day of March.

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