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filed electronically in docket office on 08/30/07

August 29, 2007

Docket No. 07-00196

Hon. Eddie Roberson, Chairman
Tennessee Regulatory Authority
ATTN: Sharla Dillon - Dockets
460 James Robertson Parkway
Nashville, TN 37238

**Filed electronically with the
Tennessee Regulatory Authority
August 29, 2007**

Re: *Complaint of North Central Telephone Cooperative, Inc. against Comcast
Phone of Tennessee, LLC*

Dear Chairman Roberson:

Enclosed for filing are the original and 4 copies of the Complaint of North Central Telephone Cooperative, Inc. against Comcast Phone of Tennessee, LLC.

My check in the amount of \$25.00 in payment of the filing fee is also enclosed.

Sincerely,



H. LaDon Baltimore
Counsel for North Central Telephone
Cooperative, Inc.

LDB/skm

Enclosures

cc: F. Thomas Rowland, North Central Telephone Cooperative, Inc.

**IN THE TENNESSEE REGULATORY AUTHORITY
NASHVILLE, TENNESSEE**

IN RE:)	
)	
COMPLAINT OF NORTH CENTRAL)	
TELEPHONE COOPERATIVE,)	
INC.,)	
)	
Against)	DOCKET NO. 07-00182
)	
COMCAST PHONE OF TENNESSEE,)	
LLC)	

COMPLAINT

Complainant, North Central Telephone Cooperative, Inc. ("NCTC"), a rural telephone cooperative, by its counsel, files this complaint against Comcast Phone of Tennessee, LLC ("Comcast") pursuant to Tenn. Code Ann. § 65-4-101¹, and Tenn. Code Ann. § 65-4-117(1)², NCTC alleges that Comcast is illegally providing telephone telecommunications services in the territory of NCTC in direct violation of state law prohibiting Comcast from providing telecommunications services in the territory of a rural telephone cooperative. Such action is harmful to NCTC.

In support of these claims and the relief sought, NCTC states as follows:

I. THE PARTIES

1. NCTC is a telephone cooperative as defined in Tenn. Code Ann. § 65-29-102 and serves customers in the Tennessee cities of Lafayette, Red Boiling Springs, the Town of Westmoreland and the Tennessee counties of Macon, Clay, Smith, Sumner, Trousdale, as well as Allen County in Kentucky. NCTC's principal offices are located at 872 Highway 52 Bypass East, Lafayette, Tennessee 37083-0070.

¹ Pursuant to Tenn. Code Ann. § 65-4-104, the TRA has "general supervisory and regulatory power, jurisdiction, and control over all public utilities."

² Tenn. Code Ann. § 65-4-117 (1) gives the TRA the power to "investigate...upon complaints any matter concerning any public utility."

2. Comcast is a telecommunications utility regulated by the Tennessee Regulatory Authority (“TRA”) pursuant to Tenn. Code Ann. §§ 65-4-101 and 65-4-104. Its usual address for service is 1500 Market Street, Philadelphia, Pennsylvania 19102.

II. CLAIMS

A. Illegal Entry Into NCTC Territory

3. T.C.A. § 65-29-102 provides that in the territory of a rural telephone cooperative, “...there shall be no duplication of service where reasonably adequate service is available.” The statute prohibits a Competitive Local Exchange Carrier (CLEC) from providing service in the territory of a rural telephone cooperative. As stated by Director Pat Miller, “...I do not find specific language contained within existing state law that would permit the TRA to grant authority to CLECs to serve territories served by telephone cooperatives.” *Order Denying Petition of Frontier Communications, Inc.*, In re: Petition of Frontier Communications, Inc. for a Declaratory Ruling, TRA Docket No. 04-00379 (March 8, 2006) footnote 23 quoting Transcript of Authority Conference, page 12 (November 7, 2005).

4. Comcast is providing telecommunications services, including voice, data, and video, to three residential customers in the Hillsdale Exchange in NCTC’s territory. NCTC is without knowledge as to whether or not there are additional customers being served by Comcast in NCTC’s territory. Such telecommunications services by Comcast are in violation of T.C.A. § 65-29-102.

B. Impairment of Service

5. Pursuant to T.C.A. § 65-21-110, it is unlawful for any person to “...imped or impair the service of any telephone line...”.

6. Comcast is impeding and impairing the service of the telephone line (s) of NCTC by encroaching into NCTC territory and switching end users in violation of T.C.A. § 65-29-102. NCTC is impeded and impaired from providing service over its telephone lines to such switched end users.

7. If Comcast is allowed to continue illegally offering telecommunications services in NCTC's territory, Comcast will be unjustly enriched at the expense of NCTC.

C. Unlawful Change of Service Provider

8. T.C.A. § 65-4-125 (a) provides: "No telecommunications service provider, and no person acting on behalf of any telecommunications service provider, shall designate or change the provider of telecommunications services to a subscriber if the provider or person acting on behalf of the provider knows or reasonably should know that such provider or person does not have the authorization of such subscriber." The TRA is given power to enforce such statute. "The Tennessee regulatory authority may...decide and issue orders...to enforce the provisions of this section..." T.C.A. § 65-4-125 (e)

9. TRA Rule 1220-4-2.56 sets forth requirements regarding authorized and valid change orders.

10. Since Comcast is prohibited by state law from offering service in NCTC's territory, Comcast knows or should reasonably know that any end user in such territory does not have the authority as required by T.C.A. § 65-4-125 (a) to switch service to Comcast.

11. Any change order submitted by Comcast would be invalid as without authority under the statute and in violation of TRA Rule 1220-4-2.56 (e).

12. Pursuant to T.C.A. § 65-4-120, any public utility that violates or fails to comply with any rule "...shall in the discretion of the authority be subject to a penalty of fifty dollars (\$50.00) for each day of any such violation..."

REQUEST FOR RELIEF

Based upon these allegations, NCTC requests that the TRA:

1. Open an investigation concerning the actions cited in this Complaint;

2. Convene a contested case concerning these actions;
3. Terminate such action as in violation of state law;
4. Impose sanctions for any violation of state law, including, but not limited to, fines of \$50.00/day/violation since the inception of the unlawful act of Comcast;
5. Award NCTC damages as a result of Comcast's actions; and
6. Grant such other and further relief to which it may be entitled, including reasonable attorney's fees and costs.

Respectfully submitted,



H. LaDon Baltimore, BPR #003836

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*Counsel to North Central Rural Telephone
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Certificate of Service

The undersigned hereby certifies that on this the 29th day of August, 2007, a true and correct copy of the foregoing has been forwarded via first class U. S. Mail, hand delivery, or overnight delivery to the following.

Comcast Phone of Tennessee, LLC **VIA CERTIFIED MAIL**
c/o CT Corporation System
800 S. Gay Street, Suite 2021
Knoxville, TN 37929

Comcast Cable **VIA CERTIFIED MAIL**
Office of General Counsel
1500 Market Street
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