

AUSLEY & McMULLEN

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(850) 224-9115 FAX (850) 222-7560

April 7, 2009

RECEIVED-FPSC
09 APR -7 PM 1:51
COMMISSION
CLERK

HAND DELIVERY

Ms. Ann Cole
Office of Commission Clerk
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, FL 32399-0850

090171-TP

Re: Adoption of Smart City Telecom Mutual Exchange of Traffic Agreement by Comcast Phone of Florida, LLC d/b/a Comcast Digital Phone

Dear Ms. Cole:

Smart City Telecommunications LLC hereby provides notice to the Florida Public Service Commission of the adoption by Comcast Phone of Florida, LLC d/b/a Comcast Digital Phone of the Mutual Exchange of Traffic Agreement between Smart City Telecom and Bright House Networks Information Services (Florida), LLC, dated June 19, 2007, which was approved by the Commission on October 3, 2007. Comcast Digital Phone is adopting the agreement as provided by Section 252(i) of the Telecommunications Act of 1996.

An original and 15 copies of the above-referenced Adoption Agreement are enclosed for filing.

Please acknowledge receipt and filing of the above by stamping the duplicate of this letter and returning the same to this writer.

COM _____
COR _____
GCL 4 _____
OPC 1 _____
RCP _____
SSC _____
SGA _____
ADM _____
CLK Nancy

DOCUMENT NUMBER-DATE

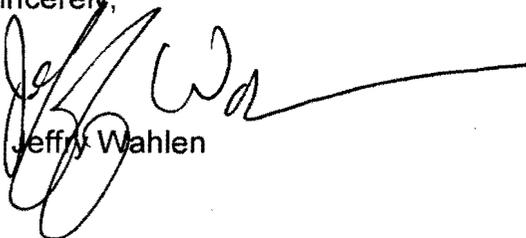
03057 APR-7 8

FPSC-COMMISSION CLERK

Ms. Ann Cole
April 7, 2009
Page 2

Thank you for your assistance in this matter.

Sincerely,

A handwritten signature in black ink, appearing to read "J. Jeffrey Wahlen". The signature is stylized with large, sweeping loops and a long horizontal line extending to the right.

J. Jeffrey Wahlen

JJW/jh

Enclosure

cc: Beth Choroser
Brian Rankin
Lynn B. Hall



February 24, 2009

Mr. Robert Munoz
Directory of Regulatory Compliance
Comcast
One Comcast Center
Philadelphia, PA 19103-2838

www.smartcity.com

Re: Requested Adoption Under Section 252(i) of the Communications Act

Dear Mr. Munoz:

Smart City Telecommunications LLC, a Delaware limited liability company doing business as Smart City Telecom ("Smart City Telecom"), with principal place of business at 3100 Bonnet Creek Road, Lake Buena Vista, Florida, has received correspondence stating that Comcast Phone of Florida, LLC d/b/a Comast Digital Phone, a Delaware limited liability company doing business as Comcast Digital Phone ("Comcast"), with principal place of business at One Comcast Center, Philadelphia, PA 19103-2838, wishes pursuant to Section 252(i) of the Communications Act, to adopt the terms of the Exchange of Traffic Agreement between Smart City Telecom and Bright House Networks Information Services (Florida), LLC ("BHN") dated June 19, 2007, that was approved by the Florida Public Service Commission (the "Commission") on October 3, 2007 as an effective agreement in the State of Florida, as such agreement exists on the date hereof after giving effect to operation of law (the "Terms"). I understand Comcast has a copy of the Terms. Please note the following with respect to Comcast's adoption of the Terms:

1. By Comcast's countersignature of this letter, Comcast hereby represents and agrees to the following points:
 - A. Comcast adopts (and agrees to be bound by) the Terms and, in applying the Terms, agrees that Comcast shall be substituted in place of Bright House Networks Information Services (Florida), LLC and BHN in the Terms wherever appropriate.
 - B. Notice to Comcast and Smart City Telecom as may be required or permitted under the Terms shall be provided as follows:

To Comcast Phone of Florida, LLC d/b/a Comcast Digital Phone:

Attention: Ms. Beth Choroser
Senior Director of Regulatory Compliance
One Comcast Center, 50th Floor
Philadelphia, PA 19103
Telephone Number: (215) 286-7893
Facsimile Number: (215) 286-5039
Internet Address: beth_choroser@comcast.com

With a copy to:

Mr. Brian Rankin
Assistant General Counsel
One Comcast Center, 50th Floor
Philadelphia, PA 19103
Telephone Number: (215) 286-7325
Facsimile Number: (215) 286-5039
Internet Address: brian_rankin@comcast.com

To Smart City Telecommunications LLC d/b/a Smart City Telecom:

Attention: Lynn B. Hall
Director – Customer Service, Contracts, and Regulatory
3100 Bonnet Creek Road (overnight delivery only)
P.O. Box 22555
Lake Buena Vista, Florida 32830-2555
Telephone Number: (407) 828-6730
Facsimile Number: (407) 828-6701
Internet Address: lbhall@smartcity.com

With a copy to:

J. Jeffrey Wahlen, Esq.
Ausley & McMullen
Washington Square Building
227 South Calhoun Street
Tallahassee, Florida 32301
Telephone Number: (850) 425-5471
Facsimile Number: (850) 558-1315
Internet Address: jwahlen@ausley.com

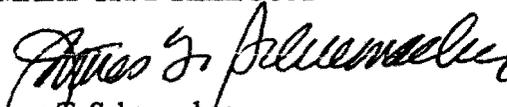
- C. Comcast represents and warrants that it is a certified provider of local telecommunications service in the State of Florida, and that its adoption of the Terms will cover services in the State of Florida only.
- D. Comcast's adoption of the Terms shall become effective on January 23, 2009. Smart City Telecom shall file this adoption letter with the Commission promptly upon receipt of an original of this letter countersigned by Comcast as to the points set out in Paragraph 1 hereof. The term and termination provisions of the Terms shall govern Comcast's adoption of the Terms. The adoption of the Terms is currently scheduled to expire on October 2, 2009 and thereafter shall automatically renew for successive one (1) year periods unless either Party provides written notice of termination at least 180 days prior thereto.
2. As the Terms are being adopted by Comcast pursuant to Section 252(i) of the Act, Smart City Telecom does not provide the Terms to you as either a voluntary or negotiated agreement. The filing and performance by Smart City Telecom of the Terms does not in any way constitute a waiver by Smart City Telecom of any position as to the Terms or a portion thereof, nor does it constitute a waiver by Smart City Telecom of all rights and remedies it may have to seek review of the Terms, or to seek review in any way of any provisions included in the Terms as a result of Comcast's adoption of the Terms.
3. Nothing herein shall be construed as or is intended to be a concession or admission by Smart City Telecom that any provision in the Terms complies with the rights and duties imposed by the Act, the decisions of the FCC and the Commission, the decisions of the courts, or other law, and Smart City Telecom expressly reserves its full right to assert and pursue claims arising from or related to the Terms.

4. Smart City Telecom reserves the right to deny Comcast's application of the Terms, in whole or in part, at any time:
 - A. when the costs of providing the Terms to Comcast are greater than the costs of providing them to Bright House Networks;
 - B. if the provision of the Terms to Comcast is not technically feasible; and/or
 - C. to the extent that Smart City Telecom otherwise is not required to make the Terms available to Comcast under applicable law.
5. For the avoidance of any doubt, please note that adoption of the Terms will not result in reciprocal compensation payments for Internet traffic. Smart City Telecom has always taken the position that reciprocal compensation was not due to be paid for Internet traffic under section 251(b)(5) of the Act. Smart City Telecom's position that reciprocal compensation is not to be paid for Internet traffic was confirmed by the FCC in the Order on Remand and Report and Order adopted on April 18, 2001 ("FCC Internet Order"), which held that Internet traffic constitutes "information access" outside the scope of the reciprocal compensation set forth in section 251(b)(5) of the Act. Accordingly, any compensation to be paid for Internet traffic will be handled pursuant to the terms of the FCC Internet Order, not pursuant to adoption of the Terms. Moreover, in light of the FCC Internet Order, even if the Terms include provisions invoking an intercarrier compensation mechanism for Internet traffic, any reasonable amount of time permitted for adopting such provisions has expired under the FCC's rules implementing section 252(i) of the Act. In fact, the FCC Internet Order made clear that carriers may not adopt provisions of an existing interconnection agreement to the extent that such provisions provide compensation for Internet traffic.
6. Should Comcast attempt to apply the Terms in a manner that conflicts with Paragraphs 2 through 5 above, Smart City Telecom reserves its rights to seek appropriate legal and/or equitable relief.

Please arrange for a duly authorized representative of Comcast to sign this letter in the space provided below and return it to Smart City Telecom.

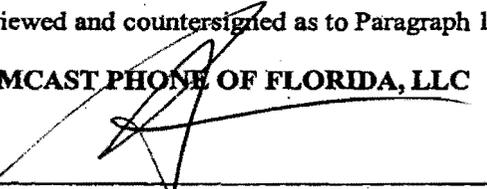
Sincerely,

SMART CITY TELECOM


James T. Schumacher
Vice President - Finance

Reviewed and countersigned as to Paragraph 1:

COMCAST PHONE OF FLORIDA, LLC

By: 

Name: Susan Jim Davis

Title: VP Corporate Development

Date: 3/30/09