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June 10, 2009

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

Re: Petition of Comcast Phone of Florida, LLC d/b/a  
Comcast Digital Phone, etc. Docket No. 080731

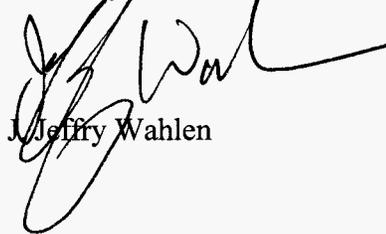
Dear Ms. Cole:

Enclosed for filing in the above docket are the original and 15 copies of TDS/Quincy's Prehearing Statement.

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

Thank you for your assistance in connection with this matter.

Sincerely,



Jeffrey Wahlen

COM JJW/jh  
ECR Enclosure  
AGCL cc: All Parties of Record (w/enc.)  
OPC \_\_\_\_\_  
RCP \_\_\_\_\_  
SSC \_\_\_\_\_  
SGA \_\_\_\_\_  
ADM \_\_\_\_\_  
CLK \_\_\_\_\_

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**BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION**

IN RE: Petition of Comcast Phone of Florida, LLC d/b/a Comcast Digital Phone for Arbitration of an Interconnection Agreement with Quincy Telephone Company d/b/a TDS Telecom Pursuant to Section 252 of the Federal Communications Act of 1934, as amended, and Sections 120.57(1), 120.80(13), 364.012, 364.15, 364.16, 364.161 and 364.162, F.S., and Rule 28-106.201, F.A.C.

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DOCKET NO. 080731  
Filed: June 10, 2009

**TDS QUINCY'S PREHEARING STATEMENT**

Quincy Telephone Company, d/b/a TDS Telecom/Quincy Telephone ("TDS Quincy"), in accordance with Order No. PSC 09-0183-PCO-TP, submits the following Prehearing Statement:

**A. WITNESSES:** TDS Quincy has prefiled the testimony of the following witnesses:

Douglas D. Meredith (Direct and Rebuttal) Issue 1

**B. EXHIBITS:** TDS Quincy has prefiled the following exhibits that accompany Mr.

Meredith's direct testimony:

<u>No.</u>	<u>Description</u>
DDM-01	Comcast Phone Discovery Responses (56 pages)
DDM-02	Comcast Phone Application to Terminate Exchange Services in Florida (10 pages)
DDM-03	Comcast Phone Florida Price List Sections 3 & 4 (68 pages)
DDM-04	Comcast Phone Florida Price List Sections 7 & 14 (7 pages)

TDS Quincy is amenable to treating Exhibit Nos. DDM-1 through 4 as a composite exhibit. TDS Quincy expressly reserves the right to use any exhibit introduced by any other

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party or Staff and the right to introduce exhibits for cross-examination, impeachment, or any other purpose authorized by the applicable Florida Rules of Evidence and Rules of this Commission.

**C. BASIC POSITION:** Comcast Phone is not eligible for interconnection under federal or state law due to the technology it uses, the nature of the services it provides, how it provisions those services and the intended use of the interconnection which does not meet the requirements of 47 CFR 51.100. These factors show that Comcast Phone is not a common carrier eligible for interconnection with TDS.

**D. ISSUES AND POSITIONS:**

**ISSUE 1: Is TDS required to offer interconnection to Comcast under Section 251 of the Telecommunications Act of 1996 and/or Sections 364.16, 364.161, and 364.162, Florida Statutes?**

**POSITION:** No. Interconnection rights under Section 251 of the Communications Act of 1934, as amended (“Act”), are only available to common carriers providing telecommunications services. Comcast Phone is seeking to be an intermediary for the provision of VoIP service offered by an affiliated entity and does not provide telecommunications services to any retail customers. While the FCC permits intermediaries to offer services to interconnected VoIP providers, Comcast Phone does not satisfy the conditions imposed by the FCC in *Time Warner*, which requires (1) offering telecommunications services in its own right and (2) abiding by 47 CFR § 51.100(b). Comcast Phone has not and cannot show that it (1) meets the definition of a “telecommunications carrier” as defined in Section 3 (49) of the Act or (2) is operating as a “telecommunications company” as defined in Section 364.02(14), Florida Statutes. All

of the negotiations between the parties have been for an agreement under federal law; Comcast Phone has not requested or negotiated an interconnection agreement under state law.

- E. **STIPULATIONS:** TDS Quincy is not aware of any pending stipulations.
- F. **PENDING MOTIONS:** TDS Quincy is not aware of and pending motions.
- G. **PENDING CONFIDENTIALITY REQUESTS:** TDS Quincy has no pending claims or requests for confidentiality.
- H. **OBJECTIONS TO WITNESSES' QUALIFICATIONS:** TDS Quincy has no objections to qualifications of Comcast's witnesses.
- I. **COMPLIANCE WITH ORDER ON PREHEARING PROCEDURE:** TDS Quincy does not know of any requirement of the Order on Prehearing Procedure with which it cannot comply.

Respectfully submitted this 10<sup>th</sup> day of June, 2009.

  
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ATTORNEYS FOR TDS QUINCY

**CERTIFICATE OF SERVICE**

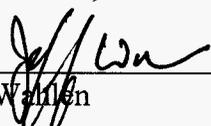
I HEREBY CERTIFY that a true and correct copy of the Rebuttal Testimony of Douglas D. Meredith has been furnished by United States Mail (\*Hand Delivery) this 10<sup>th</sup> day of June, 2009 to the following:

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J. Jeffry Wahlen