

State of Florida



Public Service Commission

CAPITAL CIRCLE OFFICE CENTER • 2540 SHUMARD OAK BOULEVARD
TALLAHASSEE, FLORIDA 32399-0850

-M-E-M-O-R-A-N-D-U-M-

DATE: October 6, 2014
TO: Carlotta S. Stauffer, Commission Clerk, Office of Commission Clerk
FROM: Jeff Bates, Research Associate, Office of Telecommunications *JB*
RE: Docket No. 140127-TP additions to open and closed docket files *MS*

On June 16, 2014, in Docket No. 140127-TP, Verizon Florida LLC filed a request for approval of an amendment to the interconnection agreement (ICA) with TelCove Operations, LLC. During the review of the amendment, staff determined that certain documents related to the adoption of the underlying ICA between KMC Telecom Inc. and GTE (n/k/a Verizon Florida LLC) filed in Docket No. 980892-TP, by Hyperion Telecommunications of Florida, Inc. (n/k/a Telcove Operations, LLC) were not filed with the Office of the Commission Clerk.

Staff reviewed these documents and wishes to add them to the above listed Docket:

1. The April 21, 1999, letter from Beverly Y. Menard of GTE to Commission staff noting the adoption by Hyperion Telecommunications of Florida, Inc. of the ICA between KMC Telecom Inc. and GTE.
2. April 5, 1999 letter from Swidler Berlin Shereff Friedman, LLP to GTE indicating its client, Hyperion, had adopted the agreement filed in Docket No. 980892-TP

In addition to the above Docket, staff believes each of the attached files should be added for cross reference into the Docket files for Docket Nos. 010956-TP and 050120-TP.

Attachments (2)

APR 21 1999

AGREEMENT



ARBITRATION
~~Tallahassee~~
B. Menard
M. Scobie
Legal
Pricing/Costing
C. Lamb
R. Hatton
A. Lowery
R. Ragsdale
N. Sudnick
File

Beverly Y. Menard
Regulatory & Governmental Affairs
Assistant Vice President - Florida/Georgia

GTE Service Corporation

One Tampa City Center
Post Office Box 110, FLTC0616
Tampa, Florida 33601-0110
813-483-2526
813-223-4888 (Facsimile)

April 21, 1999

Ms. Sally Simmons
Division of Communications
Florida Public Service Commission
2540 Shumard Oak Blvd.
Tallahassee, FL 32399-0850

Dear Ms. Simmons:

As discussed during our first 252(i) election of a GTE Florida agreement, the Florida Public Service Commission agrees that the Commission does not need to approve or take any action on a 252(i) election and will not establish a docket for these elections. However, the Commission staff agrees that it is helpful to have all agreements in case any questions occur. For your information, attached is a copy of Hyperion Communications of Florida, LLC and Hyperion Telecommunications of Florida, Inc.'s (collectively Hyperion) 252(i) of KMC Telecom II ("KMC II")'s agreement which was approved by the FPSC in Docket No. 980892-TP effective October 9, 1998. We consider this agreement effective with this filing with the FPSC staff.

If you have any questions or require additional information, please let me know.

Sincerely,

Beverly Y. Menard
wjh

Beverly Y. Menard

BYM:wjh
Attachment

c: Janet Livengood, Hyperion Communications, Inc.

APR - 8 1999

SWIDLER BERLIN SHEREFF FRIEDMAN, LLP

3000 K STREET, NW, SUITE 300
WASHINGTON, DC 20007-5116
TELEPHONE (202) 424-7500
FACSIMILE (202) 424-7645
WWW.SWIDLAW.COM

NEW YORK OFFICE
919 THIRD AVENUE
NEW YORK, NY 10022-9998
(212) 758-9500 FAX (212) 758-9526

MORTON J. POSNER
DIRECT DIAL (202) 424-7657
MJPOSNER@SWIDLAW.COM

April 5, 1999

VIA OVERNIGHT MAIL

Ms. Ann Lowery
Senior Manager, Local Competition
Local Interconnection Program Office
GTE Telephone Operations
4100 N. Roxboro Road
Durham, N.C. 27702

Re: **Section 252(i) Adoption Letter for Hyperion Communications of Florida, LLC
and Hyperion Telecommunications of Florida, Inc.**

Dear Ann:

As you are aware, Hyperion Communications of Florida, LLC and Hyperion Telecommunications of Florida, Inc. ("Hyperion") have elected, pursuant to Section 252(i) of the Telecommunications Act of 1996 ("Act"), to adopt the terms of the Interconnection Agreement between KMC Telecom Inc. and GTE ("Agreement") that was approved by the Florida Public Service Commission ("Commission") in Docket No. 980892. I am enclosing herewith fully-executed copies of the 252(i) adoption letter for counter-signature by GTE.

Hyperion has signed the form of adoption letter prepared by GTE to signify its agreement *only* with respect to points A, B, and C on pages 4 and 5. We understand the balance of the letter to be simply a statement of GTE's position on various issues. Hyperion does not agree with, and does not consider itself bound by, GTE's statement of position, although we do agree that neither party shall be deemed to have waived any rights by signing the adoption letter. In particular, Hyperion disagrees with GTE's positions regarding, *inter alia*, the interpretation of FCC Rule 809^{1/}, interpretation of the Agreement, and GTE's intent in initially entering into the underlying Agreement, with respect to the availability of reciprocal compensation for Internet traffic.

Additionally, Hyperion does not agree with GTE's position that it can unilaterally withhold certain terms of the Agreement from adoption under section 252(i). It is Hyperion's position that GTE is bound by *all* terms of the approved Agreement, including those relating to payment of reciprocal compensation. Hyperion also does not agree with GTE's position that any future

^{1/} 47 C.F.R. § 51.809.

Ms. Ann Lowery
April 5, 1999
Page 2

modification of the Agreement (unless such modification is required by law or by a provision of the Agreement that is currently in effect) would be binding on Hyperion. Hyperion reserves its right to bring an action at the FCC, Commission, or in any other forum in which jurisdiction is proper relating to the issues outlined in this correspondence and other disputed issues.

Hyperion's execution of the adoption letter shall not be construed as, nor is it intended to be a concession, waiver, stipulation, admission, or other evidence that any provision of the Agreement complies with the rights and duties imposed by the Act, decisions and orders of the FCC, decisions and orders of the Commission, the decisions of federal or state courts, or other applicable law. Hyperion expressly reserves its full right to assert and pursue any claims, in any forum of competent jurisdiction, including but not limited to those arising from or related to the Agreement, the Act, and FCC or Commission orders.

Please return a fully-executed copy of the adoption letter to me for Hyperion's records. Thank you for your assistance.

Sincerely,

A handwritten signature in black ink, appearing to read 'M. Posner', with a long horizontal line extending to the right.

Morton J. Posner
Counsel for Hyperion Communications
of Florida, LLC and Hyperion
Telecommunications of Florida, Inc.

Enclosures

cc: John Glicksman, Esq.
Janet S. Livengood, Esq.
Dana Frix, Esq.
Eric J. Branfman, Esq.
Edward W. Kirsch, Esq.