

DOCKET NO. 41032

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JOINT APPLICATION OF BRAZOS
TELEPHONE COOPERATIVE, INC.
AND UNITED STATES CELLULAR
CORPORATION FOR APPROVAL OF
AN AMENDMENT TO THE
RECIPROCAL INTERCONNECTION,
TRANSPORT AND TERMINATION
AGREEMENT UNDER PURA AND THE
TELECOMMUNICATIONS ACT OF
1996

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PUBLIC UTILITY COMMISSION

OF TEXAS

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UNITED STATES CELLULAR CORPORATION FOR APPROVAL OF AN
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	<u>Page</u>
Table of Contents	1
Joint Application	2-5
Attachment I: Amendment	6-9
Attachment II: Affidavit of Richard D. Adams	10-12
Attachment III: Affidavit of David Fiala	13-15

Date Filed

December 10, 2012

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AN AMENDMENT TO THE	§	OF TEXAS
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**JOINT APPLICATION OF BRAZOS TELEPHONE COOPERATIVE, INC. AND
UNITED STATES CELLULAR CORPORATION FOR APPROVAL OF AN
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AND TERMINATION AGREEMENT UNDER PURA AND THE
TELECOMMUNICATIONS ACT OF 1996**

COME NOW Brazos Telephone Cooperative, Inc. ("BTCI") and United States Cellular Corporation ("US Cellular"), collectively "the Applicants," and file this Joint Application for Approval of an Amendment to the Reciprocal Interconnection, Transport and Termination Agreement ("Agreement") under the Telecommunications Act of 1996¹ ("the Act") and Section 252(e) of the Act, and would respectfully show the Public Utility Commission of Texas ("Commission") the following:

I. Amendment to the Interconnection Agreement

Applicants have executed the Amendment filed herewith as Attachment I and present it to the Commission for approval pursuant to the terms of Section 252 of the Act, PURA, and applicable PUC Procedural Rules. The Applicants intend for this

¹ Telecommunications Act of 1996 § 3, 47U.S.C.A. § 252 (West 1991 & Supp. 2001) (hereinafter referred to as the "Act").

Amendment to modify the terms and conditions of the underlying Agreement approved by the Commission on March 28, 2008 in Docket 35458.

II. Request for Approval

BTCI and US Cellular jointly seek approval of this Amendment consistent with the provisions of Section 252 of the Act and P.U.C. PROC. R. 21.101. The Parties represent and believe that the implementation of this Amendment is consistent with the public interest, convenience, and necessity and does not discriminate against any telecommunications carrier that is not a party to this Amendment. BTCI does not waive its rights as a rural telephone company under Section 251(f) of the Act by entering into this Amendment.

The Applicants respectfully request that the Commission grant expeditious approval of this Amendment, without change, suspension, or other delay in this implementation. This is a bilateral Amendment, reached as a result of good faith negotiation and compromise between the Applicants.

III. Standard for Review

The statutory standards of review are set forth in Section 252(e) of the Act and P.U.C. Subst. Rule §21.101. Section 252(e) of the Act provides as follows:

(e) APPROVAL BY STATE COMMISSION.

- (1) APPROVAL REQUIRED.** -- Any interconnection agreement adopted by negotiation or arbitration shall be submitted for approval to the State commission. A State commission to which an agreement is submitted shall approve or reject the agreement, with written findings as to any deficiencies.
- (2) GROUNDS FOR REJECTION.** -- The State Commission may only reject --
 - (A)** an agreement (or any portion thereof) adopted by negotiation under subsection (a) if it finds that--

- (i) the agreement (or portion thereof) discriminates against a telecommunications carrier not a party to the agreement; or
- (ii) the implementation of such agreement or portion is not consistent with the public interest, convenience, and necessity.

The Affidavits of Richard Adams of BTCI and David Fiala of US Cellular, filed herewith as Attachments II and III, establish that the Amendment submitted herein satisfies these standards.

IV. Requested Procedure

Given the relatively narrow scope of the approval process contemplated by Section 252(e) of the Act, Applicants suggest that the Commission adopt in this instance the procedure of (1) publishing notice and (2) soliciting on an expedited basis written comments (and reply comments, if necessary) on the relevant issues as they relate to this Amendment.

V. Relief Requested

The parties request the Commission to provide the following relief:

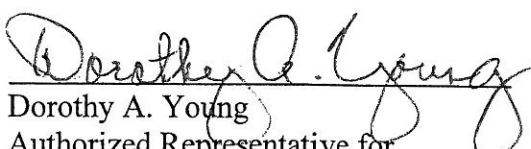
1. Forthwith issue notice in the *Texas Register* requesting written comments, if any, on an expedited basis.
2. Approve the Amendment as early as possible by Commission order.

VI. Conclusion


For the reasons set forth above, Applicants respectfully pray that the Commission grant all of the relief requested herein and such other and further relief to which the parties may show themselves to be entitled or this Commission deems appropriate under the circumstance.

Respectfully submitted,

CHR Solutions, Inc.
5929 Balcones Drive, Suite 200
Austin, Texas 78731-4280
(512) 343-2544 - Voice
(512) 343-0119 - Facsimile

By: 
Dorothy A. Young
Authorized Representative for
Brazos Telephone Cooperative, Inc.

United States Cellular Corporation
8410 West Bryn Mawr, Suite 700
Chicago, IL 60631
(773) 399-7070 – Voice
(773) 399-4832 – Facsimile

By: 
David Fiala, Director
Telco Billing, Contracts, and Number
Management
United States Cellular Corporation

ATTACHMENT I

**AMENDMENT
TO THE RECIPROCAL INTERCONNECTION, TRANSPORT
AND TERMINATION AGREEMENT**

**2012 INTERCARRIER COMPENSATION AMENDMENT
to the Reciprocal Interconnection, Transport
and Termination Agreement between**

**Brazos Telephone Cooperative, Inc.
and
United States Cellular Corporation**

This 2012 Intercarrier Compensation Amendment to the Reciprocal Interconnection, Transport and Termination Agreement ("Agreement") approved by the Public Utility Commission of Texas ("Commission") on March 28, 2008, by and between Brazos Telephone Cooperative, Inc. ("BTC") and United States Cellular Corporation ("U.S. Cellular"), including its affiliates, provided that such affiliates are currently a party to the Agreement, (individually referred to herein as "Party" and collectively referred to herein as "Parties") is deemed effective on July 1, 2012 ("Effective Date") subject to approval by the Public Utility Commission of Texas ("Commission").

RECITALS

WHEREAS, the Parties, or their predecessors in interest, previously entered into the Agreement cited above and approved by the Texas Public Utility Commission on March 28, 2008 pursuant to 47 U.S.C. 251/252; and,

WHEREAS, the Federal Communications Commission ("FCC") released on November 18, 2011 a "Report and Order and Further Notice of Proposed Rulemaking" in *Connect America Fund, A National Broadband Plan for Our Future, Establishing Just and Reasonable Rates for Local Exchange Carriers, High-Cost Universal Service Support, Developing an Unified Intercarrier Compensation Regime, Federal-State Joint Board on Universal Service, Lifeline and Link-Up, Universal Service Reform – Mobility Fund*, WC Docket Nos. 10-90, 07-135, 05-337, 03-109, GN Docket No. 09-51, CC Docket Nos. 01-92, 96-45, WT Docket No. 10- 208, FCC 11-161 ("*USF/ICC Transformation Order*"), as modified by Order on Reconsideration (rel. Dec. 23, 2011) ("*USF/ICC Transformation Order on Reconsideration*"); (collectively referred to as the "*USF/ICC Transformation Orders*");and

WHEREAS, in its *USF/ICC Transformation Orders*, the FCC ruled pursuant to § 51.705(a) that the default intercarrier compensation methodology for Non-Access Telecommunications Traffic exchanged between Local Exchange Carriers ("LECs") and Commercial Mobile Radio Service ("CMRS") providers within the scope of § 51.701(b)(2) shall be pursuant to a "bill-and-keep" arrangement, effective July 1, 2012; and

WHEREAS, by its *USF/ICC Transformation Orders*, the FCC adopted 47 C.F.R. § 51.709(c), an interim rule that limits the responsibility for transport costs applicable to Non-Access Telecommunications Traffic exchanged between CMRS providers and rural, rate-of-return Incumbent LECs ("ILECs") for an interim period until the FCC adopts rules to complete the transition to a bill-and-keep methodology for all intercarrier compensation, effective July 1, 2012;

WHEREAS, BTC is a rural telephone company as defined in 47 C.F.R. 51.5 and subject to rate-of-return regulation;

WHEREAS, the FCC determined that these *USF/ICC Transformation Orders* are to be considered a change of law;

WHEREAS, the Agreement contains a "change of law" provision that authorizes the Parties to amend the Agreement to comport with a change of law; and,

WHEREAS, the Parties wish to amend the Agreement to reflect the FCC's rulings in its *USF/ICC Transformation Orders* under the change of law provisions in the Agreement;

NOW, THEREFORE, in consideration of the promises and mutual agreements set forth herein, the Parties agree to amend the Agreement as follows:


AMENDMENT TO THE AGREEMENT

1. This Amendment to the Agreement shall be effective July 1, 2012, subject to Commission approval. The existing compensation terms and conditions in the Agreement for reciprocal compensation for transport and termination of traffic within the scope of 47 C.F.R. § 51.701(b)(2) shall apply through June 30, 2012.
2. Notwithstanding anything to the contrary in the Agreement, including any other amendments to the Agreement, "bill-and-keep" is defined, as referenced in 47 C.F.R. 51.713, as an arrangement in which carriers exchanging telecommunications traffic do not charge each other for specific transport and/or termination functions or services.
3. Notwithstanding anything to the contrary in the Agreement, including any other amendments to the Agreement, "Non-Access Telecommunications Traffic" for purposes of this Agreement is defined by 47 C.F.R. 51.701(b)(2).
4. Notwithstanding anything to the contrary in the Agreement, including any other amendments to the Agreement, effective July 1, 2012, transport and termination for Non-Access Telecommunications Traffic exchanged between the Parties within the scope of §51.701(b) shall be pursuant to a bill-and-keep arrangement, as provided in §51.713 on a "bill-and-keep" basis.
5. Consistent with 47 C.F.R. 51.709(c), and notwithstanding anything to the contrary in the Agreement, for Non-Access Telecommunications Traffic exchanged between the Parties, BTCL will be responsible for transport to the U.S. Cellular interconnection point when it is located within BTCL's service area. When U.S. Cellular's interconnection point is located outside BTCL's service area, BTCL's transport and provisioning obligation stops at its meet point, and U.S. Cellular is responsible for the remaining transport to its interconnection point. This provision will become null and void should BTCL cease to be a rural rate of return ILEC as defined herein and BTCL will notify U.S. Cellular immediately if its status as a rural rate of return ILEC changes.
6. As required in the FCC's *USF/ICC Transformation Orders*, calling party number ("CPN") associated with the End User originating the call must be provided. CPN shall not be altered. CPN will be provided by each Party in conjunction with all traffic it exchanges with the other Party. CPN follows the North American Numbering Plan Standards and can be identified in numbering databases and the LERG as an active number. Each Party will transmit CPN as required by FCC rules (47 C.F.R. 64.1601). CPN is assigned to an active End User Customer.

7. Conflict Between this Amendment and the Agreement. This Amendment shall be deemed to revise the rates and any other provisions of the Agreement to the extent necessary to give effect to this Amendment. In the event of a conflict between a rate or other provision of this Amendment and a rate or other provision of the Agreement, this Amendment shall govern.
8. Scope of Amendment. This Amendment shall amend, modify, and revise the Agreement only to the extent set forth expressly in this Amendment; and, except to the extent expressly set forth in this Amendment, the terms and conditions of the Agreement shall remain in full force and effect after the Amendment's Effective Date. Nothing in this Amendment shall be deemed to amend or extend the term of the Agreement, nor to affect either Party's rights under the Agreement, including, but not limited to, any right of termination a Party may have in accordance with the Agreement.
9. This Amendment shall remain effective as long as the Agreement remains effective between the Parties or the Parties mutually agree to replace or otherwise change the material addressed herein.

IN WITNESS WHEREOF, The Parties intending to be legally bound have executed this Amendment as of the dates set forth below, in multiple counterparts, each of which is deemed an original, but all of which shall constitute one and the same instrument.

United States Cellular Corporation



Authorized Signature

David Fiala

Name Printed/Typed

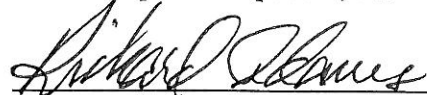
Director, Telco Billing, Contracts &
Number Management

Title

11/28/2012

Date

Brazos Telephone Cooperative, Inc.



Authorized Signature

Richard Adams

Name Printed/Typed

Gen. Mgr./Executive V. President

Title

12/5/12

Date

ATTACHMENT II

AFFIDAVIT OF RICHARD D. ADAMS

STATE OF TEXAS
COUNTY OF YOUNG

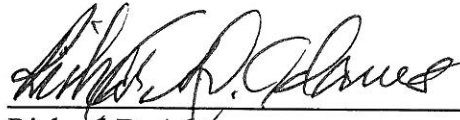
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AFFIDAVIT OF RICHARD D. ADAMS

BEFORE ME, the undersigned authority, on this 5th day of December, 2012 personally appeared Richard D. Adams who, upon being by me duly sworn on oath, deposed and said the following:

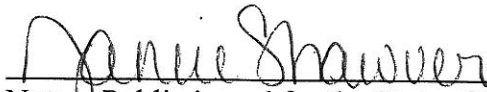
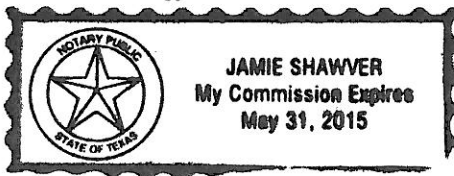
1. My name is Richard D. Adams. I am over the age of 21, of sound mind and competent to testify to the matters stated herein. I am responsible for the negotiation of agreements on behalf of Brazos Telephone Cooperative, Inc. ("BTCI"). I have personal knowledge of the Intercarrier Compensation Amendment to the Reciprocal Interconnection, Transport and Termination Agreement between BTCI and United States Cellular Corporation. The parties have diligently negotiated, culminating in this Amendment.
2. The Amendment is pro-competitive in that it implements the terms of the underlying Agreement between the parties in a way which the parties believe is consistent with Section 251(b)(5) of the Telecommunications Act of 1996.
3. The implementation of the Amendment is consistent with the public interest, convenience and necessity.
4. Further, consistent with the policy provisions of PURA, I believe that this Amendment will foster, encourage and accelerate the continuing development and emergence of a competitive advanced telecommunications environment and infrastructure and to that end, not only advance, but also protect the public interest.
5. I am not aware of any provision in this Amendment that discriminates against any telecommunications carrier who chooses to adopt the terms, conditions and rates of the Agreement.
6. I am not aware of any outstanding issues between the parties that need the assistance of mediation or arbitration at this time.

FURTHER, AFFIANT SAYETH NOT.



Richard D. Adams
Executive Vice President/General Manager
Brazos Telephone Cooperative, Inc.

SUBSCRIBED AND SWORN TO before me, the undersigned authority, on this the 5th day of December, 2012.



Notary Public in and for the State of Texas

My Commission expires on: May 31, 2015

ATTACHMENT III

AFFIDAVIT OF DAVID FIALA

STATE OF ILLINOIS

§

§

COUNTY OF COOK

§

AFFIDAVIT OF DAVID FIALA

BEFORE ME, the undersigned authority, on this 28th day of November, 2012 personally appeared David Fiala, who, upon being by me duly sworn on oath, deposed and said the following:

1. My name is David Fiala. I am over the age of 21, of sound mind and competent to testify to the matters stated herein. I am responsible for supervising interconnection negotiations leading to the signing of the Intercarrier Compensation Amendment ("Amendment") to the Reciprocal Interconnection, Transport and Termination Agreement ("Agreement") between Brazos Telephone Cooperative, Inc. and U.S. Cellular Corporation. The parties have diligently negotiated this resulting Amendment.

2. The Amendment was negotiated in good faith and is pro-competitive in that it implements the terms of the underlying Agreement between the parties in a way which the parties believe is consistent with the Telecommunications Act as amended in 1996.

3. The implementation of the Amendment is consistent with the public interest, convenience and necessity.

4. Further, consistent with the policy provisions of PURA, I believe that this Amendment will foster, encourage and accelerate the continuing development and emergence of a competitive advanced telecommunications environment and infrastructure and to that end, not only advance, but also protect the public interest.

5. I am not aware of any provision in this Amendment that discriminates against any telecommunications carrier who chooses to adopt the terms, conditions and rates of the Agreement.

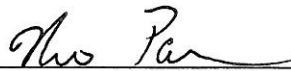
6. I am not aware of any outstanding issues between the parties that need the assistance of mediation or arbitration at this time.

FURTHER, AFFIANT SAYETH NOT.



David Fiala, Director
Telco Billing, Contracts & Number Management
U.S. Cellular Corporation

SUBSCRIBED AND SWORN TO before me, the undersigned authority, on this the 28th day of November, 2012, to certify which witness my hand and seal of office.



Notary Public in and for the State of Illinois

My Commission expires on: 8/22/16

