BEFORE THE PUBLIC SERVICE COMMISSION
STATE OF MISSOURI

In the Matter of the Arbitrated Interconnection Agreement between Chariton Valley Telephone Corporation And T-Mobile USA, Inc.	)))	Case No. TK-2006-0168

STATEMENT OF T-MOBILE USA, INC.

Comes now T-Mobile USA, Inc., by its undersigned attorneys, and submits this Statement in response to the Order Directing Filing issued on October 24, 2005.

T-Mobile agrees with Staff's recommendations that the Commission should approve the proposed agreement because it "conforms to the Arbitrator Report and the Commission's Arbitration Order in Case No. IO-2005-2468."[1] T-Mobile further agrees with Staff that the title of the agreement should be changed from "Traffic Termination Agreement" to "Interconnection Agreement" for the reasons Staff identifies.[2]

Section 252(e)(2) of the Communications Act specifies that a State commission "may only reject":

> (b) an agreement (or any portion thereof) adopted by the arbitration under subsection (b) of this section if *it* finds that the agreement does not meet the requirements of section 251 of this title, including the regulations prescribed by the [FCC] pursuant to section 251 of this title, or the standards set forth in subsection (d) of this section.[3]

The October 24, 2005 order asks T-Mobile to "state the reasons it believes it arbitrated interconnection agreement does not comply with Sections 251 and 252 of the Telecommunications Act of 1996." The parties have taken the position that the proposed

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1 Staff Recommendations, at 1 ¶ 5 (Oct. 24, 2005).
2 *See id.* at 2 ¶ 5.
3 47 U.S.C. § 252(e)(2)(B).

agreement does not meet the Act's requirements.[4] In any event—and more importantly – whether or not the parties believe that the Commission's Arbitration Report meets, or does not meet, the requirements of the Act is unimportant. What is important, as reflected in Section 252(e)(2)(B) quoted above, is that *the Commission* believes that the proposed agreement complies with the Act.

Staff recommends that the Commission "approve the Agreement" because it "conforms to . . . the commission's Arbitrations Order."[5] The Petitioners now attempt to re-litigate the matters properly decided by the Commission – specifically citing the introductory paragraph on page 1 and Sections 1.1 and 3.1.[7] Neither party is fully satisfied with the Commission's Arbitration Order, but a party's satisfaction with the end result is not important to the responsibility that Congress had entrusted to the Commission in Section 252(e)(2)(B) of the Act. Should Petitioners wish to contest the Commission's Order, it may appeal to the local federal district court. This Commission should not consider this post-Order attempt to litigate issues decided in the Order, and should approve the proposed traffic terminate agreements as filed. T-Mobile is satisfied that the Traffic Termination Agreement should be approved.

Respectfully submitted,

By: /s/ Mark P. Johnson

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4 *See, e.g.,* Petitioners' Statement of Agreement Compliance and Comments Concerning the Agreement, at 1 ¶ 1 (Oct. 21, 2005)("Company states that the agreement complies with section 252 of the Act, but does not comply with section 251 of the Act.").

5 Staff Recommendations at 1 ¶¶ 4 and 5.

7 *See* Petitioners' Statement of Agreement Compliance and Comments Concerning the Agreement, at 2 ¶ 2 (Oct. 21, 2005).

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Certificate of Service

I hereby certify that a true and final copy of the foregoing was served via electronic transmission on this 27th day of October, 2005, to the following counsel of record:

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