BEFORE

THE PUBLIC UTILITIES COMMISSION OF OHIO

In The Matter Of Petition For Arbitration )

Of Interconnection Agreement Between )

Time Warner Cable Information Services ) Case No. 12-184-TP-ARB

(Ohio), LLC, Doing Business As Time )

Warner Cable, And Minford )

Telephone Company )

**SUPPLEMENTAL RESPONSE OF MINFORD TELEPHONE COMPANY**

**TO TIME WARNER CABLE INFORMATION SERVICES (OHIO), LLC’S**

**PETITION FOR ARBITRATION OF INTERCONNECTION AGREEMENT**

# I. INTRODUCTION

On February 6, 2012, Minford Telephone Company (“Minford”) filed a Response to Time Warner Cable Information Services (Ohio), LLC’s Petition for Arbitration of Interconnection Agreement (the “Response”). In its Response, Minford asserts that this Commission should retain its statutory authority and uphold its November 21, 2006 Finding and Order in Case No. 06-885-TP-UNC (the “2006 Finding and Order”), in which it found that “[u]ntil Minford’s customers indicate otherwise, the rural exemption will continue with no time limit,” thereby relieving Minford from any obligation to negotiate an interconnection agreement with Time Warner. Alternatively, Minford’s Response requests that the Commission allow Minford to seek modification or suspension of 47 U.S.C. §§251(b) and (c) obligations pursuant to 47 U.S.C. §251(f)(2).

The threshold legal issue of the status of Minford’s rural exemption should and must be decided by the Commission prior to any negotiations of Time Warner’s proposed interconnection agreement because, until Minford’s rural exemption is lifted by its members or terminated by this Commission, Minford is under no obligation to review, negotiate, or otherwise respond to Time Warner’s proposed agreement, and is under no obligation to interconnect with Time Warner. If the Commission terminates Minford’s rural exemption and requires Minford to negotiate an interconnection agreement with Time Warner, Minford would only then have the obligation to negotiate with Time Warner, and would do so.

Notwithstanding the foregoing, pursuant to the direction of the Commission’s arbitration panel at the February 2, 2012 pre-hearing conference, and the agreement of the parties, Minford, without waiving any of its rights or any of its arguments set forth in its Response, hereby submits this Supplemental Response to Time Warner’s Petition for Arbitration of Interconnection Agreement, which addresses Time Warner’s proposed interconnection agreement.

Minford objects to the time within which it is now required to respond to Time Warner’s proposed interconnection agreement. Because Minford’s rural exemption has not been terminated by Minford’s members or this Commission, Minford was and is under no obligation to respond to Time Warner’s proposed agreement. Nonetheless, in the spirit of cooperation, Minford, at the direction of the Commission’s arbitration panel during the February 2, 2012 pre-hearing conference, agreed to provide a response to Time Warner’s proposed interconnection agreement by February 13, 2012, the date selected by the Commission’s arbitration panel. Accordingly, Minford has been afforded only eleven days to review and respond to Time Warner’s proposed interconnection agreement. This extremely abbreviated time frame is especially challenging for Minford, which is now undergoing its first ever review and consideration of a proposed interconnection agreement.

Moreover, Minford does not believe it has the duty to commit time and resources into a review of the terms of the proposed interconnection agreement—doing so presupposes that Time Warner will prevail in this proceeding. If the Commission rules in Minford’s favor, Minford will have expended its very limited resources (especially when compared to Time Warner’s resources) to review an agreement it was never obligated to negotiate in the first instance.

Subject to and without waiving the foregoing argument and objections, Minford hereby responds to the terms of Time Warner’s proposed interconnection agreement.

# II. COMMENTS TO PROPOSED INTERCONNECTION AGREEMENT

## Interconnection Agreement

Time Warner’s proposed interconnection agreement is overly broad (see comments below regarding the Interconnection Attachment) and clearly assumes a level of staffing and experience with interconnection and number porting that Minford does not have. The proposed agreement is obviously a template that is customarily adapted during the course of 47 U.S.C. §251(c) negotiations. If the Commission rules in Time Warner’s favor, this interconnection will be the first for Minford. Minford would certainly cooperate with Time Warner, but much of Time Warner’s expectations will likely not be met and certain requirements set forth in the proposed interconnection agreement will not be technically feasible. The proposed interconnection agreement must be scaled down to the sections pertinent to Time Warner’s proposed indirect interconnection with Minford.

As previously discussed, Minford has not had the time to thoroughly review the proposed interconnection agreement (because it had no obligation to do so prior to the arbitration panel’s directive on February 2nd). Nor has Minford’s very limited technical support staff had the opportunity to determine the technical feasibility of the requirements set forth in the proposed agreement. Only upon a ruling adverse to Minford would Minford undertake a thorough review of the proposed interconnection agreement to determine whether it can fully comply with the technical requirements. Nonetheless, Minford offers the following preliminary comments and hereby reserves its right to review the proposed agreement in greater detail and provide additional comment at a later point in time. Furthermore, if Minford is ordered to negotiate with Time Warner, the Commission should direct Time Warner to scale down the interconnection agreement for the reasons discussed herein and to be responsible for making all necessary and agreed upon revisions to the document itself.

### Recitals: To the extent the Commission requires Minford to interconnect with Time Warner pursuant to 47 U.S.C. §251(a) and (b), and does not otherwise terminate Minford’s rural exemption, Minford would provide Time Warner with a provision to add to the interconnection agreement whereby Minford asserts it is exempt from the obligations of 47 U.S.C. §251(c) pursuant to 47 U.S.C. §251(f).

### Section 4 (Assignment): Minford finds this section to be overly restrictive and burdensome. Specifically, Minford objects to the requirement that it provide prior notice to Time Warner in the event Minford assigns the interconnection agreement to a corporate affiliate or to a purchaser of the company: “Except as provided in this paragraph, neither Party may assign or transfer (whether by operation of law or otherwise) this Agreement (or any rights or obligations hereunder) to a third party without the prior written consent of the other Party which consent will not be unreasonably withheld or delayed, provided that either Party may assign this Agreement to a corporate Affiliate or to an entity acquiring all or substantially all of its assets or equity by providing *prior written notice* to the other Party of such assignment or transfer.” Minford believes no prior notice is necessary with respect to an assignment or transfer to an affiliate or entity acquiring all or substantially all of its assets or equity, which would only result in interference and possible delay with respect to such a transaction.

Minford further objects to the requirement in this Assignment section that would hold it responsible for performing the obligations of the interconnection agreement if the permitted assignee fails to perform: “No assignment or delegation hereof shall relieve the assignor of its obligations under this Agreement in the event that the assignee fails to perform such obligations.” First, such obligation contradicts and is wholly inappropriate given the following preceding sentence: “The effectiveness of an assignment shall be conditioned upon the assignee’s written assumption of the rights, obligations, and duties of the assigning Party.” Second, if Minford has transferred its assets and facilities to an assignee, Minford would be unable to perform in the event the assignee does not. Finally, as Time Warner is aware, Minford is a not-for-profit company owned by its individual members/customers, therefore it would have no ability to perform any obligations subsequent to a transfer of its assets and facilities.

### Section 10 (Dispute Resolution): Section 10.2, which addresses the informal resolution of disputes, requires related negotiations to be conducted by “non-lawyer, business representatives.” As previously discussed, Minford is a small company with extremely limited resources. Minford’s entire office and management staff consists of 4 people. Minford will not agree to not involve its attorneys to resolve any dispute on its behalf; the interconnection agreement must be modified accordingly.

### Section 31 (Referenced Documents): This section references “operational handbooks” and “web-based procedures,” neither of which Minford has in place to deal with interconnection and number porting procedures. Such references must be deleted from the proposed agreement.

### Section 32 (Responsibility for Third Party Traffic): Minford is unclear as to the intent of this provision and therefore requires additional information in which to gain a better understanding.

## InterconnectionAttachment

### Time Warner’s BFR, submitted to Minford August 2, 2011, specifically seeks *indirect* interconnection at Frontier’s tandem, PTMOOHXA51T, yet a substantial portion of Time Warner’s proposed interconnection agreement sets forth terms and conditions for *direct* interconnection. For all of the reasons discussed above, Minford does not have the time nor resources to review irrelevant and inapplicable provisions pertaining to direct interconnection. Moreover, Minford does not wish to be bound to hypothetical terms and conditions, which it does not intend to review at this time, for some future direct interconnection that may or may not ever occur. The interconnection agreement should be limited to the requested indirect interconnection until such time as the threshold trigger described in Section 3.3.3 is reached, at which time the parties would negotiate an amendment to the agreement. Until then, all provisions pertaining to direct interconnection must be deleted from the agreement.

### As the Commission considers Minford’s Response filed February 6th in this proceeding, Minford calls the Commission’s attention to Time Warner’s BFR (attached to its Petition) in which Time Warner states that it “does not request UNEs at this time” and that it “does not request resale at this time.” (Emphasis added.) Both UNEs and resale are 47 U.S.C. §251(c) obligations. The Commission must not allow the BFR, which seeks interconnection pursuant to 47 U.S.C. §251(a) and (b), to ultimately result in interconnection pursuant to 47 U.S.C. §251(c). Time Warner’s BFR implicates the 47 U.S.C. §251(c) duty to negotiate, but it does not request interconnection pursuant to 47 U.S.C. §251(c).

### The Interconnection Attachment includes various references to VoIP traffic. Minford wishes to make Time Warner aware that its switch does not have the software required to handle VoIP traffic. Similarly, Minford’s switch is not capable of providing ISDN or Centrex services and features; all references in the interconnection agreement to the same and obligations related thereto must be deleted.

### Section 4.3.2 provides that each party is “responsible to input required data into Routing Data Base Systems (RDBS) . . . .” Minford is unfamiliar with that reference and, therefore, is unable to determine whether it can comply with this responsibility.

## Local Number Portability Attachment

In Section 3 (Number Portability) (specifically Sections 3.2 and 3.3), Time Warner has assumed that Minford will not assess any charges for number porting, including but not limited to, service order charges or tariffed charges associated with such requests and related processing. Time Warner’s assumption is incorrect. Minford will assess charges associated with its porting of numbers and will propose such charges if Minford is ultimately required to negotiate the terms of the interconnection agreement with Time Warner.

## Dialing Parity Attachment

Minford has no comments to the Dialing Parity Attachment at this time, but reserves its right to provide additional comment if it must negotiate the proposed agreement with Time Warner.

## Ancillary Services Attachment

### Section 1 (911/E911 Arrangements): Minford negotiates with and relies upon Frontier for the provision of 911/E-911 services. The interconnection agreement must be revised to reflect that Time Warner would be responsible for connecting to Frontier for 911 services and for populating the 911 database. All 911 arrangements between Time Warner and Frontier must be totally independent of the interconnection agreement, which must also provide that Minford would have no liability with respect to Time Warner’s provision of 911/E-911 services to Time Warner’s End-User Customers.

### Section 2 (Street Address Guide (SAG)): Minford, which submits its 911 database to Frontier, is unfamiliar with the term “Street Address Guide.” As discussed above, Minford submits its 911 database directly to Frontier.

### Section 3 (Directory Listings and Directory Distribution): Minford objects to many of the proposed obligations set forth in this Section 3, especially given Time Warner evidently didn’t intend to compensate Minford for those obligations (see the proposed Pricing Attachment). Minford outsources its directory production to a third party publisher. Minford does not have the staffing resources to coordinate publication of Time Warner’s directory listings and distribution to Time Warner’s End-User Customers. If it prevails in this proceeding, Time Warner must revise the proposed interconnection agreement to reflect that it would work directly with Minford’s directory publisher for directory listings, distribution to itself and its End-User Customers, and associated charges, and would, if required by the directory publisher, negotiate a separate agreement. The interconnection agreement must also state that Minford has the right, at any time and in its sole discretion, to select a different third party to publish and distribute its directories. Time Warner would be required to supply directly to Minford’s publisher at the time and in a format prescribed by the directory publisher, all information it wants included in the directory.

## Pre-Ordering, Ordering, Provisioning, Maintenance and Repair Attachment

### Section 2.3 (Provisioning): Section 2.3.1 recognizes that order provisioning may occur outside regular working hours and, therefore, overtime and premium charges would apply “as specified in the Pricing Attachment of this Agreement.” Yet the Pricing Attachment to the interconnection agreement as proposed fails to include a line item for such charges; Minford will determine and provide such charges if it is ordered to interconnect with Time Warner.

### Section 5 (Rates): Contrary to Sections 5.2.2 and 5.2.3, as previously discussed, Minford would assess charges for porting telephone numbers, processing related orders, and for processing LSRs, including in the event such LSRs are supplemented, clarified, or cancelled.

## PricingAttachment

### Section 1 (General): Because Minford has no experience porting numbers and although “Unqueried Call Routing” is discussed in Section 3.6 of the Local Number Portability Attachment, Minford requires a better understanding of the scope of such occurrences, at which time it will be able to determine the appropriate charge.

### Section 2 (Directory Services Rates and Charges): Given Time Warner would be required to work directly with Minford’s directory publisher to have its listings included, company information added, and directories distributed to its End-User Customers, all related pricing can be deleted from the Pricing Attachment. To the extent Minford performs any services for Time Warner that are related to directory services, Minford will provide the applicable rates and charges.

# III. CONCLUSION

Although Minford was under no obligation to entertain Time Warner’s BFR, it has complied with the arbitration panel’s directive to review Time Warner’s proposed interconnection agreement. If it becomes necessary for Minford to negotiate the agreement with Time Warner, Minford reserves its right to more fully review the proposed agreement and submit additional comments and applicable rates and charges to Time Warner. Pursuant to 47 U.S.C. §252(b), Minford should statutorily have the benefit of 135 days to negotiate the ICA. Here, pursuant to the Commission’s 2006 Finding and Order, Minford had no obligation to review the terms of the proposed interconnection agreement until February 2nd when the arbitration panel directed it to do so—a mere 11 days ago.

Respectfully submitted,

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**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that a copy of the foregoing was served upon the following via electronic delivery this 13th day of February, 2012.

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