

BEFORE  
THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of the Application and Petition     )  
of Nova Telephone Company to Maintain its     )  
Rural Exemption Pursuant to 47 U.S.C.     )  
§251(f)(1) and Ohio Adm.Code 4901:1-7-04     )  
and to Suspend or Modify the Application of     )  
the Requirements of 47 U.S.C. §251(b) and     )  
(c) Pursuant to 47 U.S.C. § 251(f)(2) and     )  
Ohio Adm.Code 4901:1-7-05     )

Case No. 09-1899-TP-UNC

APPLICATION AND PETITION  
OF NOVA TELEPHONE COMPANY

Nova Telephone Company ("Nova"), for its Application and Petition herein, states as follows:

Nova

1. Nova is an incumbent local exchange telephone company and a public utility subject to the jurisdiction of this Commission. Nova currently provides basic local exchange service and associated telephone services in the Nova and Sullivan Exchanges in Ashland County, Ohio (approximately 1100 total residential and business access lines).

2. Nova serves fewer than 50,000 access lines in the Nova and Sullivan Exchanges and had less than fifteen percent (15%) of its access lines in communities of more than 50,000 on the date of enactment of the Telecommunications Act of 1996. As a result, Nova is a "Rural Telephone Company" as defined in 47 U.S.C. §153 (37) and Ohio Adm.Code 4901:1-7-01(Q).

3. Nova serves fewer than two percent (2%) of the nation's subscriber lines installed in the aggregate nationwide. As a result, Nova is a "Rural Carrier" as defined in 47 U.S.C. §251(f)(2) and Ohio Adm.Code 4901:1-7-01(P).

4. Ohio Adm.Code 4901:1-7-04 recognizes that 47 U.S.C. §251(f)(1) grants Nova, as a Rural Telephone Company, an exemption from the provisions of 47 U.S.C. 251(c).

5. Because Nova is also a Rural Carrier, Nova is entitled to petition this Commission for suspension or modification of the application of a requirement or requirements of 47 U.S.C. §§251(b) and (c) pursuant to Ohio Adm.Code 4901:1-7-05.

Bona Fide Request and Related Procedural Requirements

6. On November 19, 2009, Nova received a letter dated November 17, 2009 from Armstrong Telecommunications Inc. ("Armstrong"). A copy of the letter (the "Armstrong Letter") is attached hereto as Exhibit 1. The Armstrong Letter does not meet the basic requirements of a bona fide request for interconnection under the Commission's rules. Nonetheless, without conceding that the Armstrong Letter is a bona fide request within the meaning of 47 U.S.C. § 251(f) and the Commission's rules, Nova submits this Application and Petition, in part, to preserve its rights should this Commission conclude that it is.

7. Under Ohio Adm.Code 4901:1-7-04(B), if a Rural Telephone Company receives a bona fide request for interconnection, and it seeks to maintain a Rural Telephone Company exemption, it must file a "UNC" application with the Commission within fifteen (15) calendar days after receiving the request. This Application and Petition meets that requirement.

8. Under Ohio Adm.Code 4901:1-7-05(A), a Rural Carrier seeking suspension or modification of any portion or portions of 47 U.S.C. 251(b) or (c), must file a "UNC" application with the Commission within fifteen (15) calendar days of receiving a bona fide request for interconnection. This Application and Petition meets that requirement.

9. In the time that has passed since receipt of the Armstrong Letter, Nova has not been able to complete a full evaluation of its merits in detail, or to determine with precision its current

or prospective effect on Nova. This Application and Petition is therefore filed to assure that the deadlines established by the Commission's rules are observed, and to preserve the rights of Nova that are afforded by 47 U.S.C. 251(f).

#### Requested Relief

10. Nova hereby seeks an extension of its exemption from the provisions of 47 U.S.C. 251(c), and from the Commission's rules that are related to that Section. Nova and its predecessors have served the Nova and Sullivan Exchanges for over 100 years, and have long provided quality telecommunications services at affordable rates to its subscribers. Retention of its rural exemption will allow Nova to continue to do so.

11. In support of this request, Nova states that termination of the exemption will be economically burdensome beyond the burdens typically associated with efficient competitive entry, may prove to be technically infeasible, and may prove inconsistent with universal service principles.

12. Nova further seeks modification or suspension of the obligations imposed by 47 U.S.C. §§251(b) and (c) to the extent that such suspensions or modifications are appropriate to the interconnection requested by the Armstrong Letter and the economic circumstances pertinent thereto. In support of this petition, Nova states that such suspensions or modifications will be consistent with the public interest, convenience and necessity, and are or may be necessary (a) to avoid significant adverse economic impact on users of telecommunications services generally, (b) to avoid imposing a requirement that is unduly economically burdensome and/or (c) to avoid imposing a requirement that is technically infeasible.

13. Until Nova has a more complete understanding of the interconnection requested by the Armstrong Letter, it is not possible to state with additional certainty the modifications or suspensions required hereunder.

CONCLUSION

Nova will provide the Commission supplemental information to support its Application and Petition within a reasonable period of time.

WHEREFORE, Nova Telephone Company prays that its Application and Petition be granted in accordance with the foregoing.

Respectfully submitted,

NOVA TELEPHONE COMPANY

By: /s/ Carolyn S. Flahive

Thomas E. Lodge (0015741)

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Its Attorneys

## **CERTIFICATE OF SERVICE**

The undersigned hereby certifies that a copy of the foregoing was served upon the party listed below, via ordinary U.S. mail and electronic mail, this 3<sup>rd</sup> day of December, 2009.

Thomas S. Wilson  
Director Telecom Traffic Management  
Armstrong Telecommunications Inc.  
One Armstrong Place  
Butler, PA 16001  
[twilson@agoc.com](mailto:twilson@agoc.com)

/s/ Carolyn S. Flahive  
Carolyn S. Flahive

## **EXHIBIT 1**



November 17, 2009

*Via Certified Mail – Return Receipt Requested*

Rick Ringler, President  
Nova Telephone Company  
255 Twp. Rd. 791  
P.O. Box 27  
Nova, OH 44859-0027

***Re: Armstrong Telecommunications, Inc. Interconnection with Nova Telephone Company***

Dear Mr. Ringler:

This letter serves as formal notice from Armstrong Telecommunications Inc. of its request for interconnections and its exercise of its rights to negotiate an interconnection agreement with Nova Telephone Company pursuant to Sections 251 of the Telecommunications Act of 1996 ("TA-96"). This notice is provided to Nova in accordance with the procedures for the negotiation, arbitration and approval of interconnection agreements established by section 252 of the TA-96.

If available please email an interconnection agreement for review to the following address: [twilson@agoc.com](mailto:twilson@agoc.com).

Sincerely,

Thomas S Wilson  
Director Telecom Traffic Management  
Armstrong Telecommunications Inc.  
One Armstrong Place  
Butler, PA 16001

**This foregoing document was electronically filed with the Public Utilities**

**Commission of Ohio Docketing Information System on**

**12/3/2009 10:07:10 AM**

**in**

**Case No(s). 09-1899-TP-UNC**

Summary: Application -to Maintain its rural exemption electronically filed by Carolyn S Flahive  
on behalf of The Nova Telephone Company