

ORDER REGARDING CLAIMANT'S MOTION TO STAY THE ARBITRATION
PENDING FCC RESOLUTION OF PETITION FOR DECLARATORY RULING

Claimant on April 16, 2007 filed a Petition with the FCC for a declaratory ruling ("Petition") that Respondent's refusal to honor proof of exemption of pass-through USF charges and refund requests are unreasonable and discriminatory under the Communications Act. [#s 201(b) & 202(a)]. It contends, inter alia, that its claims invoke "policy" or "technical" issues of applicable communications law as to which The FCC has unique expertise and over which the FCC has primary jurisdiction. Such issues, if alleged, "control rights of the parties" and are the same issues as are in this proceeding and, if determined by the FCC, would inform the Arbitrator in deciding the regulatory and contractual claims asserted by the parties in this arbitration.

The Arbitrator accepts that the FCC has oversight of the Universal Service Fund contributions program. Insofar as the Claimant has raised issues with respect to the administration and implementation of that program among wholesale carriers and resellers, and accepting as true for the purposes of this Motion Claimant's position that the FCC's determination will better inform the Arbitrator in deciding the claims and defenses of the parties and thereby make the process more efficient, Claimant's Motion for a stay pending the FCC's resolution of the Petition is hereby granted to the extent of the claims asserted in its Demand.

[REDACTED]

[REDACTED]

The Stay is granted in deference to the FCC for it to decide whether it has the authority or primary jurisdiction to rule and whether its ruling is essential or necessary to resolve, or remove uncertainty from, the instant controversy. No inference is hereby intended beyond the foregoing as to the relevance or materiality to this proceeding of the issues raised in the FCC proceeding.

[REDACTED]

[REDACTED]

Walter G. Gans
Walter G. Gans, Arbitrator

May 4, 2007