ORDER

By the Commission:

I. Procedural History

On July 24, 2012, pursuant to 83 Illinois Administrative Code Part 763, Gallatin River Communications, L.L.C. d/b/a CenturyLink (“CenturyLink”) and Granite Telecommunications, Inc. (“Granite”), filed a joint petition for approval of a Negotiated Resale Agreement (“Agreement”) dated June 20, 2012, under Section 252 of the Telecommunications Act of 1996 (47 U.S.C. §§ 151 et seq.) (“the Act”). The Agreement was submitted with the petition. A statement in support of the petition was filed along with a verification sworn to by John Fordham on behalf of CenturyLink, stating that the facts contained in the petition are true and correct to the best of his knowledge, information, and belief.

Since all of the information necessary for the Commission to grant the requested relief is contained in the petition, in the statement in support, and in the Agreement, no hearing was required and it is waived. Staff filed the Verified Statement of A. Olusanjo Omoniyi of the Commission’s Telecommunications Division. On September 17, 2012, Mr. Omoniyi’s Verified Statement was admitted into evidence and the record was marked “Heard and Taken.”

II. Section 252 of the Telecommunications Act

Section 252(a)(1) of the Act allows parties to enter into negotiated agreements regarding requests for interconnection services or network elements. CenturyLink and Granite have negotiated such an Agreement and submitted it for approval in this proceeding.

Section 252(e)(1) of the Act provides, in part, that "]ny interconnection agreement
adopted by negotiation...shall be submitted for approval to the State Commission." This Section further provides that a State Commission to which such an agreement is submitted "shall approve or reject the agreement, with written findings as to any deficiencies." Section 252(e)(2) provides that the State Commission may only reject the negotiated agreement if it finds that "the agreement (or portion thereof) discriminates against a telecommunications carrier not a party to the agreement" or that "the implementation of such agreement or portion is not consistent with the public interest, convenience, and necessity."

Section 252(e)(4) provides that the agreement shall be deemed approved if the State Commission fails to act within 90 days after submission by the parties. This provision further states that ``(n)o State court shall have jurisdiction to review the action of a State Commission in approving or rejecting an agreement under this section''.

Section 252(e)(5) provides for preemption by the Federal Communications Commission if a State Commission fails to carry out its responsibility, and Section 252(e)(6) provides that any party aggrieved by a State Commission’s determination on a negotiated agreement may bring an action in the appropriate Federal District Court.

Section 252(h) requires a State Commission to make a copy of each agreement approved under subsection (3) "available for public inspection and copying within 10 days after the agreement or statement is approved." Section 252(i) requires a local exchange carrier to "make available any interconnection, service, or network element provided under an agreement approved under this section to which it is a party to any other requesting telecommunications carrier upon the same terms and conditions as those provided in the agreement."

III. The Agreement

The Agreement’s initial term shall be for two years, which shall become effective on the next business day after the Commission approves the Agreement. The agreement contains provisions for default and prohibits discontinuance without the required notice. Either party may terminate this Agreement effective upon the expiration of the initial term by providing written notice of termination at least ninety (90) calendar days in advance of the applicable date of termination. Either party may terminate this Agreement effective upon expiration of a Follow-on Term by providing a written Notice of Termination at least thirty (30) calendar days in advance of the applicable date of termination. Furthermore, the parties include various other general terms and conditions governing effective date, term and termination of this Agreement in Section 2 of the Agreement.

IV. POSITIONS OF THE PARTIES

No party contended that the Agreement is discriminatory or contrary to the public
interest. Staff reviewed the Agreement in the context of the criteria contained in Section 252(e)(2)(A) of the Act and determined that it met the necessary requirements. Under this Section, the Commission may reject an agreement, or any portion thereof, adopted by negotiation under Subsection (a) only if it finds that (i) the agreement, or a portion thereof, discriminates against a telecommunications carrier not a party to the agreement; or (ii) the implementation of such an agreement, or a portion thereof, is not consistent with the public interest, convenience and necessity.

Mr. Omoniyi stated that the Agreement meets the standards set forth in the Telecommunications Act of 1996 and is consistent with the public interest, convenience and necessity. There are no contested issues in this docket. Staff recommended that the Commission approve the Agreement for the reasons set forth in the Verified Statement of Mr. Omoniyi. Staff also recommended that the Commission require CenturyLink, within five (5) days from the date the Agreement is approved, to modify its tariffs to reference the Amendment for each service affected. Such a requirement is consistent with the Commission’s orders in previous negotiated agreement docket and allows interested parties access to the Agreement. The following section of CenturyLink’s tariffs should reference the CenturyLink-Granite Agreement: Agreements with Telecommunications Carriers (Ill.C.C. No. 2 Section 16). Staff further recommended that the Commission require CenturyLink to file with the Office of the Chief Clerk, within five (5) days from the date upon which the Agreement is approved, a verified statement that the approved Agreement is the same as the Agreement filed in this Docket with the Verified Petition.

V. Findings and Ordering Paragraphs

The Commission, having considered the entire record herein and being fully advised in the premises, is of the opinion and finds that:

1. CenturyLink and Granite are telecommunications carriers as defined in Section 13-202 of the Public Utilities Act;

2. CenturyLink and Granite have entered into a Negotiated Resale Agreement which has been submitted to the Commission for approval under Section 252(e) of the Telecommunications Act of 1996;

3. the Commission has jurisdiction of the parties hereto and the subject matter hereof;

4. the recitals of fact and conclusions reached in the prefatory portion of this Order are supported by the record and are hereby adopted as findings of fact;
(5) the Agreement between CenturyLink and Granite does not discriminate against a telecommunications carrier not a party to the Agreement;

(6) in order to assure that the Agreement is in the public interest, CenturyLink should implement the Agreement by filing a verified statement with the Chief Clerk of the Commission, within five (5) days of approval by the Commission, that the approved Agreement is the same as the Agreement filed in this docket with the verified petition. The Chief Clerk shall place the Agreement on the Commission’s website under Interconnection Agreements;

(7) CenturyLink should also place replacement sheets in its tariffs at the following location: Ill.C.C. No. 2 Section 16;

(8) the Agreement should be approved as hereinafter set forth;

(9) approval of the Agreement does not have any precedential effect on any future negotiated agreements or Commission Orders.

IT IS THEREFORE ORDERED by the Illinois Commerce Commission that the Negotiated Resale Agreement dated June 20, 2012 between Gallatin River Communications, L.L.C. d/b/a CenturyLink and Granite Telecommunications, LLC, is approved pursuant to Section 252(e) of the Telecommunications Act of 1996.

IT IS FURTHER ORDERED that CenturyLink shall comply with findings (6) and (7) of this Order within five days of the date of this Order.

IT IS FURTHER ORDERED that subject to the provisions of Section 10-113 of the Public Utilities Act and 83 Ill. Adm. Code 200.880, this Order is final; it is not subject to the Administrative Review Law.

By Order of the Commission this 3rd day of October, 2012.

(SIGNED) DOUGLAS P. SCOTT
Chairman