

PENNSYLVANIA PUBLIC UTILITY COMMISSION
Uniform Cover and Calendar Sheet

1. REPORT DATE: September 21, 1999	2. BUREAU AGENDA NO. SEP-1999-OSA-0394*
3. BUREAU: Office of Special Assistants	
4. SECTION(S):	5. PUBLIC MEETING DATE:
6. APPROVED BY: <div style="text-align: right; font-size: 2em; font-family: cursive;">C. Davis</div> Director: C.W. Davis 7-1827 Supervisor:	September 30, 1999 KJR
7. PERSONS IN CHARGE: David Munsch 7-1660	
8. DOCKET NO.: A-310651	<div style="text-align: right; border: 1px solid black; padding: 5px;"> DOCKETED OCT 13 1999 </div>

- 9. (a) CAPTION (abbreviate if more than 4 lines)**
(b) Short summary of history & facts, documents & briefs
(c) Recommendation

DOCUMENT FOLDED

(a) Joint Application of GTE North, Incorporated and Service Electric Telephone, Inc., for approval of an Interconnection Agreement

(b) On August 5, 1999, GTE North, Incorporated (GTE) and Service Electric Telephone, Inc. (SETI) filed a Joint Application seeking approval of an Interconnection Agreement which sets forth the terms, conditions, and prices under which GTE and SETI will offer and provide interconnection for the purpose of exchanging traffic.

(c) The Office of Special Assistants recommends that the Commission adopt the draft Opinion and Order which approves the Joint Application.

Order Doc. No. 152698v1

Calendar Doc. No. 149822v1

10. MOTION BY: Commissioner Chm. Quain

Commissioner Rolka - Yes
 Commissioner Brownell - Yes
 Commissioner Wilson - Yes

SECONDED: Commissioner Bloom

CONTENTS OF MOTION: Staff recommendation adopted.



COMMONWEALTH OF PENNSYLVANIA
PENNSYLVANIA PUBLIC UTILITY COMMISSION
P.O. BOX 3265, HARRISBURG, PA 17105-3265

IN REPLY PLEASE
REFER TO OUR FILE

OCTOBER 1, 1999

A-310651

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MALATESTA HAWKE & MCKEON
HBG ENERGY CENTER
100 N 10TH STREET
PO BOX 1778
HARRISBURG PA 17105-1778

DOCKETED
OCT 06 1999

Joint Application for Approval of an Interconnection Agreement between
GTE North, Incorporated and Service Electric Telephone, Inc.,
Under Section 252 (e) of the Telecommunications Act of 1996

To Whom It May Concern:

This is to advise you that an Opinion and Order has been adopted by the Commission in Public Meeting on September 30, 1999 in the above entitled proceeding.

An Opinion and Order has been enclosed for your records.

**DOCUMENT
FOLDER**

Very truly yours,

James J. McNulty
Secretary

Enclosure
Certified Mail
FG

JAMES TROUP
BRIAN ROBINSON ESQUIRE
ARTER & HADDEN
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WASHINGTON DC 20006-1301

JULIA A CONOVER
BELL ATLANTIC-PENNSYLVANIA, INC.
1717 ARCH STREET 7TH FLOOR
PHILADELPHIA PA 19103

KJR

PENNSYLVANIA
PUBLIC UTILITY COMMISSION
Harrisburg, PA 17105-3265

Public Meeting held September 30, 1999

Commissioners Present:

John M. Quain, Chairman
Robert K. Bloom, Vice Chairman
David W. Rolka
Nora Mead Brownell
Aaron Wilson, Jr.

Joint Application for Approval of an
Interconnection Agreement Between GTE North,
Incorporated and Service Electric Telephone, Inc.
Under Section 252(e) of the Telecommunications
Act of 1996

A-310651

DOCUMENT
FOLDER

OPINION AND ORDER

DOCKETED
OCT 06 1999

BY THE COMMISSION:

Before the Commission for consideration is the Joint Application for approval of an Interconnection Agreement (Agreement) between GTE North, Incorporated (GTE) and Service Electric Telephone, Inc. (SETI), pursuant to Section 252(e) of the Telecommunications Act of 1996, 47 U.S.C. §§201, *et seq.* (TA-96 or the Act).

History of the Proceeding

On August 5, 1999, GTE and SETI filed the instant Joint Application seeking approval of an underlying Interconnection Agreement which sets forth the terms, conditions, and price of interconnection, resale and unbundled network elements provided by GTE to SETI.

The Commission published notice of the Joint Application and the Agreement in the *Pennsylvania Bulletin* on August 14, 1999, advising that any interested parties could file comments within ten (10) days. To date, no comments have been received.

Discussion

A. Standard of Review

The Commission's standard of review of a negotiated interconnection agreement is set forth at 47 U.S.C. §252(e)(2), which provides, in pertinent part, that:

The state Commission may only reject -- (A) an agreement (or any portion thereof) adopted by negotiation under subsection (a) if it finds -- (i) the agreement (or portion thereof) discriminates against a telecommunications carrier not a party to the agreement; or (ii) the implementation of such agreement or portion is not consistent with the public interest, convenience and necessity

With these criteria in mind, we shall review the Agreement submitted by GTE and SETI.

B. Summary of Terms

According to Paragraph 4 at page 2 of the Joint Application, “[t]he Agreement sets forth the terms, conditions and prices of interconnection, resale and unbundled network elements provided by GTE to SETI.”

The Agreement states, at p. I-1:

Pursuant to this Agreement, the parties will extend certain arrangements to one another within each area in which they both operate within the State for purposes of interconnection and the exchange of traffic between their respective end-user customers. This Agreement is an integrated package that reflects a balancing of interests critical to the Parties. This Agreement will be submitted to the Pennsylvania Public Utility Commission (the “Commission”) for approval. The Parties agree that their entrance into this Agreement is without prejudice to and does not waive any positions they may have taken previously, or may take in the future, in any legislative, regulatory, judicial or other public forum addressing any matters, including matters related to the same types of arrangements covered in this Agreement. GTE’s execution of this Agreement is not a concession or waiver in any manner concerning its position that certain of the rates, terms and conditions contained herein are unlawful, illegal and improper.

The key provisions of the Interconnection Agreement and Appendices are as follows:

1. Article IV of the Agreement deals with “Interconnection and Transport and Termination of Traffic,” and refers to Appendix A for the following rates. Interconnection and Transport and Termination of Traffic include reciprocal compensation for local interconnection (\$0.0037432), tandem switching (\$0.0019582), common transport facilities

(\$0.0000204), and common transportation termination (\$0.0001270). The tandem transiting charge is comprised of tandem switching (\$0.0019582), tandem transport (\$0.0002040), transport termination (\$0.0002540), and the transiting charge (\$0.0024162).

2. Article V presents the "Additional Services and Coordinated Service Arrangements" and describes the provisions regarding, among other things, Misdirected Calls, as well as 911 and E-911 Arrangements. The rates for these services are set forth in C, which states, that the provision of a 911 Selective Router Map is subject to a non-recurring charge of \$125.00; the 911 Selective Router Pro-Rata Fee/Trunk, a monthly recurring charge \$100.77.

GTE and SETI aver that the Interconnection Agreement complies with the criteria identified in the Act at 47 U.S.C. §252(e)(2), quoted above, pursuant to which we must determine whether to accept or reject the Agreement. The parties assert that GTE is willing to make the interconnection arrangements contained in the Agreement available to any other telecommunications carrier certified to provide local telephone service in Pennsylvania (*See*, 47 U.S.C. §252(e)), and that the Interconnection Agreement is, therefore, not discriminatory. Furthermore, the parties note that other carriers are not bound by the terms of the Interconnection Agreement and are free to pursue their own negotiated arrangements with GTE. (Joint Petition, p. 2, ¶4-5).

The parties assert that the Interconnection Agreement is consistent with the public interest, convenience, and necessity because it will permit SETI to provide local telecommunications service to Pennsylvania customers which is what the Act contemplates and the Pennsylvania General Assembly envisioned when it enacted Section 3009(a) of the Public Utility Code, 66 Pa. C.S. §3009(a), and that, therefore, the

Agreement protects the public interest, convenience, and necessity.¹ (Joint Petition, p. 2, ¶6)

C. Disposition

Having reviewed the Interconnection Agreement, we shall approve it, finding that it satisfies the two-pronged criteria of Section 252(e) of the Act. We shall minimize the potential for discrimination against other carriers not a party to the Interconnection Agreement by providing here that our conditional approval of this Agreement shall not serve as precedent for agreements to be negotiated or arbitrated by other parties. This is consistent with our policy of encouraging settlements. (52 Pa. Code §5.231; *see also*, 52 Pa. Code §69.401, *et seq.*, relating to settlement guidelines, and our Statement of Policy relating to the Alternative Dispute Resolution Process, 52 Pa. Code §69.391, *et seq.*). On the basis of the foregoing, we find that the Interconnection Agreement does not discriminate against any telecommunications carrier not a party to the negotiations.

The Act requires that the terms of the Interconnection Agreement be made available for other parties to review (§252(h)). However, this availability is only for purposes of full disclosure of the terms and arrangements contained therein. The accessibility of the Interconnection Agreement and its terms to other parties does not connote any intent that our approval will affect the status of negotiations between other parties. In this context, we will not require GTE or SETI to embody the terms of the

¹ For the record, we note that, to the extent that this, or any, interconnection agreement includes provisions for services beyond the types of services which we have authorized, and that, regardless of the types of services covered by this interconnection agreement, it would be a violation of the Public Utility Code if the Applicant began offering services or assessing surcharges to end users which it has not been authorized to provide and for which tariffs have not been approved.

Interconnection Agreement in a filed tariff, but we will require that the parties file the Interconnection Agreement with this Commission. It shall be retained in the public file for inspection and copying consistent with the procedures relating to public access to documents.

With regard to the public interest element of this matter, we note that no negotiated Interconnection Agreement may affect those obligations of the telecommunications carrier in the areas of protection of public safety and welfare, service quality, and the rights of consumers. (*See, e.g.*, Section 253(b) of the Act). This is consistent with the Act and with Chapter 30 of the Public Utility Code, wherein service quality and standards, *e.g.*, universal service, 911, Enhanced 911, and Telecommunications Relay Service, are inherent obligations of the local exchange company, and continue unaffected by a negotiated agreement. We have reviewed the Agreement's terms relating to 911 and E-911 services and conclude that these provisions of the Agreement are consistent with the public interest.

Conclusion

Based on the foregoing and pursuant to Section 252(e) of the Act, *supra*, and our *Implementation Order*, we determine that the Interconnection Agreement between GTE and SETI is non-discriminatory to other telecommunications companies not party to it and that it is consistent with the public interest; **THEREFORE,**

IT IS ORDERED:

1. That the Joint Petition of GTE North, Incorporated and Service Electric Telephone, Inc. seeking the approval of an Interconnection Agreement, filed on August 5, 1999, pursuant to the Telecommunications Act of 1996 and the Commission's

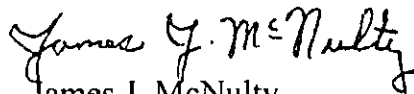
June 3, 1996, Opinion and Order in *In Re: Implementation of the Telecommunications Act of 1996*, Docket No. M-00960799, is granted consistent with this Opinion and Order.

2. That approval of the Interconnection Agreement shall not serve as binding precedent for negotiated or arbitrated agreements between non-parties to the instant Interconnection Agreement.

3. That the reciprocal compensation rates for terminating local traffic be, and hereby are, approved.

4. That the parties shall file a true and correct copy of the Interconnection Agreement, with appropriate amendment, with this Commission within thirty (30) days of the date of entry of this Opinion and Order.

BY THE COMMISSION,


James J. McNulty
Secretary

(SEAL)

ORDER ADOPTED: September 30, 1999

ORDER ENTERED: **OCT 01 1999**