

PENNSYLVANIA PUBLIC UTILITY COMMISSION
Uniform Cover and Calendar Sheet

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| 1. <u>REPORT DATE:</u> October 16, 2000 | 2. <u>BUREAU AGENDA NO.:</u> OCT-2000-FUS-0610* |
| 3. <u>BUREAU:</u> Fixed Utility Services | |
| 4. <u>SECTION(S):</u> Telecommunications | 5. <u>PUBLIC MEETING DATE:</u> |
| 6. <u>APPROVED BY:</u> Director: Rosenthal 3-5242 Manager: Wagner 3-6175 Legal Review by: Arnold 7-1827 | October 25, 2000 <div style="text-align: right; font-size: 2em; font-weight: bold; border: 1px solid black; padding: 5px;">DOCKETED</div> <div style="text-align: right; font-weight: bold;">NOV 7 2000</div> |
| 7. <u>PERSONS IN CHARGE:</u> Barrett/Spandra/Metcalf | |
| 8. <u>DOCKET NO.:</u> A-310932, A-310932F0002, A-310932F0003, A-310932F0004 | <div style="text-align: right; font-size: 1.2em; font-weight: bold; border: 1px solid black; padding: 2px;">DOCUMENT FORWARDED</div> |

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

- (a) Applications of Broadview Networks, Inc. for approval to offer, render, furnish, or supply telecommunications services as a Reseller of Toll Services, Competitive Local Exchange Carrier, Interexchange Carrier, and Competitive Access Provider to the public in the Commonwealth of Pennsylvania.
- (b) The Applications were filed on March 3, 2000. No protests were filed and no hearings were held.
- (c) The Bureau of Fixed Utility Services recommends that the Commission adopt the proposed draft Order approving the Applications, consistent with the Order.

10. MOTION BY: Commissioner Chm. Quain

SECONDED: Commissioner Bloom

Commissioner Brownell - Yes
Commissioner Fitzpatrick - Yes
Commissioner

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 26, 2000

A-310932

A-310932F0002

A-310932F0003

A-310932F0004

RICHARD M RINDLER ESQUIRE
MICHAEL R ROMANO ESQUIRE
SWIDLER BERLIN SHEREFF FIREDMAN
3000 K STREET NW SUITE 300
WASHINGTON DC 20007-5116

Application of Broadview Networks, Inc., for approval to offer, render, furnish, or supply telecommunication services as a Reseller of Toll Services, a Competitive Local Exchange Carrier, and an Interexchange Carrier, and a Competitive Access Provider to the public in the Commonwealth of Pennsylvania.

To Whom It May Concern:

This is to advise you that the Commission in Public Meeting on October 25, 2000 has adopted an Order in the above-entitled proceeding.

An Order has been enclosed for your records.

Very truly yours,

James J. McNulty
Secretary

Enclosure
Certified Mail
FG

JULIA A CONOVER ESQUIRE
VERIZON PENNSYLVANIA INC
1717 ARCH STREET 32N
PHILADELPHIA PA 19103

DOCKETED
NOV 01 2000

**PENNSYLVANIA
PUBLIC UTILITY COMMISSION
Harrisburg, PA. 17105-3265**

Public Meeting held October 25, 2000

Commissioners Present:

John M. Quain, Chairman
Robert K. Bloom, Vice Chairman
Nora Mead Brownell
Terrance J. Fitzpatrick

DOCUMENT
FOLDER

Applications of Broadview Networks, Inc. for approval to offer, render, furnish, or supply telecommunications services as a Reseller of Toll Services, a Competitive Local Exchange Carrier, and an Interexchange Carrier, and a Competitive Access Provider to the public in the Commonwealth of Pennsylvania

Docket Number:
A-310932
A-310932F0002
A-310932F0003
A-310932F0004

DOCKETED

NOV 01 2000

ORDER

BY THE COMMISSION:

On March 3, 2000, Broadview Networks, Inc. (Broadview or Applicant) filed Applications seeking a Certificate of Public Convenience pursuant to the Telecommunications Act of 1996, 47 U.S.C. §§201, et seq., (TA-96)¹ and to Chapter 11 and Chapter 30 of the Public Utility Code (Code) (66 Pa. C.S. §1101, et seq., and §§3301, et seq.) evidencing authority to provide telecommunications services as a Reseller of Toll Services (IXC Reseller), a Competitive Local Exchange Carrier (CLEC), an Interexchange Carrier (IXC

¹ Market entry requirements, in light of the policy objectives of the TA-96, for telecommunication service providers are set out in *In Re: Implementation of the Telecommunications Act of 1996*, Docket No. M-00960799 (Implementation Order: June 3, 1996; and Implementation reconsideration Order: September 9, 1996).

Carrier) and a Competitive Access Provider (CAP) to residential and business customers in the Commonwealth of Pennsylvania.

These Applications complied with section 5.14 of our regulations, 52 Pa Code §5.14, relating to applications requiring notice. No protests were filed and no hearings were held.

The Applicant proposes to provide the full range of facilities-based and resold exchange services to business and residential customers within the Commonwealth of Pennsylvania. These services may include, but will not be necessarily limited to: (i) local exchange access services to single-line and multi-line customers; (ii) local exchange services to Applicant's end user access line services; and (iii) dedicated and special carrier access services to other common carriers. Applicant's services will be available on a full-time basis, 24 hours a day, seven days a week. In addition, Applicant proposes to provide resold and facilities-based interstate interexchange telecommunications services, including direct-dialed ("1+") message telecommunication services (to prescribed customers) and calling card services to and from all points within the Commonwealth of Pennsylvania.

Initially, Broadview will market its local exchange services within all areas for which the Commission will grant such authority, including the service areas of Bell Atlantic-Pennsylvania, Inc., GTE North, Inc. (As of August 1, 2000, the names of Bell Atlantic-Pennsylvania, Inc. and GTE North, Inc. were changed to Verizon Pennsylvania Inc. and Verizon North, Inc.), and Sprint/United Telephone Company of Pennsylvania (United), when and where suitable facilities are available for resale under reasonable terms and conditions. Additionally, the Applicant represents that it will not be a rural telephone company. The Applicant

served a copy of the Applications upon Verizon Pennsylvania, Inc., Verizon North Inc., and United.

The Applicant is a foreign corporation duly organized and existing under the laws of the State of New York with its principal place of business at 45-18 Court Square, Suite 403, Long Island City, New York 11101. The Applicant will not use a fictitious name. Correspondence to resolve complaints may be directed to Steve Andreassi at the principal place of business.

The Applicant is not currently doing business in Pennsylvania and has no affiliates or predecessors doing business either in Pennsylvania or outside of Pennsylvania. In addition, the Applicant has no affiliates providing service to or receiving service from the Applicant.

Issues affecting CLECs have been addressed and are being addressed in a number of Commission proceedings.² A CLEC applicant is expected to adhere to the requirements relative to universal service and lifeline programs, as initially set forth or as subsequently enlarged or modified.³ Further, Section 253 (b) of the TA-96 permits a state commission to impose, on a competitively neutral basis and consistent with the Universal Service Section, requirements necessary to preserve and advance universal service, protect the public safety and welfare, ensure the continued quality of telecommunications services, and safeguard the rights of consumers. In response, we articulated explicit concerns relative to an applicant's financial fitness, tariff compliance, and rates.⁴

² See, e.g., *MFS* Docket Nos. A-310203, F0002, *et al.*, (October 4, 1995; July 31, 1996; and August 7, 1997); *Pa. PUC v. Bell*, Docket No. R-00963578; *Pa. PUC v. GTE*, Docket No. R-00963666; Global Order, Docket Nos. P-00991648 *et al.*, as well as other CLEC proceedings.

³ *Universal Service Invest.*, Docket No. I-00940035 (January 28, 1997).

⁴ *Blue Ribbon*, Docket No. A-310442 (April 25 and August 4, 1997).

The Applicant has provided financial information to support its Application. We, therefore, conclude that the Applicant has demonstrated that it is financially capable of providing IXC Reseller, CLEC, IXC Carrier, and CAP services to the public.

We conclude that the Applicant has met the requirements for certification as a IXC Reseller, as a CLEC, as an IXC Carrier, and as a CAP consistent with this Order. Premised upon review of the Application and the proposed tariffs, and consistent with our Orders, the Code, our Regulations and the TA-96, we conclude that the Applicant's proposed services do not raise concerns at this time regarding safety, adequacy, reliability, or privacy as contemplated by Section 3009(b)(4) of the Code. We note, however, deficiencies in the proposed tariffs. See Appendix A.

We shall direct the Applicant to revise the proposed tariffs in accordance with the changes noted in Appendix A of this Order.⁵ The Applicant shall thereafter file its compliance tariffs reflecting the requested changes on or before sixty (60) days from the date of entry of this Order. Copies of the Initial Tariffs shall also be served upon the same entities receiving service of the original Application, including the ILECs. If the time required for such resolution and filing exceeds sixty (60) days, the Applicant may request an extension of an additional sixty (60) days with the Commission's Secretary. Thus, if the Initial Tariffs are not filed within sixty (60) days (120 days including the extension) of the entry of this Order, the Applications will be dismissed and the authority

⁵ Mike Metcalf, 717-783-6161, is the FUS contact. Regardless of the review process, any tariff provision(s) inconsistent with the provisions of the Code, the TA-96, or our Regulations or Orders will be deemed inoperative and superseded. (52 Pa. Code §64.213).

granted herein will be revoked without further Commission Order. To the extent that the proposed tariffs contain rates, the Initial Tariffs may become effective on one (1) day's notice from the date upon which they are filed and served. If the proposed tariffs did not contain rates, the Initial Tariffs may not become effective prior to sixty (60) days notice.

Conclusion

Accordingly, we shall grant the Applications. Upon the establishment of filed rates and the approval of Initial Tariffs, a Certificate of Public Convenience shall be issued evidencing the Applicant's authority to provide services as a IXC Reseller, a CLEC, an IXC Carrier, and a CAP in the Commonwealth, consistent with this Order and our decisions in the *MFS* and such other proceedings; **THEREFORE,**

IT IS ORDERED:

1. That the Application of Broadview Networks, Inc., at Docket No. A-310932, for authority to operate as a Reseller of Toll Services throughout the Commonwealth of Pennsylvania, is granted consistent with this Order.

2. That the Application of Broadview Networks, Inc. at Docket No. A-310932F0002, for authority to operate as a Competitive Local Exchange Carrier on a facilities-based and resold basis within the service territories of Verizon Pennsylvania, Inc., Verizon North, Inc., and Sprint/United Telephone Company of Pennsylvania, is granted consistent with this Order.

3. That the Application of Broadview Networks, Inc. at Docket No. A-310932F0003, for authority to operate as a Interexchange Carrier throughout the Commonwealth of Pennsylvania, is granted consistent with this Order.

4. That the Application of Broadview Networks, Inc. at Docket No. A-310932F0004, for authority to operate as a Competitive Access Provider throughout the Commonwealth of Pennsylvania, is granted, consistent with this Order.

5. That the Applicant is directed to revise its proposed tariffs to reflect the changes noted in Appendix A of this order.

6. That the Applicant shall file its Initial Tariffs, consistent with the requisite changes noted in Appendix A of this Order, within sixty (60) days after the date of entry of this Order.⁶ The Applicant shall serve a copy of its Initial Tariffs on each entity receiving a copy of the original Application. To the extent the Proposed Tariffs contain rates, the Initial Tariffs may become effective on or after one (1) day's notice from the date upon which they are filed and served. If the Proposed Tariffs did not contain rates, the Initial Tariffs may not become effective prior to sixty (60) days notice⁶. The Initial Competitive Local Exchange Carrier Tariff shall be labeled "Competitive Local Exchange Carrier Tariff." The Initial Interexchange Reseller Tariff shall be labeled "Interexchange Reseller Toll Tariff." The Initial Interexchange Carrier Tariff shall be labeled "Interexchange Carrier Tariff". The Initial Competitive Access Provider Tariff shall be labeled "Competitive Access Provider Tariff".

⁶ IXC Reseller and IXC Carrier tariffs shall become effective on a sixteen (16) day notice.

7. That the Applicant shall comply with all the provisions of the Public Utility Code, as now exist or may be hereafter amended, and with all pertinent rules, regulation, and Orders of the Pennsylvania Public Utility Commission, now in effect or as may be prescribed by the Pennsylvania Public Utility Commission, including but not limited to: the *MFS Intelenet, et al*, Docket Nos. A-310203F0002, *et al*, the *Universal Service Investigation*, Docket No. I-00940035; and the *Global Order*, Docket No. P-00991648, *et al*.

8. That the authority granted herein, to the extent that it duplicates authority now held by or subsequently granted to the Applicant, shall not be construed as conferring more than one operating right to the Applicant.

9. That the Applicant maintains separate accounting systems for its interexchange toll operations and its competitive local exchange carrier operations.

10. That the Applicant files such affiliated interest agreements as may be necessary relative to any transactions with affiliates.

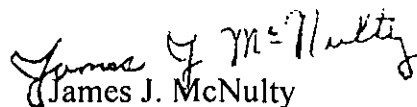
11. That the Applicant contact each county or municipal authority where it intends to provide telecommunications service and make the necessary arrangements for the provisioning of Emergency 911 service.

12. That the Applicant shall make 711 abbreviated dialing available to access Telecommunication Relay Service and to arrange its switching equipment to translate these calls to the assigned toll-free number, (888) 895-1197, in order to route calls to the Telecommunication Relay Service Provider, in accordance with Commission's Order entered on February 4, 2000 at Docket No. M-00900239.

13. That, in the event that the Applicant has not, on or before sixty (60) days (120 days including an approved extension) from the date of entry of this Order, complied with the requirements set forth herein, the Applications at Docket Nos. A-310932, A-310932F0002, A-310932F0003, and A-310932F0004 may be dismissed and the authority granted herein revoked without further Commission Order.

14. That, upon the establishment of filed rates and the approval of Initial Tariffs, a Certificate of Public Convenience shall be issued authorizing the Applicant to furnish services as a Interexchange Carrier, an Interexchange Toll Reseller, and a Competitive Access Provider throughout the Commonwealth of Pennsylvania and as a facilities-based and resold Competitive Local Exchange Carrier within the service territories of Verizon Pennsylvania, Inc., Verizon North, Inc., and Sprint/United Telephone Company of Pennsylvania, consistent with this Order.

BY THE COMMISSION,


James J. McNulty
Secretary

(SEAL)

ORDER ADOPTED: October 25, 2000

ORDER ENTERED: **OCT 26 2000**

Broadview Networks, Inc.
A-310932

Broadview Networks, Inc. (Broadview) has filed the following proposed tariffs for providing telecommunication services in Pennsylvania:

- 1) Reseller of Toll Services (Tariff No. 2)
- 2) Competitive Local Exchange Services (Tariff No. 1)

Broadview has also requested approval through these Applications to provide Interexchange Carrier and Competitive Access Provider services in Pennsylvania. However, Broadview did not file separate tariffs to reflect these services nor a tariff to reflect Switched Access Services as Facilities-based Competitive Local Exchange Carrier. As shown below, it appears that Broadview should file the following tariffs:

- 1) Interexchange Carrier Services (Tariff No 3)
- 2) Competitive Access Provider Services (Tariff No. 4)
- 3) Switched Access Services (Tariff No. 5)

The Tariffs filed were also found to contain certain deficiencies which are discussed here. The Company is requested to make the necessary changes as suggested with each of the deficiencies discussed here for the timely approval of the Tariffs.

A-310932 (Reseller of Toll Services)

Need a separate tariff for Interexchange Carrier Services (Tariff No. 3)

A-310932F0002 (Resold and Facilities-based Competitive Local Exchange Carrier)

Need a separate tariff for Switched Access Services (Tariff No. 5)

Tariff deficiencies noted:

1. The title page should contain the territory to which the tariff applies.
2. The tariff should contain a List of Changes page.

3. Section 6, Page 5 should reflect TRS rates of \$0.06 for residence and \$0.12 for business on or after July 1, 2000.
4. Section 2, Page 10 - The provision for limitation of liability should be on a specific dollar amount.
5. Section 2, Page 33 - The Bureau of Consumer Services should be added to the address with phone number (800-782-1110).
6. Section 4, Page 1 - The service area should be modified to add GTE North, Inc. and Sprint/United Telephone Company of Pennsylvania. If the Company does not plan to provide services in these territories, please indicate that in the Tariff.
7. Section 5, Page 1 - The tariff should include a list of all exchanges with the respective local calling areas.
8. Section 5, Page 12 - Provide confirmation that Reactivation of 900 blocking Option rate of \$100 is correct. If so, provide the basis for arriving at that rate.
9. Section 5, Page 18 - The MTS Regional Toll Rates should be placed in the appropriate tariff, either IXC Reseller or IXC Carrier.

A-310932F0004 (Competitive Access Provider)

Need a separate tariff for Competitive Access Provider Services (Tariff No. 4).