

PENNSYLVANIA PUBLIC UTILITY COMMISSION
Uniform Cover and Calendar Sheet

1. REPORT DATE: May 14, 2002	2. BUREAU AGENDA NO.: MAY-2002-FUS-0435*
3. BUREAU: Fixed Utility Services	
4. SECTION(S): Telecommunications	5. PUBLIC MEETING DATE:
6. APPROVED BY: Director: Rosenthal <i>[Signature]</i> Manager: Wagner <i>[Signature]</i> Legal Review by: Arnold <i>[Signature]</i> 7-8032	<p>May 23, 2002</p> <p>DOCKETED</p> <p>JUN 11 2002</p>
7. PERSONS IN CHARGE: Barrett/Peyton 7-5155/7-3665	
8. DOCKET NO.: A-311160; A-311160F0002	DOCUMENT FOLDER

9. (a) **CAPTION** (abbreviate if more than 4 lines)
 (b) **Short summary of history & facts, documents & briefs**
 (c) **Recommendation**
- (a) Applications of McGraw Communications, Inc for approval to offer, render, furnish or supply telecommunications services as an Interexchange Toll Reseller (IXC) and Non-Facilities-based Competitive Local Exchange Carrier (CLEC).
 - (b) On December 13, 2001, the subject Applications were filed. 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 this Order.

10. **MOTION BY:** Commissioner Chm. Thomas Commissioner Wilson - Yes
SECONDED: Commissioner Bloom Commissioner Fitzpatrick - Yes
 Commissioner Pizzingrilli - Yes

CONTENT 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

MAY 23, 2002

A-311160
A-311160 F0002

HARRY N MALONE
SWIDLER BERLIN
SHEREFF & FRIEDMAN
3000 K STREET NW STE 300
WASHINGTON DC 20007

Application of McGraw Communications, Inc., for approval to offer, render, furnish, or supply Telecommunication services as an Interexchange Toll Reseller to the public in the Commonwealth of Pennsylvania.

Application of McGraw Communications, Inc., for approval to offer, render, furnish, or supply Telecommunication services as a non-facilities based Competitive Local Exchange Carrier, to the Public, in the territories of Verizon Pennsylvania, Inc., Verizon North, Inc., and Sprint/United Telephone Company of Pennsylvania.

DOCUMENT
FOLDER

To Whom It May Concern:

This is to advise you that the Commission in Public Meeting on May 23, 2002 has adopted an Order in the above entitled proceeding.

An Order has been enclosed for your records.

Very truly yours,

James J. McNulty
Secretary

DOCKETED

JUN 15 2002

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

Public Meeting held May 23, 2002

Commissioners Present:

Glen R. Thomas, Chairman
Robert K. Bloom, Vice Chairman
Aaron Wilson, Jr.
Terrance J. Fitzpatrick
Kim Pizzingrilli

Application of McGraw Communications, Inc.
for approval to offer, render, furnish or supply
Telecommunication services as an Interexchange
Toll Reseller to the public in the Commonwealth
of Pennsylvania.

Docket Number
A-311160

Application of McGraw Communications, Inc.
for approval to offer, render, furnish or supply
Telecommunication services as a Non- Facilities-
based Competitive Local Exchange Carrier to the
public in the territories of Verizon Pennsylvania,
Inc., Verizon North, Inc., and Sprint/United
Telephone of Pennsylvania.

Docket Number
A-311160F0002

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ORDER

DOCKETED

JUN 15 2002

BY THE COMMISSION:

On December 13, 2001, McGraw Communications, Inc. ("McGraw" or "Applicant"), filed Applications seeking a Certificate of Public Convenience pursuant to the Telecommunication Act of 1996, 47 U.S.C. §§201, *et seq.*,

(TA-96)¹ and to Chapter 11 and 30 of the Public Utility Code (Code) (66 Pa. C.S. §1101, *et seq.*, and §§3001, *et seq.*) evidencing authority to provide telecommunication services as an Interexchange Toll Reseller (IXC) to business customers throughout the Commonwealth, and as a Non-Facilities-Based Competitive Local Exchange Carrier ("CLEC") to business customers throughout the service territories of Verizon Pennsylvania, Inc., Verizon North, Inc., and Sprint/United Telephone of Pennsylvania.

This Applicant 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 will not be using a fictitious name.

The Applicant requested authority to provide telecommunications services as an IXC Reseller to the public throughout the Commonwealth of Pennsylvania and Non-Facilities-Based CLEC in the service territories of Verizon Pennsylvania, Inc., Verizon North, Inc., and Sprint/United Telephone Company of Pennsylvania. The Applicant asserts that it will not be a rural telephone company. The Applicant served a copy of the Application upon Verizon Pennsylvania, Inc., Verizon North, Inc., and Sprint/United Telephone Company of Pennsylvania.

The Applicant is a New York Corporation with its principal place of business at 228 East 45th Street, New York, NY 10017. Correspondence to resolve complaints may be directed to the Francis X. Ahearn, at the principal place of business, phone number is 212-661-5566. The Applicant complied with 15 Pa. C.S. §4124, relating to foreign corporations.

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).

The Applicant's registered office provider is CT Corporation System, Harrisburg, PA. The Applicant is not currently doing business in Pennsylvania and has no affiliates or predecessors doing business in Pennsylvania.

The Applicant has no affiliates providing service to or rendering service from the Applicant.

The Applicant will provide the full range of resold intraexchange and interexchange services in the Pennsylvania service area of Verizon Pennsylvania, Inc., Verizon North and Sprint/United Telephone Company. Exchange services may include, but will not necessarily be limited to: (1) local exchange access services to single-line, multi-line and Centrex customers (2) local exchange services to customers of McGraw's end user access line services.

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, as initially set forth or as subsequently enlarged or modified.³ Also, per federal rules CLECs are required to ensure the efficient usage of their numbering resources and are required to semi-annually report their utilization and forecast data to the North American Numbering Plan Administrator. See 47 C.F.R. § 52.5 et.seq. Any CLEC failing to comply with state and/or Commission orders related to numbering may be subject to the reclamation of their numbering resources as well as fines pursuant to the Public Utility Code, 66 Pa.C.S. § 3301. See *Implementation of Numbering Conservation Measures Granted to Pennsylvania*

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-0093666, Global Order, Docket No. P-00991648 *et al.*, as well as other CLEC proceedings.

by the Federal Communications Commission in its Order released March 31, 2000 – *NXX Code Reclamation*, Docket No. M-00001373 (Order entered August 22, 2000), 30 Pa. B. 4701 (September 2, 2000) (Commission established process for reclaiming NXX codes from carriers who have failed to activate them within 6 months of their availability for assignment to customers.) 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 telecommunication 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

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 telecommunication services as a Non-Facilities-Based CLEC.

We conclude that the Applicant has met the requirements for certification as a Non-Facilities-Based CLEC and IXC Reseller consistent with this Order. Premised upon our 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 for a list of deficiencies found in the proposed tariffs.

³ *Universal Service Invest.*, Docket No. 1-00940035 (January 28, 1997).

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

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 initial 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 Applications, including the ILECs. If the time required for filing of the tariffs 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 60 days (120 days including the extension) of the entry of this Order, the Application will be dismissed and the authority granted herein will be revoked without further Commission Order. To the extent that the proposed tariffs contained rates, the initial tariffs may become effective on one (1) day's notice from the date upon which they were filed and served.

Conclusion

Accordingly, we shall grant the Application. The Applicant has had provisional authority pursuant to our Implementation Order (*p. 7, para. B.1.c.4*) and our Implementation Reconsideration Order (*p. 5*) to provide the proposed services pursuant to its proposed tariffs during the pendency of the application process. 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 telecommunication services as a Non-Facilities-Based Competitive Local Exchange Carrier in the service territories of Verizon Pennsylvania, Inc., Verizon North, Inc., and Sprint/United Telephone Company of Pennsylvania and Interexchange Reseller of Toll Services throughout the

⁵ Leonard Peyton, 717-783-0697, 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 supersede. (52 Pa. Code §64.213).

Commonwealth of Pennsylvania consistent with this Order and our decisions in the *MFS* and such other proceedings; **THEREFORE,**

IT IS ORDERED:

1. That the Application of McGraw Communications, Inc. at Docket No. A-311160 for authority to operate as an Interexchange Reseller of Toll Services throughout the Commonwealth of Pennsylvania is granted, consistent with this Order.

2. That the Application of McGraw Communications, Inc., at Docket No. A-311160F0002 for authority to operate as a Non-Facilities Based Competitive Local Exchange Carrier within the service territories of Verizon Pennsylvania, Inc., Verizon North, Inc., and Sprint/United Telephone of Pennsylvania is granted, consistent with this Order.

3. That the Applicant is directed to revise its proposed tariffs to reflect the changes noted in Appendix-A of this Order.

4. 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. 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 contained rates the initial tariffs may become effective on or after one (1) day's notice from the date upon which they were filed and served. If the proposed tariff did not contain rates, then the Initial tariff may not become effective prior to sixty (60) days notice from the date they were filed and served. The Initial Non Facilities-based Competitive Local Exchange Carrier tariff shall be labeled "Non Facilities-based Competitive Local Exchange Carrier Tariff" and the Interexchange Carrier tariff shall be labeled "Interexchange Carrier Tariff".

5. That the Applicant shall comply with all the provisions of the Public Utility Code, as now exist or as may be hereafter amended, and with all pertinent rules, regulations, 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.*; and the *Universal Service Investigation*, Docket No. I-0094003; and the *Global Order*, Docket No. P-00991648, *et al.*

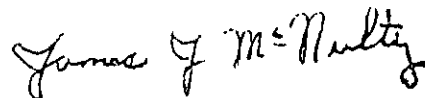
6. That the authority granted herein, to the extent that it duplicates authority now held by or subsequently granted to the Applicant, shall not be construed as conferring more than one operating right to the Applicant.

7. That the Applicant, file such affiliated interest agreements as may be necessary relative to any transactions with affiliates.

8. 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, or if the Applicant fails to extend the time for compliance, the Application at Docket Nos. A-311160 and A-311160F0002 may be dismissed and the authority granted herein revoked without further Commission Order.

9. 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 an Interexchange Reseller of Toll Services throughout Pennsylvania and as a Non Facilities-Based Competitive Local Exchange Carrier within the service territories of Verizon Pennsylvania, Inc., Verizon North, Inc., and Sprint/United Telephone Company within the Commonwealth of Pennsylvania consistent with this Order.

BY THE COMMISSION,



James J. McNulty
Secretary

(SEAL)

ORDER ADOPTED: May 23, 2002

ORDER ENTERED: **MAY 23 2002**

**McGraw Communications, Inc.
Docket Nos. A-311160 & A-311160F0002**

McGraw Communications, Inc. has filed proposed tariffs for providing telecommunications services in Pennsylvania as a Non Facilities-Based Competitive Local Exchange Carrier and as an Interexchange Reseller of Toll Services.

The tariffs filed for McGraw's CLEC and IXC services were found to contain certain deficiencies, which are discussed here. The Company is requested to make the necessary changes in the initial tariffs as suggested with each of the deficiencies discussed here, for a timely approval of the tariffs:

Competitive Local Exchange Carrier (CLEC)

1. Every page in the tariff should contain the name and title of the issuing officer.
2. Section 2 Original Page 1. Territory Served - include the names of the carriers in whose territories you will be providing service (i.e. Verizon Pennsylvania, Inc., Verizon North, Inc., and Sprint/United Telephone Company of Pennsylvania.) Remove Facilities-based language.
3. Disputed Bills - the address and telephone number of the Commission's Bureau of Consumer Services should be set forth as follows:

Pennsylvania Public Utility Commission
Bureau of Consumer Services
P.O. Box 3265
Commonwealth Keystone Building
400 North Street
Harrisburg, Pennsylvania 17105
717-783-5187
800-782-1110
717-787-664 (FAX)

4. Billing Standards - the tariff should contain general statement that the Company complies with the requirements of Chapter 64 in Title 52 regarding billing standards and practices for residential customers. In instances where sections of this tariff may conflict with Chapter 64 requirements, the regulations in Chapter 64 will prevail.

5. Bureau of Consumer Services - The tariff should include the statement: The Bureau of Consumer Services shall have primary jurisdiction over all complaints arising under this chapter (64) Of Pa. Code. § 64.154
6. Add language that residential service will be made available at the business rate until the Company is able to offer residential service.
7. Section 4 Rates based on distance. This section should be removed.
8. Section 6 page 3. Include language that residential customers receive 2 free calls per month.
9. Pennsylvania Telephone Relay Services - The tariff needs to be revised to include the current surcharge rates of \$0.06 for residential customers and \$0.12 for business customers effective July 1, 2000. (Docket No. M-00900239.)
10. Promotional Offerings - The tariff should be revised to include the current regulation of requiring one (1) day's notice to the Commission (Docket No. L-00940095) and for a duration of no long than six months in any 12 month period.
11. Lifeline Service and Link-up America - This section needs to be updated in accordance with guidelines issued by the Commission at Docket No. R-0017144.
12. Update 911 language. See attached.
13. Inconsistent Tariff - A statement should be included at the beginning of the tariff indicating that the Company's Tariff is in concurrence with 52 Pa Code §§63 & 64, and that any provision contained in the Tariff which are inconsistent with the Pa 52 Code, the Telecommunications Act of 1996, and the Commission's Regulations and Orders will be deemed inoperative and superseded.

Interexchange Toll Reseller (IXC)

1. Every page in the tariff should contain the name and title of the issuing officer.

2. Original page 28. Section 5.5.3 - The address and telephone number of the Commission's Bureau of Consumer Services should be set forth as follows:

Pennsylvania Public Utility Commission
Bureau of Consumer Services
P.O. Box 3265
Commonwealth Keystone Building
400 North Street
Harrisburg, Pennsylvania 17105
717-783-5187
800-782-1110
717-787-664 (FAX)