**PENNSYLVANIA**

**PUBLIC UTILITY COMMISSION**

**Harrisburg, PA 17105-3265**

Public Meeting held July 28, 2011

Commissioners Present:

 Robert F. Powelson, Chairman

 John F. Coleman, Jr., Vice Chairman

 Wayne E. Gardner

 James H. Cawley

 Pamela A. Witmer

Joint Petition of The United Telephone Company A-2011-2242824

of Pennsylvania, LLC d/b/a CenturyLink and

Verizon Maryland Inc. for Approval of an

Interconnection Agreement under Section 252(e)

of the Telecommunications Act of 1996.

**OPINION AND ORDER**

**BY THE COMMISSION:**

Before the Commission for consideration is the Joint Petition filed by The United Telephone Company of Pennsylvania, LLC d/b/a CenturyLink (CenturyLink) and Verizon Maryland Inc. (Verizon MD) requesting approval of an Interconnection Agreement (Agreement). The Agreement was filed pursuant to the Telecommunications Act of 1996, Pub. L. No. 104-104, 110 Stat. 56 (codified as amended in scattered sections of Title 47, United States Code) (TA-96), including 47 U.S.C. §§ 251, 252, and 271, and the Commission’s Orders in *In Re: Implementation of the Telecommunications Act of 1996*, Docket No. M-00960799 (Order entered June 3, 1996); Order on Reconsideration entered September 9, 1996; see also *Proposed Modifications to the Review of Interconnection Agreements* (Order entered May 3, 2004) (*Implementation Orders).*

**History of the Proceeding**

 On May 20, 2011, CenturyLink and Verizon MD filed the instant Joint Petition for approval of an Interconnection Agreement, which sets forth the terms, conditions, and rates under which the Parties agree to interconnect networks for purposes of mutually exchanging traffic, thereby facilitating CenturyLink’s provision of service to customers in Pennsylvania. The Commission published notice of the Joint Petition and Agreement in the *Pennsylvania Bulletin* on June 4, 2011, advising that any interested parties could file comments within ten days. No comments have been received.

 In the Joint Petition before us, CenturyLink is an Incumbent Local Exchange Carrier (ILEC) authorized to provide service within the Commonwealth of Pennsylvania. Verizon MD is an ILEC authorized to provide local exchange services within the State of Maryland. This Agreement applies to the exchange of applicable traffic between the territory in which Verizon MD operates as an ILEC in the State of Maryland and the territory in which CenturyLink operates as an ILEC in the Commonwealth of Pennsylvania.

**Discussion**

**A. Standard of Review**

The standard for review of a negotiated interconnection agreement is set out in Section 252(e)(2) of TA-96, 47 U.S.C. § 252(e)(2). Section 252(e)(2) provides in pertinent part, that:

(2) Grounds for rejection. The state commission may only reject—

(A) an agreement (or any portion thereof) adopted by

 negotiation under subsection (a) if it finds that –

(i) the agreement (or portion thereof) discriminates against a telecommu-nications 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 CenturyLink and Verizon MD.

**B.** **Timeliness of Filing**

 The Agreement between CenturyLink and Verizon MD became effective on April 6, 2011. The last party to sign the Agreement did so on April 19, 2011. A period of thirty-one days elapsed from the time the Agreement was executed until it was submitted to the Commission for review. Neither TA‑96 nor the Federal Communications Commission (FCC) rules interpreting TA‑96 provide for the specific time in which the negotiated agreement is to be filed with the state commission. However, we have addressed our expectations regarding the proper time considerations to be observed with regard to negotiated agreements. (*See Implementation Order,*

June 3, 1996 Order, slip op., p. 33).[[1]](#footnote-1)

 We remind the Parties that failure to comply with our *Implementation Orders*, as well as this Order, could subject the Parties to civil penalties for violations pursuant to Section 3301 of the Code, 66 Pa. C.S. § 3301.

**C. Summary of Terms**

The Agreement became effective on April 6, 2011. Subject to the termination provisions contained in the Agreement, the initial term of the Agreement will continue until July 1, 2012. The Agreement will continue in force and effect thereafter unless and until cancelled or terminated as provided in the Agreement.

 The Agreement will facilitate the completion of facility upgrades in order to assist CenturyLink in meeting two of its qualifying Bona Fide Retail Requests (BFRR)[[2]](#footnote-2) situated in CenturyLink’s service territory located near the Pennsylvania/Maryland border. CenturyLink previously had filed two petitions with the Commission

(Docket Nos. P-2010-2177415 and P-2010-2211389) in accordance with its BFRR Program. The Petitions addressed the deployment of facilities for qualifying BFRRs situated within CenturyLink’s Pennsylvania territory located near the Pennsylvania/Maryland border. CenturyLink subsequently sought two extensions of time to implement broadband service for customers in those areas. In order to avoid filing a third request for an extension of time to meet its broadband commitments in these areas, CenturyLink sought the cooperation of Verizon Maryland Inc. to reconfigure existing traffic exchange arrangements for the affected exchanges. This resulted in the execution of the instant Interconnection Agreement between the two companies.

 The Agreement contains fifty sections of General Terms and Conditions, a glossary and four Attachments, including an Appendix and Schedule 1. The Attachments include an Additional Services Attachment, an Interconnection Attachment and a Pricing Attachment with an Appendix A and Schedule 1.

 The Additional Services Attachment details procedures pertaining to alternate billed calls, directory services and good faith performance.

 The Interconnection Attachment details interconnection arrangements including exchange boundary locations, trunk types and operating procedures, transmission and routing details, traffic measurement and billing details, reciprocal compensation arrangements, other types of traffic, transmission and routing of exchange access traffic, meet point billing arrangements, toll free access code traffic, tandem transit traffic, numbering resources, joint network implementation process, and number portability.

The Pricing Attachment details types and origins of charges as well as provisions for regulatory review.

Appendix A to the Pricing Attachment lists prices or sources for Reciprocal Compensation, Tandem Transit Traffic, Entrance Facility and Transport Charges and Exchange Access Service for each ILEC.

Schedule 1 lists those exchanges in each ILEC’s territory where Extended Local Calling arrangements are in effect.

**C. Disposition**

 We shall approve the Agreement, finding that it satisfies the two-pronged criteria of Section 252(e) of TA-96. We note that in approving this privately negotiated Agreement, we express no opinion regarding the enforceability of our independent state authority preserved by 47 U.S.C. § 251(d)(3) and any other applicable law.

 We shall minimize the potential for discrimination against other carriers not parties to the Agreement by providing here that our 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 Agreement does not discriminate against other telecommunications carriers not parties to the negotiations.

 TA‑96 requires that the terms of the Agreement be made available for other parties to review. 47 U.S.C. § 252(h). However, this availability is only for purposes of full disclosure of the terms and arrangements contained therein. The accessibility of the Agreement and its terms to other parties does not connote any intentthat our approval will affect the status of negotiations between other parties. In this context, we will not require CenturyLink and Verizon MD to embody the terms of the Agreement in a filed tariff.

 With regard to the public interest element of this matter, we note that no negotiated interconnection agreement may affect those obligations of the ILEC in the areas of protection of public safety and welfare, service quality, and the rights of consumers. *See*, *e.g*., Section 253(b). This is consistent with TA‑96 and with Chapter 30 of the Public Utility Code, wherein service quality and standards, *i.e.*, 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 E911 services and conclude that these provisions of the Agreement are consistent with the public interest.

 Before concluding, we note that the Joint Petitioners have filed a signed, true and correct copy of the Agreement as part of their Joint Petition. The Commission’s Secretary’s Bureau has published an electronic copy of the Agreement to the Commission’s website prior to publishing notice of the Agreement in the *Pennsylvania Bulletin*. Consistent with our May 3, 2004 Order at Docket No. M-00960799, since we will approve the Agreement without any modifications, as filed, we will not require the Joint Petitioners to file an electronic copy of the Agreement after the entry of this Opinion and Order.

**Conclusion**

 Based on the foregoing and pursuant to Section 252(e) of TA‑96 and our *Implementation Orders,* we determine that the Agreement between CenturyLink and Verizon MD 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 for approval of an Interconnection Agreement, filed on May 20, 2011, by The United Telephone Company of Pennsylvania LLC d/b/a CenturyLink and Verizon Maryland Inc., pursuant to the Telecommunications Act of 1996 and the Commission's Orders in *In Re: Implementa­tion of the Telecommunications Act of 1996*, Docket No. M‑00960799 (Order entered June 3, 1996); *Order on Reconsideration* (Order entered September 9, 1996); and *Proposed* *Modifications to the Review of Interconnection Agreements* (Order entered May 3, 2004) 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 Interconnection Agreement.

 3. That this matter be marked closed.

** BY THE COMMISSION,**

 Rosemary Chiavetta

 Secretary

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(SEAL)

ORDER ADOPTED: July 28, 2011

ORDER ENTERED: July 28, 2011

1. “The Act [TA-96] does not give any express guidance as to when agreements must be filed with the state commission. However, since the period for negotiations concludes on day 160, we conclude that an executed, negotiated inter­connection agreement accompanied by a joint petition for adoption of the agreement shall be filed no later than thirty (30) days following the close of the negotiations phase or by day 190 following the request for interconnection.” *Id*. [↑](#footnote-ref-1)
2. The BFRR was established by Act 183 of 2004. It consists of a program developed and implemented by participating Incumbent Local Exchange Carriers in order to attract and aggregate requests by their subscribers for broadband services. [↑](#footnote-ref-2)