


PENNSYLVANIA PUBLIC UTILITY COMMISSION
Uniform Cover and Calendar Sheet

000034

1. REPORT DATE: April 30, 2007	2. BUREAU AGENDA NO. MAY-2007-OSA-0104*
3. BUREAU: Office of Special Assistants	
4. SECTION(S):	5. PUBLIC MEETING DATE:
6. APPROVED BY: Director: C.W. Davis 7-1827 Mgr/Spvr: R. Marinko 3-3930 Legal Review: A. Arnold 7-8032	May 10, 2007
7. PERSONS IN CHARGE: C. Muriceak 3-5155	9. EFFECTIVE DATE OF FILING: June 11, 2007
8. DOCKET NO.: A-310828F7000	<div style="text-align: center;">  MAY 16 2007 </div>

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

(a) Joint Petition of Verizon Pennsylvania Inc. (Verizon PA) and FiberNet Telecommunications of Pennsylvania, LLC (FiberNet) for Approval of Amendment No. 3 to an existing Interconnection Agreement Under Section 252(e) of the Telecommunications Act of 1996.

(b) On March 12, 2007, Verizon PA and FiberNet filed a Joint Petition seeking approval of Amendment No. 3 to an existing Interconnection Agreement. Notice of the Joint Petition was published in the *Pennsylvania Bulletin* on March 24, 2007. No comments have been received.

(c) The Office of Special Assistants recommends that the Commission adopt a proposed Opinion and Order which grants the Joint Petition.

**DOCUMENT
FOLDER**

11. MOTION BY: Commissioner Chm. Holland
SECONDED: Commissioner Cawley
 Commissioner Pizzingrilli - Yes
 Commissioner Fitzpatrick - Yes
 Commissioner

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 15, 2007

A-310828 F7000

STEVEN HAMULA
211 LEON SULLIVAN WAY
CHARLESTON WV 25301

DOCUMENT FOLDER

Joint Petition of Verizon Pennsylvania Inc. and FiberNet Telecommunications of Pennsylvania, LLC for approval of Amendment No. 3 to an Interconnection Agreement under Section 252(e) of the Telecommunications Act of 1996.

To Whom It May Concern:

This is to advise you that the Commission in Public Meeting on May 10, 2007 has adopted an Opinion and Order in the above entitled proceeding.

An Opinion and Order has been enclosed for your records.

Very truly yours,

James J. McNulty
Secretary

encls
cert. mail
MH

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PHILADELPHIA PA 19103

PENNSYLVANIA
PUBLIC UTILITY COMMISSION
Harrisburg, PA 17105-3265

Public Meeting held May 10, 2007

Commissioners Present:

Wendell F. Holland, Chairman
James H. Cawley, Vice Chairman
Kim Pizzingrilli
Terrance J. Fitzpatrick

DOCUMENT
FOLDER

Joint Petition of Verizon Pennsylvania Inc. and
FiberNet Telecommunications of
Pennsylvania, LLC for Approval of
Amendment No. 3 to an Interconnection
Agreement Under Section 252(e) of the
Telecommunications Act of 1996

A-310828F7000

DOCKETED
OCT 05 2007

OPINION AND ORDER

BY THE COMMISSION:

Before the Commission for consideration is the Joint Petition for approval of Amendment No. 3 to an Interconnection Agreement (Joint Petition) between Verizon Pennsylvania Inc. (Verizon PA) and FiberNet Telecommunications of Pennsylvania, LLC (FiberNet), 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 *Re: Implementation of the Telecommunications Act of 1996*, Docket No. M-00960799 (Order entered on June 3, 1996; Order on Reconsideration entered on September 9, 1996); *see*

also Proposed Modifications to the Review of Interconnection Agreements (Order entered on May 3, 2004). (*Implementation Orders*).

History of the Proceeding

On March 12, 2007, Verizon PA and FiberNet filed the Joint Petition seeking approval of Amendment No. 3 (Amendment) which supplements the terms of the Interconnection Agreement (Agreement) which was approved by the Commission by Order entered on January 12, 2000, at Docket No. A-310828F0002. This Amendment will be attached to, and made part of, the Agreement.

The Commission published notice of the Joint Petition and the Amendment in the *Pennsylvania Bulletin* on March 24, 2007, advising that any interested parties could file comments within ten days. No comments have been received.

The Amendment has an effective date of February 2, 2007, and a termination date of February 1, 2010. The Amendment shall remain in effect until its termination date, unless it is cancelled earlier by one of the Parties as provided for in the Amendment. Thereafter, the Amendment shall remain in effect, unless it is cancelled by one of the Parties as provided for in the Amendment. Attachment 2 at 8-9.

Verizon PA is an Incumbent Local Exchange Company (ILEC) authorized to provide local exchange telephone service in Pennsylvania. FiberNet is authorized to provide telecommunications services as a Competitive Local Exchange Carrier.

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 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 Amendment submitted by Verizon PA and FiberNet.

B. Summary of Terms

Amendment No. 3 sets forth terms and conditions under which the Parties shall issue, on or after the Amendment effective date, all invoices for services provided under the Interconnection Agreement(s), as well as the terms and conditions for payment of such invoices. Attachment 2 at 3.

C. Disposition

We shall approve the Amendment, finding that it satisfies the two-pronged criteria of Section 252(e) of TA-96. We note that in approving this privately negotiated Agreement, including any provisions limiting unbundled access to Verizon PA's network, 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 Amendment by providing here that our approval of this Amendment 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 Amendment does not discriminate against other telecommunications carriers not parties to the negotiations.

TA-96 requires that the terms of the Amendment 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 Amendment 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 Verizon PA and FiberNet to embody the terms of the Amendment in a filed tariff.

Consistent with our May 3, 2004 Order at Docket No. M-00960799, we shall require that the ILEC file an electronic, true and correct copy of the Amendment to

the Interconnection Agreement in “.pdf format” for inclusion on the Commission’s website, within thirty days of the entry date of this Opinion and Order.

Conclusion

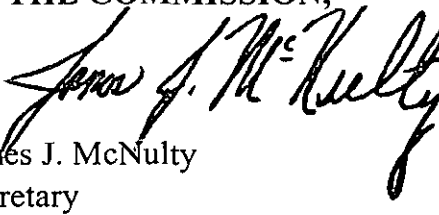
Based on the foregoing and pursuant to Section 252(e) of TA-96, *supra*, and our *Implementation Orders*, we determine that Amendment No. 3 to the Interconnection Agreement between Verizon PA and FiberNet is non-discriminatory to other telecommunications companies not parties to it and that it is consistent with the public interest; **THEREFORE,**

IT IS ORDERED:

1. That the Joint Petition for approval of Amendment No. 3 to the Interconnection Agreement filed on March 12, 2007, by Verizon Pennsylvania Inc. and FiberNet Communications of Pennsylvania, LLC 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 on June 3, 1996; *Order on Reconsideration* entered on September 9, 1996); and *Proposed Modifications to the Review of Interconnection Agreements* (Order entered on May 3, 2004) is granted, consistent with this Opinion and Order.
2. That approval of Amendment No. 3 to the Interconnection Agreement shall not serve as binding precedent for negotiated or arbitrated agreements between non-parties to the subject Amendment.
3. That Verizon Pennsylvania Inc. shall file an electronic copy of Amendment No. 3 to the Interconnection Agreement in “.pdf format” with this

Commission within thirty (30) days of the entry of this Opinion and Order, for inclusion on the Commission's website.

BY THE COMMISSION,




James J. McNulty
Secretary

(SEAL)

ORDER ADOPTED: May 10, 2007

ORDER ENTERED: MAY 15 2007

2. Article Number



7160 3901 9843 1960 6607

3. Service Type **CERTIFIED MAIL**

4. Restricted Delivery? (Extra Fee) Yes

1. Article Addressed to:

COMPLETE THIS SECTION ON DELIVERY

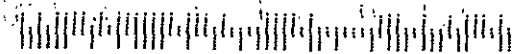
A. Received by (Please Print Clearly) A ADAMS B. Date of Delivery 5-17-07

C. Signature [Signature] Agent Addressee


X [Signature] Yes No

D. Is delivery address different from item 1? If YES, enter delivery address below:

A-310828 F7000 010
 SUZAN PAING

PS Form 381  pt

2. Article Number



7160 3901 9843 1960 6959

3. Service Type **CERTIFIED MAIL**

4. Restricted Delivery? (Extra Fee) Yes

1. Article Addressed to:

COMPLETE THIS SECTION ON DELIVERY

A. Received by (Please Print Clearly) Patty Castro B. Date of Delivery 5-17-07

C. Signature [Signature] Agent Addressee

X [Signature] Yes No

D. Is delivery address different from item 1? If YES, enter delivery address below:

A-310828 F7000 010
 Steven Hamala

PS Form 38  pt