

PENNSYLVANIA PUBLIC UTILITY COMMISSION
Uniform Cover and Calendar Sheet

1. <u>REPORT DATE:</u> May 10, 2005	2. <u>BUREAU AGENDA NO.</u> MAY-2005-OSA-0173*
3. <u>BUREAU:</u> Office of Special Assistants	
4. <u>SECTION(S):</u>	5. <u>PUBLIC MEETING DATE:</u>
6. <u>APPROVED BY:</u> Director: C.W. Davis 7-1827 Mgr/Spvr: Legal Review: A. Arnold 7-8032	May 19, 2005
7. <u>PERSONS IN CHARGE:</u> G. Strella 7-1023	9. <u>EFFECTIVE DATE OF FILING:</u> July 10, 2005
8. <u>DOCKET NO.:</u> A-310189F7000	

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

(a) Joint Petition for Approval of Amendment No. 1 to an Interconnection Agreement Between Verizon Pennsylvania Inc. and Qwest Communications Corporation, under Section 252(e) of the Telecommunication Act of 1996

(b) On April 11, 2005, Verizon PA and Qwest filed a Joint Petition seeking approval of Amendment No. 1 to an existing Interconnection Agreement. Notice of the Joint Petition was published in the *Pennsylvania Bulletin* on April 23, 2005. No comments have been received.

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

RJP

DOCKETED
MAY 25 2005

Order Doc. No. 541064v1

Calendar Doc. No. 541069v1

10. **MOTION BY:** Commissioner Chm. Holland
SECONDED: Commissioner Bloom

Commissioner Pizzingrilli - Yes
 Commissioner
 Commissioner

CONTENT OF MOTION: Staff recommendation adopted.

**DOCUMENT
FOLDER**



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

IN REPLY PLEASE
REFER TO OUR FILE

MAY 24, 2005

A-310189F7000

DANIEL E MONAGLE ESQUIRE
VERIZON PENNSYLVANIA, INC.
1717 ARCH STREET 32-N
PHILADELPHIA PA 19103

DOCKETED
AUG 8 0 2005

Joint Petition for Approval of Amendment No. 1 to an Interconnection Agreement between Verizon Pennsylvania, Inc., and Qwest Communications Corporation, under Section 252(e) of the Telecommunication Act of 1996.

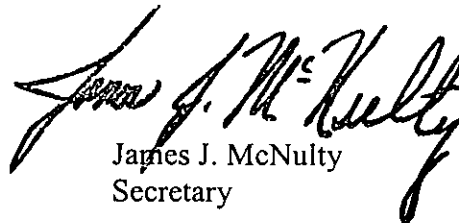
**DOCUMENT
FOLDER**

To Whom It May Concern:

This is to advise you that the Commission in Public Meeting on May 19, 2005 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

fg
encls
cert. mail

PENNSYLVANIA
PUBLIC UTILITY COMMISSION
Harrisburg, PA 17105-3265

Public Meeting held May 19, 2005

Commissioners Present:

Wendell F. Holland, Chairman
Robert K. Bloom, Vice-Chairman
Kim Pizzingrilli

DOCKETED
AUG 30 2005

Joint Petition for Approval of Amendment
No. 1 to an Interconnection Agreement
Between Verizon Pennsylvania Inc. and Qwest
Communications Corporation, under Section
252(e) of the Telecommunication Act of 1996

A-310189F7000

**DOCUMENT
FOLDER**

OPINION AND ORDER

BY THE COMMISSION:

Before the Commission for consideration is the Joint Petition for approval of Amendment No. 1 to an Interconnection Agreement (Joint Petition) between Verizon Pennsylvania Inc. (Verizon PA) and Qwest Communications Corporation, (Qwest) 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 April 11, 2005, Verizon PA and Qwest filed the Joint Petition seeking approval of Amendment No. 1 (Amendment) which supplements the terms of the Interconnection Agreement (Agreement) which was approved by the Commission by Opinion and Order entered on November 8, 1999. 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 April 23, 2005, advising that any interested parties could file comments within ten days. No comments have been received.

The Amendment has an effective date of March 1, 2005, and a termination date of February 28, 2007. Thereafter, the Amendment shall remain in effect unless cancelled by one of the Parties as provided for in the Amendment.

Verizon PA is an incumbent local exchange carrier (ILEC) authorized to provide local exchange telephone service in Pennsylvania. Qwest is certificated with the Pennsylvania Public Utility Commission to provide service as a competitive local exchange service provider and a reseller.

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 Qwest.

B. Timeliness of Filing

The Agreement between Verizon PA and Qwest became effective on March 1, 2005. A period of 41 days has 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

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 Public Utility Code, 66 Pa. C.S. § 3301.

C. Summary of Terms

Amendment No. 1 states that, to the extent required by the Agreement to provide direct current (DC) electric power for collocation to Qwest, Verizon PA shall provide DC power in accordance with the rates, terms and conditions set forth in Verizon PA's intrastate collocation tariffs.

D. 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 USC §251(d)(3) and any other applicable law.

We shall minimize the potential for discrimination against other carriers not a party to the Amendment by providing here that our approval of this Amendment shall

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.*).

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 a telecommunications carrier not a party 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 do 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 Qwest to embody the terms of the Amendment in a filed tariff.

Consistent with our May 3, 2004 Order at Docket No. M-00960799, we do require that the ILEC file a jointly signed, true and correct copy of the Amendment with the Commission, within thirty days after the date that it is signed for retention in the Commission's official files so that it is available to the public for inspection and copying consistent with the procedures related to public access to documents. We also 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.

With regard to the public interest element of this matter, we note that no negotiated interconnection agreement may affect those obligations of the telecommunications company 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 wherein service quality and standards, *i.e.*, Universal Service, 911, Enhanced 911, and

Telecommunications Relay Service, are inherent obligations of the ILEC, 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 instant Agreement are consistent with the public interest.

Conclusion

Based on the foregoing and pursuant to Section 252(e) of TA-96, *supra*, and our *Implementation Orders*, we determine that Amendment No. 1 to the Interconnection Agreement between Verizon PA and Qwest is non-discriminatory to other telecommunications companies not party to it and that it is consistent with the public interest;

THEREFORE,

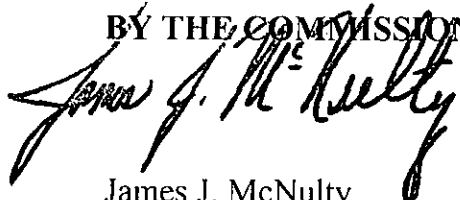
IT IS ORDERED:

1. That the Joint Petition for approval of Amendment No. 1 to the Interconnection Agreement filed on April 11, 2005, by Verizon Pennsylvania Inc. and Qwest Communications Corporation, 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. 1 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. 1 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.

4. That, within thirty (30) days of the date of entry of this Opinion and Order, Verizon Pennsylvania Inc. shall notify the Commission as to whether Amendment No. 1 to the Interconnection Agreement filed on April 11, 2005, is a signed, true and correct copy. If Amendment No. 1 to the Interconnection Agreement filed April 11, 2005, is not a signed, true and correct copy, Verizon Pennsylvania Inc. is directed to file a signed, true and correct copy of Amendment No. 1 to the Interconnection Agreement 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: May 19, 2005

ORDER ENTERED: **MAY 24 2005**

2. Article Number



7160 3901 9843 0727 7185

3. Service Type **CERTIFIED MAIL**

4. Restricted Delivery? (Extra Fee) Yes

1. Article Addressed to:

A-310189F7000 O/O
DANIEL E MONAGLE ESQUIRE
VERIZON PENNSYLVANIA, INC.
1717 ARCH STREET 32-N
PHILADELPHIA PA 19103

BT1

COMPLETE THIS SECTION ON DELIVERY

A. Received by (Please Print Clearly)

A. Adams

B. Date of Delivery

5/26/05

C. Signature

X A Adams

Agent
 Addressee

D. Is delivery address different from item 1?

If YES, enter delivery address below:

Yes
 No