

<b>1. <u>REPORT DATE:</u></b> August 21, 2007	<b>2. <u>BUREAU AGENDA NO.</u></b> AUG-2007-OSA-0198*
<b>3. <u>BUREAU:</u></b> Office of Special Assistants	
<b>4. <u>SECTION(S):</u></b>	<b>5. <u>PUBLIC MEETING DATE:</u></b>
<b>6. <u>APPROVED BY:</u></b> Director: C.W. Davis Mgr/Spvr: R. Marinko Legal Review: C. Pennington	August 30, 2007
<b>7. <u>PERSONS IN CHARGE:</u></b> C. Muriceak 3-5155	<b>9. <u>EFFECTIVE DATE OF FILING:</u></b> September 11, 2007
<b>8. <u>DOCKET NO.:</u></b> A-310183F7011	<b>DOCKETED</b> SEP 06 2007

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

**DOCUMENT FOLDER**

(a) Joint Petition of Palmerton Telephone Company (Palmerton) and Sprint Communications Company L.P. (Sprint) for Approval of an Interconnection Agreement Under Section 252(e) of the Telecommunications Act of 1996.

(b) On June 13, 2007, Palmerton and Sprint filed a Joint Petition seeking approval of an Interconnection Agreement pursuant to Section 252(e) of the Telecommunications Act of 1996. Notice of the Joint Petition was published in the *Pennsylvania Bulletin* on June 30, 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, thus permitting the Interconnection Agreement to become effective consistent with the discussion therein.

**11. MOTION BY:** Commissioner Chm. Holland

Commissioner Fitzpatrick - Yes

**SECONDED:** Commissioner Cawley

Commissioner Christy - Yes

Commissioner Pizzigrilli - 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

August 30, 2007

A-310183F7011

JENNIFER A DUANE STATE REGULATORY ATTY  
SPRINT NEXTEL CORPORATION  
2001 EDMUND HALLEY DRIVE 2<sup>ND</sup> FL STE A208  
RESTON VA 20191

**DOCUMENT  
FOLDER**

Joint Petition of Palmerton Telephone Company and Sprint Communications Company L.P. for  
Approval of an Interconnection Agreement under Section 252(e) of the Telecommunications Act of  
1996

**DOCKETED**  
OCT 02 2007

To Whom It May Concern:

This is to advise you that the Commission in Public Meeting on August 30, 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  
JF

DAVID L MASENHEIMER GENERAL COUNSEL  
PALMERTON TELEPHONE COMPANY  
613 THIRD STREET PO BOX 134  
PALMERTON PA 18071

PENNSYLVANIA  
PUBLIC UTILITY COMMISSION  
Harrisburg, PA 17105-3265

Public Meeting held August 30, 2007

Commissioners Present:

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

DOCUMENT  
FOLDER

Joint Petition of Palmerton Telephone Company  
and Sprint Communications Company L.P. for  
Approval of an Interconnection Agreement  
under Section 252(e) of the  
Telecommunications Act of 1996

A-310183F7011

OPINION AND ORDER

DOCKETED  
OCT 02 2007

**BY THE COMMISSION:**

Before the Commission for consideration is the Joint Petition of Palmerton Telephone Company (Palmerton) and Sprint Communications Company L.P. (Sprint) for approval of a negotiated Interconnection Agreement (Agreement) 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, the Commission's Opinion and 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); *see*

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

### **History of the Proceeding**

On June 13, 2007, Palmerton and Sprint filed the instant Joint Petition requesting approval of the subject Agreement. The Commission published notice of the Joint Petition and the Agreement in the *Pennsylvania Bulletin* on June 30, 2007, advising that any interested parties could file comments within ten (10) days. No comments have been received.

The Agreement is made effective upon approval of the Commission or ninety days from the date the Agreement was filed should the Commission not act to approve or reject the Agreement within those ninety days. The Agreement has an initial term of one year. Unless renegotiated or terminated, this Agreement will automatically renew for successive one year periods. (Agreement at 3).

In the Joint Petition before us, Palmerton is the Incumbent Local Exchange Carrier (ILEC) and Sprint is a Competitive Local Exchange Carrier (CLEC) in Pennsylvania.

### **Discussion**

#### **A. Standard of Review**

The standard of review of a negotiated interconnection agreement is set out in Section 252(e) of TA-96, 47 U.S.C. § 252(e)(2). Section 252(e) 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 (1) 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 the foregoing criteria in mind, we shall review the Agreement submitted by Palmerton and Sprint.

**B. Summary of Terms**

In their Joint Petition, Palmerton and Sprint aver, *inter alia*, that the Agreement is the result of good faith negotiations between the parties as contemplated by Section 252(a) of the Act and provides for interconnection as addressed in Section 251 of the Act. Palmerton and Sprint assert that the Agreement complies with the criteria identified in the Act at 47 U.S.C. § 252(e) quoted above, pursuant to which we must determine whether to accept or reject the Agreement. The Parties state that the Agreement is not discriminatory. (Joint Petition at 1-2).

The Agreement sets forth the general terms, conditions and billing and *payment requirements under which service will be provided.* (Agreement at 3-21). Schedule I to the Agreement shows the Pricing Schedule. (Agreement at 22). The Pricing Schedules indicates that the Parties agree a reciprocal compensation rate on a “bill

and keep” basis. If it is determined that the traffic is not evenly balanced, the Parties will negotiate a reciprocal compensation rate as set forth in Section 19.1.

It is important to note that upon staff review of the Agreement, it was determined that the Agreement failed to address interconnection arrangements with the relevant 911/E911 Public Safety Answering Points. Upon request by our Staff, on August 7, 2007, the Parties filed an Amendment to supplement the instant Interconnection Agreement by affirming that each party is independently responsible for the arrangement of direct interconnection and administrative arrangement with the relevant Public Safety Answering Point (PSAP) for the provision of 911/E911 to users of the respective telephone exchange services. The August 7, 2007 Amendment will be published in the *Pennsylvania Bulletin* and the Commission will issue a subsequent order on the Amendment afterward. As such, we shall require, as a condition of approval of this Agreement, that the Parties ensure that all 911 calls are properly routed through the appropriate PSAP until such time that the August 7, 2007 Amendment is approved.

### **C. Disposition**

Based upon our review of the Agreement, we shall approve it, finding that it satisfies the two-pronged criteria of Section 252(e) of TA-96. 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 a telecommunications carrier not a party to the negotiations.

We note that TA-96 requires that the terms of the Agreement be made available for other parties to review (§ 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 intent that our approval will affect the status of negotiations between other parties. In this context, we will require neither Palmerton nor Sprint to embody the terms of the Agreement in a filed tariff, but we will require that the Parties file the Agreement with this Commission.<sup>1</sup>

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 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. As noted, we shall approve this agreement on the condition that each Party will ensure that all 911 calls are properly routed to the relevant PSAP. We conclude that the instant Agreement is consistent with the public interest.

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

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<sup>1</sup> It is noted that, regardless of the types of services covered by this Interconnection Agreement, it would be a violation of the Public Utility Code if the Applicant began offering service or assessing surcharges, to end users, for which it has not been authorized to provide and for which tariffs have not been authorized.

## Conclusion

Based on the foregoing and pursuant to Section 252 of TA-96, *supra*, and our *Implementation Orders*, we determine that the Interconnection Agreement between Palmerton and Sprint is non-discriminatory to other telecommunications companies not parties to it and that it is consistent with the public interest; **THEREFORE,**

### **IT IS ORDERED:**

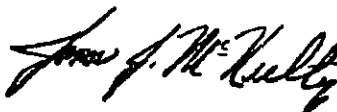
1. That the Joint Petition of Palmerton Telephone Company and Sprint Communications Company L.P., seeking the approval of a negotiated Interconnection Agreement filed on June 13, 2007, pursuant to the Telecommunications Act of 1996 and the Commission's Opinion and Orders in *In Re: Implementation of the Telecommunications Act of 1996*, Docket No. M-00960799 (Order entered on June 3, 1996; *Order on Reconsideration* entered on September 9, 1996) is granted, consistent with this *Opinion and Order*, and on the condition that each Party to the Agreement ensures the proper routing of all 911/E911 calls to the appropriate Public Safety Answering Point.

2. That approval of the Agreement shall not serve as binding precedent for negotiated or arbitrated agreements between non-parties to the subject Agreement.



3. That Palmerton Telephone Company shall file electronic copies of the 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: August 30, 2007

ORDER ENTERED: **AUG 30** 2007