

PENNSYLVANIA PUBLIC UTILITY COMMISSION  
Uniform Cover and Calendar Sheet

1. <u>REPORT DATE:</u> May 23, 2006	2. <u>BUREAU AGENDA NO.</u> JUN-2006-OSA-0134*
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: R. Marinko 3-3930 Legal Review: A. Arnold 7-8032	June 1, 2006 <b>DOCUMENT FOLDER</b>
7. <u>PERSONS IN CHARGE:</u> G. Strella 7-1023	9. <u>EFFECTIVE DATE OF FILING:</u> July 14, 2006
8. <u>DOCKET NO.:</u> A-310213F7002	<b>DOCKETED</b> AUG 28 2006

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

(a) Joint Petition of The United Telephone Company of Pennsylvania, d/b/a Sprint (Sprint) and TCG Pittsburgh, Inc. (TCG) for Approval of a Master Interconnection, Collocation and Resale Agreement Under Section 252(e) of the Telecommunications Act of 1996.

(b) On April 13, 2006, Sprint and TCG filed the Joint Petition seeking approval of an Interconnection Agreement. Notice of the Joint Petition was published in the *Pennsylvania Bulletin* on May 6, 2006. 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.

Order Doc. No. 610582v1

Calendar Doc. No. 610587v1

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

June 5, 2006

A-310213 F7002

ZSUZSANNA E BENEDEK ESQ  
240 NORTH THIRD STREET  
SUITE 201  
HARRISBURG PA 17101

DOCUMENT  
FOLDER

Joint Petition of The United Telephone Company  
of Pennsylvania, d/b/a Sprint and TCG Pittsburgh, Inc.  
for Approval of a Master Interconnection, Collocation and Resale 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 June 1, 2006 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

RJP

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

Public Meeting held June 1, 2006

Commissioners Present:

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

Joint Petition of The United Telephone  
Company of Pennsylvania, d/b/a Sprint and  
TCG Pittsburgh, Inc. for Approval of a Master  
Interconnection, Collocation and Resale  
Agreement Under Section 252(e) of the  
Telecommunications Act of 1996

A-310213F7002

**OPINION AND ORDER**

**BY THE COMMISSION:**

Before the Commission for consideration is the Joint Petition (Joint Petition) for approval of a Master Interconnection, Collocation and Resale Agreement between The United Telephone Company of Pennsylvania, d/b/a Sprint (Sprint) and TCG Pittsburgh, Inc. (TCG) 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 13, 2006, Sprint and TCG filed the Joint Petition seeking approval of the Agreement. The Commission published notice of the Joint Petition and the Agreement in the *Pennsylvania Bulletin* on May 6, 2006, advising that any interested parties could file comments within ten days. No comments have been received.

The Agreement has an effective date of March 13, 2006, and a termination date of March 12, 2008. The Agreement shall remain in effect until its termination date, unless it is cancelled earlier by one of the Parties as provided for in the Agreement. No later than one-hundred sixty (160) days prior to the termination date, TCG will provide Sprint with notice to commence negotiations pursuant to Sections 251 and 252 of TA-96 regarding the terms, conditions and rates for a successor agreement to be effective on or before the termination date. (Agreement at 15).

In the Joint Petition before us, Sprint is the Incumbent Local Exchange Carrier (ILEC) and TCG is a Reseller and a Competitive Local Exchange Carrier.<sup>1</sup>

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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, 66 Pa. C.S. §§ 101 *et seq.*, if the Applicant began offering services or assessing surcharges to end users which it has not been authorized to provide and for which tariffs have not been authorized.

## **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 Agreement submitted by Sprint and TCG.

## **B. Summary of Terms**

The Agreement contains the resale and wholesale terms, rates and conditions for the interconnection of the Parties' local exchange networks for the purpose of transmission and termination of calls, so that customers of each can receive calls that originate on the other's network and place calls that terminate on the other's network, and for TCG's purchase of telecommunications services for resale to others. The Agreement also contains the terms, rates and conditions under which Sprint will provide collocation to TCG. Table 1 of the Agreement provides for a resale discount of 15.26% for operator assisted and directory assistance calls and 10.87% for all others. (Table 1 at 151).

Table 1 also contains rates applicable to unbundled network elements, ancillary services and functions and features for which Sprint agrees to provide to TCG. The Reciprocal Compensation rate for traffic termination is on a “bill and keep” basis. (Table 1 at 155).

### **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, including any provisions limiting unbundled access to Sprint’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 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 intent that our approval will affect the status of negotiations between other parties. In this context, we will not require Sprint and TCG 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 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.

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 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 the Interconnection Agreement between Sprint and TCG 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 a Master Interconnection, Collocation and Resale Agreement filed on April 13, 2006, by The United Telephone Company of Pennsylvania, d/b/a Sprint and TCG Pittsburgh, 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 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.

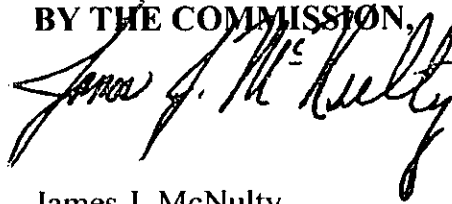
2. That approval of the Interconnection Agreement shall not serve as binding precedent for negotiated or arbitrated agreements between non-parties to the subject Agreement.

3. That The United Telephone Company of Pennsylvania, d/b/a Sprint shall file an electronic copy of 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,

A handwritten signature in black ink, appearing to read "James J. McNulty", written over the printed text "BY THE COMMISSION,".

James J. McNulty  
Secretary

(SEAL)

ORDER ADOPTED: June 1, 2006

ORDER ENTERED:

JUN 05 2006

2. Article Number



7160 3901 9843 1135 5756

3. Service Type **CERTIFIED MAIL**

4. Restricted Delivery? (Extra Fee)  Yes

1. Article Addressed to:

A-310213F70002 0/0

Zsuzsanna E. Benedek Esq

COMPLETE THIS SECTION ON DELIVERY

A. Received by (Please Print Clearly)

H. Walls

B. Date of Delivery

6/6/86

C. Signature

x *Heather Dale*

Agent

Addressee

D. Is delivery address different from item 1?

Yes

If YES, enter delivery address below:

No