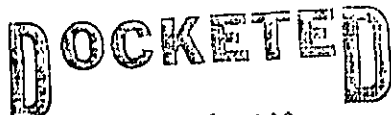


PENNSYLVANIA PUBLIC UTILITY COMMISSION
Uniform Cover and Calendar Sheet

1. <u>REPORT DATE:</u> November 16, 2000	2. <u>BUREAU AGENDA NO.</u> NOV-2000-OSA-0352*
3. <u>BUREAU:</u> Office of Special Assistants	
4. <u>SECTION(S):</u>	5. <u>PUBLIC MEETING DATE:</u> November 29, 2000
6. <u>APPROVED BY:</u> Director: Cheryl W. Davis <i>7-1827</i> Supervisor:	
7. <u>PERSONS IN CHARGE:</u> David Munsch 7-1660	 DEC 11 2000
8. <u>DOCKET NO.:</u> <i>7002</i> A-310513F 0002	

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

(a) Joint Application of The United Telephone Company of Pennsylvania d/b/a Sprint and Sprint Spectrum L.P., d/b/a Sprint PCS for Approval of a Commercial Mobile Radio Services Interconnection Agreement Under Section 252(e) of the Telecommunications Act of 1996

(b) On August 25, 2000, Sprint and Sprint PCS filed a Joint Application seeking approval of a Commercial Mobile Radio Services Interconnection Agreement under Section 252(e) of the Telecommunications Act of 1996. Notice of the Application was published in the *Pennsylvania Bulletin* on November 18, 2000. No comments have been filed.

(c) The Office of Special Assistants recommends that the Commission adopt the proposed draft Opinion and Order which approves the Joint Application and Agreement.

Order Doc. No. 222268v1

Calendar Doc. No. 222353v1

10. **MOTION BY:** Commissioner V.C. Bloom Commissioner Wilson - Yes
Commissioner Fitzpatrick - Yes
SECONDED: Commissioner Brownell Commissioner

CONTENT OF MOTION: Staff recommendation adopted.

**DOCUMENT
FOLDER**



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

NOVEMBER 30, 2000

IN REPLY PLEASE
REFER TO OUR FILE

7002
A-310513F0002

DOCKETED
DEC 06 2000

CHARLES W MCKEE REG CNSL
SPRINT PCS
4900 MAIN ST 12TH FLOOR
KANSAS CITY MO 64112-2630

Joint Application of The United Telephone Company of Pennsylvania,
d/b/a Sprint and Sprint Spectrum L.P., d/b/a Sprint PCS for approval
of a Commercial Mobile Radio Services Interconnection
Agreement under section 252(e) of the telecommunications act of 1996

To Whom It May Concern:

This is to advise you that an Opinion and Order has been adopted by the Commission in Public Meeting on November 29, 2000 in the above entitled proceeding.

An Opinion and Order has been enclosed for your records.

**DOCUMENT
FOLDER**

Very truly yours,

James J. McNulty
Secretary

Enclosure
Certified Mail
FG

See Attached Listing for Additional Parties of Record

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

Public Meeting held November 29, 2000

Commissioners Present:

Robert K. Bloom, Vice Chairman
Nora Mead Brownell
Aaron Wilson, Jr.
Terrance J. Fitzpatrick

Joint Application of The United Telephone
Company of Pennsylvania, d/b/a Sprint and Sprint
Spectrum L.P., d/b/a Sprint PCS for Approval of a
Commercial Mobile Radio Services
Interconnection Agreement Under Section 252(e)
of the Telecommunications Act of 1996

A-310513F0002

**DOCUMENT
FOLDER**

OPINION AND ORDER

DOCKETED
DEC 06 2000

BY THE COMMISSION:

Before the Commission for consideration is the Joint Application of The United Telephone Company of Pennsylvania, d/b/a Sprint (Sprint) and Sprint Spectrum L.P., d/b/a Sprint PCS (Sprint PCS) for Approval of a Commercial Mobile Radio Services (CMRS) Interconnection Agreement (Joint Application) filed pursuant to the Telecommunications Act of 1996 (TA-96), Pub. L. No. 104-104, 110 Stat. 56 (codified as amended in scattered sections of Title 47, United States Code), 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) (*Implementation Orders*).

History of Proceedings

On August 25, 2000, Sprint and Sprint PCS (collectively, the Parties) filed the instant Joint Application seeking Commission approval of the aforementioned CMRS Interconnection Agreement.¹ The Joint Application provides, in pertinent part, that “[t]he Agreement will enable Sprint PCS to provide two way wireless mobile telecommunications service to business and residential customers in Sprint’s service territory.” (Joint Application, p. 1). The Agreement sets forth the terms, conditions and prices under which Sprint and Sprint PCS will offer and provide network interconnection, reciprocal call transport and termination and ancillary services to each other. (Joint Application, p. 2).

Notice of the filing was published in the *Pennsylvania Bulletin* on November 18, 2000, with comments due ten (10) days after publication. No comments have been received.

¹ Although this Joint Application was filed more than ninety (90) days prior to the entry of this Opinion and Order, and is therefore, deemed approved pursuant to 47 U.S.C. §251(e)(4), we nevertheless issue this Opinion and Order to formalize our approval of the Interconnection Agreement.

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 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. . .

B. Timeliness of the Filing

We note that the instant Agreement became effective June 1, 2000, and will end on May 31, 2001. (Agreement, p. 1). Also, Section 4.2 of the Agreement provides that “it is the intent of the Parties to provide in this Section for interim service arrangements between the Parties at the time of expiration so that service to end users will not be interrupted should a new agreement not be consummated prior to the End Date.” (Agreement, p. 9).

Based on the foregoing, a period of approximately three (3) months has elapsed from the time the Agreement was executed until it was submitted to the state 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).²

We remind the Parties that failure to comply with our *Implementation Order*, 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

The key provisions of the Agreement are as follows:

- (i) Sprint PCS may interconnect its network facilities at any one or more technically feasible Points of Interconnection (POI) within Sprint's network. (Part C.1.1., p. 19);
- (ii) For each LATA in which Sprint PCS wants to establish interconnection with Sprint, Sprint PCS must establish at least one physical POI in each LATA containing a Sprint wire center with which Sprint PCS and Sprint exchange local

² "The Act 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 by no later than thirty (30) days following the close of the negotiations phase or by day 190 following the request for interconnection." (*Id.*)

traffic, as long as LATAs are required by state or federal regulation. (Part C.1.1, p. 19).

- (iii) The Parties agree to establish trunk groups from the POI such that trunking is available to any switching center designated by either party, including end offices, tandems, 911 routing switches, where applicable and directory assistance/operator services switches if available and necessary. (Part C.2.2, p. 22).
- (iv) Sprint will assess Sprint PCS at the rates contained in the Price List (Attachment 1) of the Interconnection Agreement for the following types of interconnection services: (a) Terminating Compensation, (b) Transport, (c) Intra-exchange Interconnection and (d) various features. (Part C.5.1., p. 28).
- (v) The specific terminating compensation rates are agreed upon as follows:

End Office Switching per Minute of Use	\$0.005951
Tandem Switching per Minute of Use	\$0.003050
Common Transport per Minute of Use	\$0.001833

Sprint and Sprint PCS aver that the Agreement complies with TA-96. The Parties to the Agreement aver that the Agreement satisfies the requirements for Commission approval pursuant to Section 252(c)(2)(A) of TA-96 and does not discriminate against any other telecommunications carrier. (Joint Application, p. 2). Sprint is willing to make the interconnection, unbundling and resale arrangements contained in the Agreement available to any other telecommunications carrier to the extent permitted under Section 252(i) of TA-96, 47 U.S.C. §252(i). (Agreement, pp. 2-3). Further, the Parties observe that other

carriers are not bound by the Agreement and remain free to negotiate independently with Sprint. (Agreement, p. 3).

D. Disposition

On consideration of the Joint Application and Agreement, we shall approve said Agreement, subject to the discussion contained in this Opinion and Order. We find that the Agreement meets the criteria of Section 252 of TA-96.

We shall minimize the potential for discrimination against other carriers not a party to the Agreement by providing that our approval of this Agreement shall not serve as precedent for arrangements 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 Alternative Dispute Resolution Process, 52 Pa. Code §69.391, *et seq.*).

TA-96 requires that the terms of the Agreement be made available for other parties to review. However, this availability is only for purposes of full disclosure of the terms and arrangements. The availability of the Agreement and its terms to other parties does not connote any intent that our approval will affect the status of negotiations between said parties. On the basis of the foregoing, we find the Agreement does not discriminate against a telecommunications company not a party to the negotiations. In this context, we will not require Sprint to embody the terms of the Agreement in a filed tariff, but will require that Sprint or Sprint PCS file, or cause to be filed, the Agreement with this Commission. The Agreement shall be retained in the public file for inspection and copying consistent with the procedures relating to public access of documents.

With regard to the public interest element of this matter, we note that a negotiated interconnection agreement shall not 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 Section 253(b) of TA-96. This is consistent with TA-96 and the Public Utility Code, Chapter 30, *et al.*, wherein service quality and standards, *i.e.*, universal service, 911, Enhanced 911, and Telecommunications Relay Service, are inherent obligations of the local exchange company which continue unaffected by the negotiated agreement. We have reviewed the Agreement's provisions relating to 911 and E911 services and we find the Agreement consistent with the public interest.

Conclusion

Based on the foregoing and pursuant to Section 252 of TA-96, and our *Implementation Orders*, we find the CMRS Interconnection Agreement between Sprint and Sprint PCS to be non-discriminatory to other telecommunications companies not a party to it and that the Agreement, is, consistent with our discussion, in the public interest; **THEREFORE,**

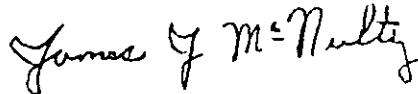
IT IS ORDERED:

1. That the Joint Application of The United Telephone Company of Pennsylvania, d/b/a Sprint and Sprint Spectrum L.P., d/b/a Sprint PCS for Approval of a Commercial Mobile Radio Services Interconnection Agreement filed on August 25, 2000, is approved, consistent with this Opinion and Order.

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

3. That the Parties shall file a true and correct conformed copy the Commercial Mobile Radio Services Interconnection Agreement with this Commission within thirty (30) days of the entry of this Opinion and Order.

BY THE COMMISSION,



James J. McNulty
Secretary

(SEAL)

ORDER ADOPTED: November 29, 2000

ORDER ENTERED: **NOV 30 2000**

CHARLES W MCKEE REG CNSL
SPRINT PCS
4900 MAIN ST 12TH FLOOR
KANSAS CITY MO 64112-2630

ANDY BUFFMIRE
SPRING SPECTRUM LP
4717 GRAND AVENUE
KANSAS CITY MO 64112

BRUCE KAZEE
GTE NORTH INC
100 EXECUTIVE DRIVE
MARION OH 43302

ROBERT BARBER SR ATTY
3033 CHAIN BRIDGE RD
ROOM 3-D
OAKTON VA 22185

PARTRICIA ARMSTRONG ESQUIRE
D MARK THOMAS ESQUIRE
THOMAS THOMAS ARMSTRONG & NIESEN
212 LOCUST STREET
P O BOX 9500
HARRISBURG PA 17108

ELIZABETH MCJIMSEY ESQUIRE
MAILSTOP: MOKCMM1101
4900 MAIN STREET
KANSAS CITY MO 64112

G WILLIAM RUHL PRES
130 EAST MAIN STREET
PO BOX 458
EPHRATA PA 17522

JOSEPH R STEWARD ESQUIRE
50 WEST BROAD STREET
SUITE 3600
COLUMBUS OH 43215