

PENNSYLVANIA PUBLIC UTILITY COMMISSION
Uniform Cover and Calendar Sheet

25

1. REPORT DATE: December 30, 1999	2. BUREAU AGENDA NO.: JAN-2000-OSA-0002*
3. BUREAU: Office of Special Assistants	
4. SECTION(S):	5. PUBLIC MEETING DATE: January 12, 2000
6. APPROVED BY: Director: C.W. Davis 7-1827 Supervisor: <i>[Signature]</i>	
7. PERSON IN CHARGE: D. Munsch 7-1660	
8. DOCKET NO.: A-310801F0002	

DOCUMENT FOLDER
DOCKETED
FEB 2 1999

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

(a) Joint Petition of Bell Atlantic-Pennsylvania, Inc. and Corecomm Pennsylvania, Inc., d/b/a Corecomm for approval of a Resale Agreement under Section 252(e) of the Telecommunications Act of 1996

(b) On October 29, 1999, Bell Atlantic-Pennsylvania, Inc. (BA-PA) and Corecomm Pennsylvania, Inc., d/b/a Corecomm (Corecomm) filed a Joint Petition seeking approval of a Resale Agreement which makes available to Corecomm services offered by BA-PA for resale as well as resale support services.

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

Order Doc. No. 169256v1

Calendar Doc. No. 164962v1

10. MOTION BY: Commissioner Chm. Quain

SECONDED: Commissioner Bloom

Commissioner Brownell - Yes
Commissioner Wilson - Yes
Commissioner Fitzpatrick - Yes

CONTENT OF MOTION: Staff recommendation adopted.

SRB



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

IN REPLY PLEASE
REFER TO OUR FILE

JANUARY 13, 2000

A-310801F0002

CHRISTOPHER A HOLT ASST GENL CNSL
CORECOMM PENNSYLVANIA INC
110 EAST 59TH STREET
NEW YORK NY 10022

DOCKETED
JAN 19 2000

**DOCUMENT
FOLDER**

Joint petition of Bell Atlantic-Pennsylvania, Inc., and
Corecomm Pennsylvania, Inc., d/b/a Corecomm,
For approval of a 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 January 12, 2000 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

Enclosure
Certified Mail
FG

EEF

PENNSYLVANIA
PUBLIC UTILITY COMMISSION
Harrisburg, PA 17105-3265

Public Meeting held January 12, 2000

Commissioners Present:

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

Joint Petition of Bell Atlantic-Pennsylvania,
Inc. and Corecomm Pennsylvania, Inc., d/b/a
Corecomm, For Approval of a Resale
Agreement Under Section 252(e) of the
Telecommunications Act of 1996

A-310801F0002

DOCUMENT
FOLDER

OPINION AND ORDER

DOCKETED
JAN 19 2000

BY THE COMMISSION:

Before the Commission for consideration is the Joint Petition of Bell Atlantic-Pennsylvania, Inc. (BA-PA) and Corecomm Pennsylvania, Inc., d/b/a Corecomm (Corecomm) for approval of a Resale 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) (the Act), including 47 U.S.C. §§251, 252, and 271, and the Commission's June 3, 1996 Order in *In Re: Implementation of the Telecommunications Act of 1996*, Docket No. M-00960799 (*Implementation Order*).

History of the Proceeding

On October 29, 1999, BA-PA and Corecomm filed the instant Joint Petition seeking approval of an underlying Resale Agreement which sets forth the terms, conditions, and prices under which BA-PA will offer and provide to Corecomm certain telecommunications services available for resale, as well as resale support services within each Local Access Transport Area (LATA) in which they both operate in Pennsylvania. Corecomm is presently certificated to operate as a Competitive Local Exchange Carrier (CLEC) in Pennsylvania.

The Commission published notice of the Joint Petition and the Agreement in the *Pennsylvania Bulletin* on November 13, 1999, advising that any interested parties could file comments within ten (10) days. To date, no comments have been received.

Discussion

A. Standard of Review

The Commission's standard of review of a negotiated interconnection agreement is set forth at 47 U.S.C. §252(e)(2), which provides, in pertinent part, that:

The state Commission may only reject -- (A) an agreement (or any portion thereof) adopted by negotiation under subsection (a) if it finds -- (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 BA-PA and Corecomm.

B. Summary of Terms

In their Joint Petition, BA-PA and Corecomm aver that:

The Agreement sets forth the terms, conditions and prices under which BA-PA will offer and provide to Corecomm telecommunications services available for resale and resale support services within each Local Access and Transport Area ("LATA") in which they both operate in Pennsylvania. The Agreement is an integrated package that reflects a negotiated balance of many interests and concerns critical to both parties.

(Joint Petition, p. 2, ¶4).

The key provisions of the Agreement, as summarized by the parties in the Joint Petition are:

- (1) Access by Corecomm to BA-PA's operation support systems.
- (2) The resale of BA-PA telecommunications services for a wholesale discount of 18.43% or 20.69% (depending upon whether Corecomm provides its own operator services); and,
- (3) Routing to Directory Assistance/Operator Services platforms.

(Joint Petition, p. 2, ¶5).

BA-PA and Corecomm aver that the Resale Agreement complies with the

criteria identified in the Act at 47 U.S.C. §252(e)(2)(A) quoted above, pursuant to which we must determine whether to accept or reject the Agreement. The parties assert that BA-PA is willing to make the resale arrangements contained in the Agreement available to any other telecommunications carrier certified to provide local telephone service in Pennsylvania (*see*, 47 U.S.C. §252(e)), and that the Resale Agreement is, therefore, not discriminatory. Furthermore, the parties note that other carriers are not bound by the terms of the Resale Agreement and are free to pursue their own negotiated arrangements with BA-PA. (Joint Petition, p. 3, ¶7).

The parties assert that the Resale Agreement will make vigorous local telephone service competition possible, and that, therefore, the Resale Agreement protects the public interest, convenience, and necessity.

C. Disposition

Having reviewed the Resale Agreement, we shall approve it, finding that it satisfies the two-pronged criteria of Section 252(e). We shall minimize the potential for discrimination against other carriers not a party to the Resale Agreement by providing here that our conditional 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 Resale Agreement does not discriminate against a telecommunications carrier not a party to the negotiations.

The Act requires that the terms of the Resale 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 Resale 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 BA-PA or Corecomm to embody the terms of the Resale Agreement in a filed tariff, but we will require that the parties file the Resale Agreement with this Commission. It shall be retained in the public file for inspection and copying consistent with the procedures relating to public access to documents.

With regard to the public interest element of this matter, we note that no negotiated resale 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.*, §253(b)). This is consistent with the Act and with Chapter 30 of the Public Utility Code, wherein service quality and standards, *i.e.*, universal service, 911, Enhanced 911, and Telecommunications Relay Service, are inherent obligations of the local exchange company, and continue unaffected by a negotiated agreement. We have reviewed the Agreement's terms relating to 911 and E911 services (Resale Agreement, Exhibit 1, pp. 7-8) and conclude that these provisions of the Agreement are consistent with the public interest.

Conclusion

Based on the foregoing and pursuant to Section 252(e), *supra*, of the Act and our *Implementation Order*, we determine that the Resale Agreement between BA-PA and Corecomm is non-discriminatory to other telecommunications companies not party to it and that it is consistent with the public interest; **THEREFORE,**

IT IS ORDERED:

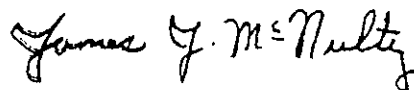
1. That the Joint Petition of Bell Atlantic-Pennsylvania, Inc. and Corecomm Pennsylvania, Inc., d/b/a Corecomm, seeking the approval of a Resale Agreement filed on October 29, 1999, pursuant to the Telecommunications Act of 1996 and the Commission's June 3, 1996 Opinion and Order in *In Re: Implementation of the Telecommunications Act of 1996*, Docket No. M-00960799, is hereby granted consistent with this Opinion and Order.

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

3. That approval of the Resale Agreement shall not be construed as a review under 47 U.S.C. §271.

4. That the parties shall file a true and correct copy of the Resale 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: January 12, 2000

ORDER ENTERED: **JAN 13 2000**