

**PENNSYLVANIA PUBLIC UTILITY COMMISSION**  
**Uniform Cover and Calendar Sheet**

<p><b>1. REPORT DATE:</b>                  May 11, 1999</p>	<p><b>2. BUREAU AGENDA NO.</b>                  MAY-1999-OSA-0288*</p>
<p><b>3. BUREAU:</b>                  Office of Special Assistants</p>	
<p><b>4. SECTION(S):</b></p>	<p><b>5. PUBLIC MEETING DATE:</b>                  May 21, 1999</p>
<p><b>6. APPROVED BY:</b>                  Director: C.W. Davis 7-1827                  Supervisor: <i>C. Davis</i></p>	
<p><b>7. PERSONS IN CHARGE:</b>                  D. Munsch 7-1660</p>	
<p><b>8. DOCKET NO.:</b>                  A-310802</p>	

**X-CAL**  
 MAY 21 1999

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

(a) Application of Stargate Local Services for approval to offer, render, furnish, or supply telecommunication services as a competitive local exchange carrier (CLEC)

(b) The subject Application was filed on December 15, 1998. No protests were filed, and no hearings were held.

(c) The Office of Special Assistants recommends that the Commission adopt the proposed draft Opinion and Order approving the Application, consistent with the Opinion and Order.

**REPORT  
 FOLDER**

Order Doc. No. 132303v1

Calendar Doc. No. 131795v1

**10. MOTION BY: Commissioner**  
**SECONDED: Commissioner**

**Commissioner**  
**Commissioner**  
**Commissioner**

**CONTENTS OF MOTION:**

**SRB**

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

Public Meeting held May 21, 1999

**Commissioners Present:**

John M. Quain, Chairman  
Robert K. Bloom, Vice Chairman  
David W. Rolka  
Nora Mead Brownell  
Aaron Wilson Jr.

Application of Stargate Local Services for Authority to  
Begin to Offer, Render, Furnish, or Supply Facilities Based  
Competitive Local Exchange Telecommunication Services to  
the Public

A-310802

**OPINION AND ORDER**

**BY THE COMMISSION:**

On December 15, 1998, Stargate Local Services (Applicant), requested authority to offer competitive local exchange carrier (CLEC) services pursuant to the Telecommunications Act of 1996, 47 U.S.C. §§201, *et seq.*, (TA-96)<sup>1</sup> and to Chapters 11 and 30 of the Public Utility Code (Code) (66 Pa. C.S. §§1101, *et seq.*, and §§3001, *et seq.*). The Applicant complied with this Commission's requirements relating to notice. No protests were filed. No hearings were held.

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<sup>1</sup> Market entry requirements, in light of the policy objectives of the TA-96, for telecommunication service providers are set out in *In Re: Implementation of the Telecommunications Act of 1996*, Docket No. M-00960799 (Implementation Order: June 3, 1996; and Implementation Reconsideration Order: September 9, 1996).

The Applicant requested authority to provide services as a facilities-based carrier and reseller in all areas of the Commonwealth which have been classified as non-rural. This shall be construed as limiting the requested service territory to the service territories of Bell Atlantic-Pennsylvania, Inc. (Bell) and GTE North, Inc. (GTE). The Applicant will initially service the nine (9) county area that comprises the Greater Pittsburgh Metropolitan Statistical Area. These counties include Allegheny, Butler, Washington, Greene, Fayette, Lawrence, Armstrong and Westmoreland. The Applicant proposes to market its local exchange and exchange access telecommunications services within the Commonwealth through a combination of its own equipment as well as equipment purchased or leased from third-party sources. In certain areas of the State, the Applicant may provide its services through the resale of other certificated carriers' services. The Applicant intends to offer its services to residential and business customers. (Application, pp. 4-5).

The Applicant is a Pennsylvania corporation with its principal place of business at the Crane Building, Suite 300, 24th Street, Pittsburgh, PA 15219. Correspondence to resolve complaints may be directed to Mr. Christopher D. Sweeney at the principal place of business.

Issues affecting CLECs have been addressed and are being addressed in a number of Commission proceedings.<sup>2</sup> A CLEC applicant is expected to adhere to the requirements relative to universal service and life line programs, as initially set forth or as subsequently enlarged or modified.<sup>3</sup> Further, Section 253(b) of the TA-96 permits a state

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<sup>2</sup> See, e.g., *MFS*, Docket Nos. A-310203, F0002, *et al.*, (October 4, 1995; July 31, 1996; and August 7, 1997); *Pa. PUC v. Bell*, Docket No. R-00963578; *Pa. PUC v. GTE*, Docket No. R-00963666, as well as other CLEC proceedings.

<sup>3</sup> *Universal Service Invest.*, Docket No. I-00940035 (January 28, 1997).

commission to impose, on a competitively neutral basis and consistent with the Universal Service Section, requirements necessary to preserve and advance universal service, protect the public safety and welfare, ensure the continued quality of telecommunication services, and safeguard the rights of consumers. In response, we articulated explicit concerns relative to an applicant's financial fitness, tariff compliance, and rates.<sup>4</sup>

The Applicant has provided financial information to support its Application. We, therefore, conclude that the Applicant has demonstrated that it is financially capable of providing CLEC services to the public.

Premised upon our review of the Application and the proposed tariff, and consistent with our Orders, the Code, our Regulations, and the TA-96, we conclude that the Applicant's proposed services do not raise concerns at this time regarding safety, adequacy, reliability, or privacy as contemplated by Section 3009(b)(4) of the Code. We further conclude that the Applicant has met the requirements for certification as a CLEC, consistent with this Opinion and Order.

We note, however, several deficiencies in the proposed tariffs which we will require the Applicant to contact the Commission's Bureau of Fixed Utility Services -- Telecommunication Group (FUS) within ten (10) days of the date of entry of this Opinion and Order to resolve.<sup>5</sup> The Applicant shall thereafter file its Initial CLEC Tariff and its Initial Switched Access Tariff, consistent with the resolution reached with Commission

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<sup>4</sup> *Blue Ribbon*, Docket No. A-310442 (April 25 and August 4, 1997).

<sup>5</sup> Mohan Samuel, 717-783-0697, is the FUS contact. Regardless of the review process, any tariff provision(s) inconsistent with the provisions of the Code, the TA-96, or our Regulations or Orders will be deemed inoperative and superseded. (52 Pa. Code §64.213).

staff. Copies of the Initial Tariffs shall also be served upon the same entities receiving service of the original Application, including the ILECs. If the time required for such resolution and filing exceeds sixty (60) days, the Applicant shall file monthly status letters with the Commission's Secretary indicating a projected filing date for the Initial Tariffs. To the extent that the proposed tariffs contain rates, the Initial Tariffs may become effective on one (1) day's notice from the date upon which they are filed and served. Proposed tariffs which did not contain rates may not become effective prior to the sixty (60) day notice.

### Conclusion

Accordingly, we shall grant the Application. The Applicant has had provisional authority under our Implementation Order (p. 7, ¶ B.1.c.4) and our Implementation Reconsideration Order (p. 5) to provide the proposed CLEC services pursuant to its proposed tariffs during the pendency of the application process. Upon the establishment of filed rates and the approval of Initial Tariffs, a certificate of public convenience shall be issued evidencing the Applicant's authority to provide services as a CLEC in the service territories of Bell and GTE, consistent with this Opinion and Order and our decisions in the *MFS* and such other proceedings; **THEREFORE,**

### **IT IS ORDERED:**

1. That the Application of Stargate Local Services for authority to operate as a Competitive Local Exchange Carrier within the service territories of Bell Atlantic-Pennsylvania, Inc., and GTE North, Inc., is granted, consistent with this Opinion and Order.

2. That the Applicant is directed to contact the Commission's Bureau of Fixed Utility Services -- Telecommunication Group within ten (10) days of the date of entry of this Opinion and Order to resolve any tariff issues pertaining to its Initial Competitive Local Exchange Carrier Tariff.

3. That the Applicant shall file its Initial Competitive Local Exchange Carrier Tariff, consistent with the resolution reached between the Applicant and the Commission's Tariff staff. The Applicant shall serve a copy of its Initial Tariff on each entity receiving a copy of the original Application, including Bell Atlantic-Pennsylvania, Inc., and GTE North, Inc. To the extent the Initial Tariff contains rates the Initial Tariff may become effective on or after one (1) day's notice from the date upon which it is filed and served. Proposed tariffs which did not contain rates may not become effective prior to the sixty (60) day notice. The Initial Competitive Local Exchange Carrier Tariff(s) shall be labeled "Competitive Local Exchange Carrier Tariff."

4. That the Applicant shall comply with all the provisions of the Public Utility Code, as now exist or as may be hereafter amended, and with all pertinent rules, regulations, and Orders of the Pennsylvania Public Utility Commission, now in effect or as may be prescribed by the Pennsylvania Public Utility Commission, including but not limited to: the *MFS Intelenet, et al.*, Docket Nos. A-310203, F0002, *et al.*; and the *Universal Service Investigation*, Docket No. I-00940035.

5. That the authority granted herein, to the extent that it duplicates authority now held by or subsequently granted to the Applicant, shall not be construed as conferring more than one operating right to the Applicant.

6. That the Applicant file its Lifeline plan within sixty (60) days of the date of entry of this Opinion and Order.

7. That the Applicant file such affiliated interest agreements as may be necessary relative to any transactions with affiliates.

8. That, in the event that the Applicant has not, on or before sixty (60) days from the date of entry of this Opinion and Order, complied with the requirements set forth herein, or if the Applicant fails to file monthly status letters to extend the time for compliance, the Application at Docket No. A-310802, shall be dismissed and the authority granted herein shall be canceled without any further proceeding.

9. That, upon the establishment of filed rates and the approval of an Initial Tariff, a Certificate of Public Convenience shall be issued authorizing the Applicant to furnish services as a Competitive Local Exchange Carrier within the service territories of Bell Atlantic-Pennsylvania, Inc., and GTE North, Inc., as set forth in the Application, consistent with this Opinion and Order.

**BY THE COMMISSION,**

James J. McNulty  
Secretary

(SEAL)

ORDER ADOPTED: May 21, 1999

ORDER ENTERED:

**PENNSYLVANIA PUBLIC UTILITY COMMISSION  
Uniform Cover and Calendar Sheet**

**JAN 12 2000**

**1. REPORT DATE:**  
December 30, 1999


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**3. BUREAU:** Office of Special Assistants

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**4. SECTION(S):**

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**6. APPROVED BY:**  
**Director:** C.W. Davis 7-1827  
**Supervisor:** 

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**7. PERSON IN CHARGE:**  
D. Munsch 7-1660

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**8. DOCKET NO.:**  
A-310802

**2. BUREAU AGENDA NO.:**  
JAN-2000-OSA-0011\*

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**5. PUBLIC MEETING DATE:**  
January 12, 2000

- 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 Stargate Local Services, LLC for approval of an Interconnection Agreement that would provide for the interconnection of the two (2) companies' networks

(b) On November 5, 1999, Bell Atlantic-Pennsylvania, Inc. (BA-PA) and Stargate Local Services, LLC (Stargate) filed a Joint Petition seeking approval of an Interconnection Agreement which sets forth the terms, conditions, and prices under which BA-PA and Stargate will offer and provide interconnection for the purpose of exchanging traffic.

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

**10. MOTION BY: Commissioner**  
  
**SECONDED: Commissioner**

**Commissioner**  
**Commissioner**  
**Commissioner**

**CONTENTS OF MOTION:**

SEP

**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 Stargate Local Services, LLC, For  
Approval of an Interconnection Agreement  
Under Section 252(e) of the Telecommunications  
Act of 1996

A-310802

**OPINION AND ORDER**

**BY THE COMMISSION:**

Before the Commission for consideration is the Joint Petition of Bell Atlantic-Pennsylvania, Inc. (BA-PA) and Stargate Local Services, LLC (Stargate) for Approval of an 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) (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 November 5, 1999, BA-PA and Stargate filed the instant Joint Petition seeking approval of the aforementioned Interconnection Agreement that would provide for the interconnection of the two (2) companies' networks and makes available to Stargate access to unbundled network elements, wholesale telecommunications services, and ancillary services offered by BA-PA.

The Commission published notice of the Joint Petition and the Agreement in the *Pennsylvania Bulletin* on November 20, 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 Stargate.

**B. Summary of Terms**

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

The Agreement sets forth the terms, conditions and prices under which BA-PA and Stargate will offer and provide network interconnection, reciprocal call termination, access to network elements, ancillary network services, and wholesale telecommunications services available for resale to each other within each Local Access and Transport Area ("LATA") in which they both operate in Pennsylvania.

(Joint Petition, p. 2).

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

- (1) Reciprocal compensation for terminating local traffic at rates of \$.001864 or \$.002902 per minute of use, depending on where traffic is terminated on the BA-PA and Stargate networks.
- (2) Unbundled loops--providing Stargate access to existing BA-PA customers--based on a rate methodology specified in the Agreement.
- (3) Customers to retain their telephone numbers when they switch to Stargate, at interim rates of \$1.50/Month/Ported number in addition to an interim rate of \$5.00 per service order and \$4.00 for installation per number at same location.

- (4) Including Stargate customers' primary listings in the White Pages (two listings for each residence telephone number and one listing for each business telephone number) and Yellow Pages (one listing for each business telephone number) directories.
- (5) The resale of BA-PA telecommunications services for a wholesale discount of 18.43% or 20.69% (depending upon whether Stargate provides its own operator services).
- (6) The continued provision of 911 services to all customers.
- (7) Performance standards for services provided by BA-PA to Stargate equal to the level of service provided by BA-PA to its own end-user customers and other telecommunications carriers.

BA-PA and Stargate aver that the 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 the Agreement is not discriminatory and that the interconnection arrangements contained in the Agreement are available to any other telecommunications carrier under §252(i) of the Act. Furthermore, the parties note that other carriers are not bound by the terms of the Agreement and are free to pursue their own negotiated arrangements with BA-PA.

The parties assert that the Agreement is an important step towards allowing Stargate to compete with BA-PA as a facilities-based local telephone service carrier for both residential and business customers, which is what the Act contemplates and the Pennsylvania General Assembly envisioned when it enacted

Section 3009(a) of the Public Utility Code, 66 Pa. C.S. §3009(a), and that, therefore, the Agreement protects the public interest, convenience, and necessity.<sup>1</sup>

The initial expiration date of the proposed Agreement is August 31, 2000. Thereafter the Agreement shall continue in force and effect unless and until terminated by either Party as follows:

At least one hundred eighty (180) days before the term expires, either Party shall file with the Commission any request for an extension of that term and shall on the same day provide notice to the other Party. At least one hundred fifty (150) days before the term expires, the other Party shall respond to the requested extension.

(Interconnection Agreement PART A-5).

**C. Disposition**

Having reviewed the 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 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*

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<sup>1</sup> For the record, we note that, to the extent that this, or any, interconnection agreement includes provisions for services beyond the types of services which we have authorized, and 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 services or assessing surcharges to end users which it has not been authorized to provide and for which tariffs have not been approved.

*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.

The Act 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 not require BA-PA or Stargate to embody the terms of the Agreement in a filed tariff, but we will require that the parties file the 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 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 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 and conclude that these provisions of the Agreement are consistent with the public interest.

## Conclusion

Based on the foregoing and pursuant to Section 252, *supra*, and our *Implementation Order*, we will approve the Interconnection Agreement between BA-PA and Stargate filed on November 5, 1999; **THEREFORE,**

### **IT IS ORDERED:**

1. That the Joint Petition of Bell Atlantic-Pennsylvania, Inc. and Stargate Local Services, LLC seeking the approval of an Interconnection Agreement filed on November 5, 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 Agreement shall not serve as binding precedent for negotiated or arbitrated agreements between non-parties to the instant agreement.

3. That the reciprocal compensation rates for terminating local traffic be, and hereby are, approved.

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

5. That the parties shall file a true and correct copy of the Inter-connection Agreement, with appropriate amendment, 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: