

PENNSYLVANIA PUBLIC UTILITY COMMISSION
Uniform Cover and Calendar Sheet

1. REPORT DATE:
 May 11, 1999

2. BUREAU AGENDA NO.
 MAY-1999-OSA-0288*

3. BUREAU:
 Office of Special Assistants

4. SECTION(S):

5. PUBLIC MEETING DATE:

6. APPROVED BY:

May 21, 1999

Director: C.W. Davis 7-1827
Supervisor:

Carl

7. PERSONS IN CHARGE:
 D. Munsch 7-1660

8. DOCKET NO.:
 A-310802

RECEIVED
 MAY 25 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.

EEF

DOCUMENT
 FOLDER

Order Doc. No. 132303v1

Calendar Doc. No. 131795v1

10. MOTION BY: Commissioner Chm. Quain

Commissioner Rolka - Yes
Commissioner Brownell - Yes
Commissioner Wilson - Yes

SECONDED: Commissioner Bloom

CONTENTS 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
REF

MAY 25, 1999

A-310802

DAVID O KLEIN
TELECOM CERTIFICATION & FILING
485 MADISON AVENUE
NEW YORK NY 10022-5803

Application of Stargate Local Services, for approval to offer, render, furnish or supply facilities-based competitive local exchange carrier services, within service territories of Bell Atlantic-Pennsylvania, Inc. and GTE North, Inc., in the Commonwealth of Pennsylvania.

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 May 21, 1999, in the above entitled proceeding.

An Opinion and Order has been enclosed for your records.

Very truly yours,
DOCKETED

JUN 02 1999
James J. McNulty,
Secretary

smk
Enclosure
cert. mail

DOCUMENT
FOLDER

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

DOCKETED

BY THE COMMISSION:

JUN 02 1999

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)¹ 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.

DOCUMENT
FOLDER

¹ 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.² 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.³ Further, Section 253(b) of the TA-96 permits a state

² 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.

³ *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.⁴

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.⁵ The Applicant shall thereafter file its Initial CLEC Tariff and its Initial Switched Access Tariff, consistent with the resolution reached with Commission

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

⁵ 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.

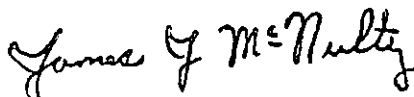
6. That the Applicant file its Lifeline plan within sixty (60) days of the date of entry of this Opinion and Order.

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: **MAY 25 1999**