

PENNSYLVANIA PUBLIC UTILITY COMMISSION  
Uniform Cover and Calendar Sheet

1. <b>REPORT DATE:</b> August 8, 2006	2. <b>BUREAU AGENDA NO.</b> AUG-2006-OSA-0191*
3. <b>BUREAU:</b> Office of Special Assistants	
4. <b>SECTION(S):</b>	5. <b>PUBLIC MEETING DATE:</b>
6. <b>APPROVED BY:</b>  Director: C.W. Davis 7-1827 Mgr/Spvr: R. Marinko 3-3930 Legal Review: K. House 772-8495	August 17, 2006
7. <b>PERSONS IN CHARGE:</b> G. Strella 7-1023	9. <b>EFFECTIVE DATE OF FILING:</b> September 15, 2006
8. <b>DOCKET NO.:</b> A-310782F7000	<b>DOCUMENT FOLDER</b>

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

(a) Joint Petition of Verizon Pennsylvania Inc. (Verizon PA) and IDT America, Corp. (IDT) for Approval of the Adoption of an Interconnection Agreement Under Section 252(i) of the Telecommunications Act of 1996.

(b) On June 15, 2006, Verizon PA and IDT filed a Joint Petition seeking approval to opt into an existing Interconnection Agreement between Verizon PA and Sprint Communications Company, Inc. Notice of the Joint Petition was published in the *Pennsylvania Bulletin* on July 1, 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.

**DOCKETED**  
OCT 26 2006

Order Doc. No. 621060v1

Calendar Doc. No. 621063v1

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

August 21, 2006

A-310782 F7000

JAMES COURTER PRESIDENT  
IDT AMERICA CORP  
520 BROAD STREET  
NEWARK NJ 07102-3111

Joint Petition of Verizon Pennsylvania Inc. and  
IDT America, Corp. for Approval of the  
Adoption of an Interconnection Agreement  
Under Section 252 (i) of the Telecommunications  
Act of 1996

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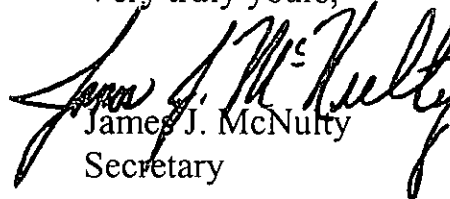
DOCUMENT  
FOLDER

To Whom It May Concern:

This is to advise you that the Commission in Public Meeting on August 17, 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

Enclosure  
Certified Mail  
jeh

LEIGH A HYER  
VERIZON PENNSYLVANIA  
1717 ARCH STREET FL 10W  
PHILADELPHIA PA 19103

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

Public Meeting held August 17, 2006

Commissioners Present:

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

Joint Petition of Verizon Pennsylvania Inc. and  
IDT America, Corp. for Approval of the  
Adoption of an Interconnection Agreement  
Under Section 252(i) of the Telecommunications  
Act of 1996

A-310782F7000

**OPINION AND ORDER**

**BY THE COMMISSION:**

Before the Commission for consideration is a Joint Petition filed by Verizon Pennsylvania Inc. (Verizon PA) and IDT America, Corp. (IDT), requesting approval of an Interconnection Agreement by means of the adoption of an existing Interconnection Agreement between Verizon PA and Sprint Communications Company, Inc. (Sprint). The Agreement was 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 *In Re: Implementation of the Telecommunications Act of 1996*, Docket No. M-00960799 (Order entered on June 3, 1996); *Order on Reconsideration* (Order

entered on September 9, 1996); and *Proposed Modifications to the Review of Interconnection Agreements* (Order entered on May 3, 2004). (*Implementation Orders*).

### **History of the Proceeding**

On June 15, 2006, Verizon PA and IDT filed the instant Joint Petition requesting approval to opt into an existing Agreement between Verizon PA and Sprint that was approved by this Commission by Order entered on March 14, 2002, at Docket No. A-310183F0002. The Agreement provides for the interconnection of the two Companies' networks. The Commission published notice of the Joint Petition and the instant Agreement in the *Pennsylvania Bulletin* on July 1, 2006, advising that any interested parties could file comments within ten days. No comments have been received.

The Agreement has an effective date of April 21, 2006, and a termination date of April 20, 2008. Thereafter, the Agreement shall remain in effect unless cancelled by one of the Parties as provided for in the Agreement.

Verizon PA is an Incumbent Local Exchange Carrier (ILEC) certificated to provide local exchange telephone service in Pennsylvania. IDT is certificated as a Reseller and a Competitive Local Exchange Carrier in Pennsylvania.<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.

## 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:

- (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 –
    - (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 . . . .

Regarding the availability of Interconnection Agreements to other telecommunications carriers, Section 252(i) of TA-96 provides that:

A local exchange carrier shall make available any interconnection, service, or network element provided under an agreement approved under this section to which it is a party to any other requesting telecommunications carrier upon the same terms and conditions as those provided in the agreement.

The FCC recently changed its interpretation of Section 252(i) of TA-96, and its rule 47 C.F.R. § 51.809. *See* CC Docket No. 01-338, rel. July 13, 2004 (2004 FCC

LEXIS 3841). The FCC has now adopted an “all-or-nothing rule” that requires a requesting carrier to adopt the agreement in its entirety, taking all rates, terms and conditions from the adopted agreement. The revisions were published in the *Federal Register* on July 22, 2004, and became effective on August 23, 2004.

With these criteria in mind, we shall review the Agreement submitted by Verizon PA and IDT.

**B. Summary of Terms**

In the Joint Petition, Verizon PA and IDT agree that IDT will exercise its right under Section 252(i) of TA-96 to adopt the existing Agreement between Verizon PA and Sprint. 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 TA-96. The Parties further aver that the Agreement is consistent with the public interest, convenience and necessity, as required by Section 252(e) of TA-96.

**C. Disposition**

Having reviewed the Agreement, we shall approve it, finding that it satisfies the two-pronged criteria of Section 252(e) of TA-96. We note that in approving these privately negotiated agreements, including any provisions limiting unbundled access to Verizon PA’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 instant 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 Verizon PA or IDT 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 of TA-96, *supra*, and our *Implementation Orders*, we will approve the Agreement between Verizon PA and IDT filed on June 15, 2006; **THEREFORE,**

#### **IT IS ORDERED:**

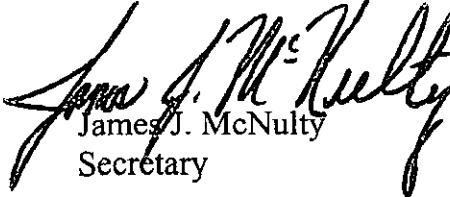
1. That the Joint Petition of Verizon Pennsylvania Inc. and IDT America, Corp. seeking the approval of the adoption of an existing Interconnection Agreement filed on June 15, 2006, pursuant to the Telecommunications Act of 1996, and the Commission’s Orders in *Re: Implementation of the Telecommunications Act of 1996*, Docket No. M-00960799 (Order entered on June 3, 1996, *Order on Reconsideration* entered on September 9, 1996) 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 Agreement shall not serve as binding precedent for negotiated or arbitrated agreements between non-parties to the Interconnection Agreement.



3. That Verizon Pennsylvania Inc. shall file an electronic, true and correct copy of the Interconnection Agreement, in “.pdf format”, with this Commission within thirty (30) days of the date of entry of this Opinion and Order for inclusion on the Commission’s website.

**BY THE COMMISSION,**

  
James J. McNulty  
Secretary

(SEAL)

ORDER ADOPTED: August 17, 2006

ORDER ENTERED: AUG 21 2006