

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

<b>1. <u>REPORT DATE:</u></b> September 7, 1999	<b>2. <u>BUREAU AGENDA NO.:</u></b> SEP-1999-FUS-0531* - REV
<b>3. <u>BUREAU:</u></b> Fixed Utility Services	
<b>4. <u>SECTION(S):</u></b> Telecommunications	<b>5. <u>PUBLIC MEETING DATE:</u></b>
<b>6. <u>APPROVED BY:</u></b> Director: Supervisor: Wagner 3-6175 <i>BW</i> Legal Review: Arnold 7-8032 <i>AA</i>	September 15, 1999
<b>7. <u>PERSONS IN CHARGE:</u></b> <i>WFB</i> Barrett/Spandra/Nguyen: 7-5155 <i>YH</i>	
<b>8. <u>DOCKET NO.:</u></b> A - 310824, A - 310824F002, A - 310824F003, and A - 310824F004.	

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

- (a) Application(s) of DSLnet Communications, LLC for approval to offer, render, furnish or supply telecommunication services as a Reseller of Toll Services, a Reseller and Facilities-Based Competitive Local Exchange Carrier, an Interexchange Carrier, and a Competitive Access Provider.
- (b) On May 18, 1999, the subject application(s) was/were filed. No protests were filed and no hearings were held.
- (c) The Bureau of Fixed Utility Services recommends that the Commission adopt the proposed draft Order approving the Application(s), consistent with the Order.

Order Doc. # 146221

Calendar Doc. # 146384

**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

DOCUMENT  
FOLDER

SEPTEMBER 20, 1999

A-310824 A-310824F0002  
A-310824F0003 A-310824F0004

LAWRENCE A WALKE ESQUIRE  
SWIDLER BERLIN SHEREFF FRIEDMAN  
3000 K STREET NW  
WASHINGTON DC 20007

**DOCKETED**

SEP 22 1999

Application of DSLnet Communications, LLC for approval to offer, render, furnish or supply telecommunications services as a Reseller of Toll Services ("Resold IXC") to the public in the Commonwealth of Pennsylvania.

Application of DSLnet Communications, LLC for approval to offer, render, furnish or supply telecommunications services as a Resold and Facilities-Based Competitive Local Exchange Carrier ("CLEC") to the public in the Commonwealth of Pennsylvania.

Application of DSLnet Communications, LLC for approval to offer, render, furnish or supply telecommunications services as a Facilities-Based Interexchange Carrier ("Interexchange Carrier" or "IXC") to the public in the Commonwealth of Pennsylvania.

Application of DSLnet Communications, LLC for approval to offer, render, furnish or supply telecommunications services as a Competitive Access Provider ("CAP") to the public in the Commonwealth of Pennsylvania.

**To Whom It May Concern:**

This is to advise you that an Order has been adopted by the Commission in Public Meeting on September 15, 1999, in the above entitled proceeding.

An Order has been enclosed for your records.

Very truly yours,

James J. McNulty,  
Secretary

smk  
Enclosure  
cert. mail

EEF

PENNSYLVANIA  
PUBLIC UTILITY COMMISSION  
Harrisburg, PA. 17105-3265

Public Meeting held September 15, 1999

Commissioners Present:

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

Application of DSLnet Communications, LLC for approval to offer, render, furnish, or supply telecommunication services as a Reseller of Toll Services ("Resold LXC") to the public in the Commonwealth of Pennsylvania A-310824

Application of DSLnet Communications, LLC for approval to offer, render, furnish, or supply telecommunication services as a Resold and Facilities-Based Competitive Local Exchange Carrier ("CLEC") to the public in the Commonwealth of Pennsylvania A-310824  
F0002

Application of DSLnet Communications, LLC for approval to offer, render, furnish, or supply telecommunication services as a Facilities-Based Interexchange Carrier ("Interexchange Carrier" or "IXC") to the public in the Commonwealth of Pennsylvania A-310824  
F0003

Application of DSLnet Communications, LLC for approval to offer, render, furnish, or supply telecommunication services as a Competitive Access Provider ("CAP") to the public in the Commonwealth of Pennsylvania A-310824  
F0004

DOCUMENT  
FOLDER

DUCKETED  
SEP 22 1999

## ORDER

### BY THE COMMISSION:

On May 18, 1999, DSLnet Communications, LLC ("Applicant"), filed Applications seeking a Certificate of Public Convenience pursuant to the Telecommunications Act of 1996, 47 U.S.C. §§201, *et seq.*, (TA-96)<sup>1</sup> and to Chapter 11 and 30 of the Public Utility Code (Code) (66 Pa. C.S. §1101, *et seq.*, and §§3001, *et seq.*) evidencing authority to provide the following telecommunication services to residential and business customers in the Commonwealth of Pennsylvania:

- (1) Provide services as a Reseller of toll services throughout the Commonwealth,
- (2) Provide services as a Competitive Local Exchange Carrier (CLEC), on both facilities-based and resold bases, in non-rural areas of the commonwealth that shall be deemed to be the service territories of Bell Atlantic-Pennsylvania, Inc. (Bell), GTE North, Inc. (GTE), and Sprint/United Telephone Company of Pennsylvania,
- (3) Provide services as an Interexchange Carrier throughout the Commonwealth, and,

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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).

- (4) Provide services as a Competitive Access Provider throughout the Commonwealth.

Applicant proposes to provide the above mentioned services to residential and business customers. However, initially, Applicant will provide data services only. In addition, Applicant's initial marketing focus will be directed at small and medium sized business customers.

The Applicant complied with Section 5.14 of our Regulations, 52 Pa. Code §5.14, relating to applications requiring notice. The Applicant served a copy of the Application upon Bell Atlantic-Pennsylvania, Inc., GTE North, Inc., and Sprint/United Telephone Company of Pennsylvania. The Applicant asserts that it will not be a rural telephone company. No protests were filed, and no hearings were held.

The Applicant is a limited liability company organized under the laws of the State of Delaware. Its principal place of business is at 545 Long Wharf Drive, Fifth Floor, New Haven, Connecticut 06511. Correspondence to resolve complaints should be directed to Wendy Bluemling, Director of Regulatory Affairs, at the principal place of business.

The Applicant is not currently doing business in Pennsylvania as a public utility and has no affiliates doing or predecessors that have done business in Pennsylvania.

Applicant has no affiliates providing service to or receiving services from the Applicant.

Applicant's parent, dsl.net, inc., has applied to the Virginia State Corporation Commission for authorization to provide telecommunications services in the Commonwealth of Virginia.

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 lifeline 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 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 Applications. We, therefore, conclude that the Applicant has demonstrated that it is financially capable of providing Resold IXC, CLEC, IXC, and CAP services to the public.

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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-0093666, as well as other CLEC proceedings.

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

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

We conclude that the Applicant has met the requirements for certification as a Resold IXC, CLEC, IXC, and CAP,<sup>5</sup> consistent with this Order. Premised upon our review of the Application(s) and the proposed tariff(s), 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 note, however, deficiencies in the Applicant's proposed initial tariff(s). See Appendix A.

We shall, therefore, direct the Applicant to contact Staff to revise its proposed Initial Tariff(s).<sup>6</sup> The Applicant shall thereafter file its Compliance Tariff(s) reflecting the required changes on or before sixty (60) days from the date of entry of this Order. Copies of the Compliance Tariff(s) 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 may request an extension of an additional sixty (60) days with the Commission's Secretary. Thus, if the Compliance Tariff(s) is not filed within 60 days (120 days including the extension) of the entry of this Order, the Application(s) will be dismissed and the authority granted herein will be revoked without further Commission Order. To the extent that the tariffs contain rates, the Compliance Tariffs may become effective on one (1) day's notice from the date upon which they are filed

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<sup>5</sup> CAP authority may not be used to access the Public Switched Network or toll calling. If a utility with CAP authority wishes to provide access to the Public Switched Network or to provide local or IXC (intraLATA or interLATA) calling services to its customers, the utility must also have been granted CLEC and/or IXC authority by this Commission.

<sup>6</sup> Yen Nguyen, 717-783-3145, 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 supersede. (52 Pa. Code §64.213).

and served. Compliance Tariffs that did not contain rates may not become effective prior to sixty (60) days notice, or sixteen (16) days' notice for Resold IXC.

### Conclusion

Accordingly, we shall grant the Applications. Upon the establishment of the approval of Compliance Tariffs, a Certificate of Public Convenience shall be issued evidencing the Applicant's authority to provide the foregoing mentioned services within the service territories mentioned above, consistent with this Order and our decisions in the *MFS* and such other proceedings;

**THEREFORE;**

### **IT IS ORDERED:**

1. That the Applications of DSLnet Communications, LLC, at Docket No. A-310824, Docket No. A-310824F0002, Docket No. A-310824F0003, and Docket No. A-310824F0004, for authority to operate as a Reseller of Toll Services, a Resold IXC, a CLEC, an IXC, and a CAP, respectively, in the service territories mentioned above in the Order, are granted, consistent with this Order.
2. That the Applicant shall contact the Commission's Bureau of Fixed Utility Services - Telecommunication Group, within ten (10) days of the date of entry of this Order, to resolve any issues pertaining to its initial tariffs.

3. That the Applicant shall file its Compliance Tariff(s), consistent with the resolution reached between the Applicant and Commission Staff, within sixty (60) days after the date of entry of this Order. The Applicant shall serve a copy of its Compliance Tariff(s) on each entity receiving a copy of the original Application(s). To the extent that the Compliance Tariff(s) contains rates, the Compliance Tariff(s) may become effective on or after one (1) day's notice from the date upon which it is filed and served. Compliance Tariffs that did not contain rates may not become effective prior to sixty (60) days notice, or sixteen (16) days' notice for Resold IXC. The Compliance Tariff for Interexchange Reseller, for Competitive Local Exchange Carrier, for Facilities-Based Interexchange Carrier, and for Competitive Access Provider shall be labeled "Interexchange Reseller Toll Tariff," "non facilities-based and facilities-based Competitive Local Exchange Carrier Tariff," "Facilities-Based Interexchange Carrier Tariff," and "Competitive Access Provider Tariff," respectively.

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, regulation, 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-310203F0002, *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.

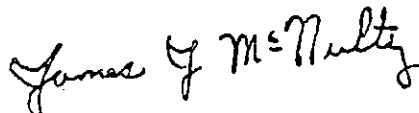
6. That the Applicant maintain separate accounting systems for its interexchange toll operations and its competitive local exchange carrier operations.

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 (120 days including an approved extension) from the date of entry of this Order, complied with the requirements set forth herein, the Application(s) at Docket No. A-310824, Docket No. A-310824F002, Docket No. A-310824F003, and Docket No. A-310824F004 may be dismissed and the authority granted herein revoked without further Commission Order.

9. That, upon the establishment of filed rates and the approval of the Compliance Tariff(s), a Certificate of Public Convenience shall be issued authorizing the Applicant to furnish services as a Resold IXC, a CLEC (within the service territories of Bell, GTE North, and Sprint/United), an IXC, and a CAP, consistent with this Order.

**BY THE COMMISSION,**



James J. McNulty

Secretary

(SEAL)

ORDER ADOPTED: September 15, 1999

ORDER ENTERED: **SEP 20 1999**

DSLnet Communications, LLC  
Docket No.: A-310824

The following issues, but not limited to, should be addressed before the Company proposed initial tariffs can be approved:

1. Tariff language and format.
2. Map of service areas.
3. List of local calling areas.
4. Required service offerings, such as, Caller ID Blockings, Lifeline Service, Telephone Relay Service, 911 Emergency Service, Toll Dialing Parity, Basic Local Services, and etc.