


PENNSYLVANIA PUBLIC UTILITY COMMISSION
Uniform Cover and Calendar Sheet

1. REPORT DATE: January 18, 2000	2. BUREAU AGENDA NO. JAN-2000-OSA-0039*
3. BUREAU: Office of Special Assistants	5. PUBLIC MEETING DATE: <div style="text-align: right; font-size: 2em; font-weight: bold; margin-top: 10px;">DOCKETED</div> January 27, 2000 FEB 3 2000 <div style="text-align: right; font-size: 1.2em; font-weight: bold; margin-top: 20px;">DOCUMENT FORWARDED</div>
4. SECTION(S):	
6. APPROVED BY: Director: C.W. Davis 7-1827 Supervisor: 	
7. PERSONS IN CHARGE: D. Munsch 7-1660	
8. DOCKET NO.: A-310814F0002	

- 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. (BA-PA) and US LEC of Pennsylvania, Inc. (USLEC) for approval of an Interconnection Agreement under Section 252(e) of the Telecommunications Act of 1996

(b) On November 5, 1999, BA-PA and USLEC filed a Joint Petition for approval of an Interconnection Agreement (Petition). Notice of the Petition was published in the *Pennsylvania Bulletin* on November 27, 1999. To date, no comments have been received.

(c) The Office of Special Assistants recommends that the Commission adopt the proposed draft Opinion and Order granting the Petition and approving the Interconnection Agreement.

Order Doc. No. 172402V1

Calendar Doc. No. 170473v1

10. MOTION BY: Commissioner Chm. Quain**Commissioner Brownell - Yes****Commissioner Wilson - Yes****SECONDED: Commissioner Bloom****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

JANUARY 28, 2000

A-310814F0002

LINDA C SMITH ESQUIRE
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305 N FRONT STREET SUITE 403
HARRISBURG PA 17101-1236

DOCKETED
FEB 02 2000

Joint Petition of Bell Atlantic-Pennsylvania, Inc., and
US LEC of Pennsylvania, Inc., For Approval of an
Interconnection Agreement under Section 252(e)
of the Telecommunications Act of 1996

**DOCUMENT
FOLDER**

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 January 27, 2000 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

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PENNSYLVANIA
PUBLIC UTILITY COMMISSION
Harrisburg, PA 17105-3265

Public Meeting held January 27, 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 US LEC of Pennsylvania, Inc. for
Approval of an Interconnection Agreement
under Section 252(e) of the Telecommunications
Act of 1996

A-310814F0002

OPINION AND ORDER

DOCUMENT
FOLDER
BY THE COMMISSION:

DOCKETED
FEB 02 2000

Before the Commission for consideration is the Joint Petition of Bell Atlantic-Pennsylvania, Inc. (BA-PA) and US LEC of Pennsylvania, Inc. (USLEC) 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 USLEC filed the instant Joint Petition seeking approval of the subject Agreement. The Agreement provides for the interconnection of the two (2) companies' networks and makes available to USLEC 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 27, 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 USLEC.

B. Summary of Terms

In the Joint Petition, BA-PA and USLEC agree that USLEC will exercise its right under Section 252(i) of the 1996 Act to opt into the BA-PA/MCImetro Access Transmission Services, Inc. Interconnection Agreement which the Commission approved on September 3, 1997, at Docket No. A-310236F0002. An Amendment No. One to the MCImetro Agreement was filed on March 8, 1999, which Amendment became effective under Section 252 of the Act. The Agreement between BA-PA and USLEC is based on that approved Amended Agreement. (Joint Petition, p. 2, ¶3).

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

The Agreement sets forth the terms, conditions and prices under which BA-PA and USLEC 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. 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:

- (i) 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 USLEC networks;
- (ii) Unbundled loops--providing USLEC access to existing BA-PA customers--based on the rate methodology specified in the Agreement;
- (iii) Customers to retain their telephone numbers when they switch to USLEC, at interim rates of \$1.50/Month/Ported per number in addition to an interim rate of \$5.00 per service order and \$4.00 for installation per number at same location;
- (iv) Including USLEC 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;
- (v) The resale of BA-PA telecommunications services for a wholesale discount of 18.43% or 20.69% (depending upon whether USLEC provides its own operator services);
- (vi) The continued provision of 911 services to all customers; and
- (vii) Performance standards for services provided by BA-PA to USLEC equal to service provided by BA-PA to its own end-user customers and other telecommunications carriers.

(Joint Petition, pp. 2-3, ¶5).

BA-PA and USLEC 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(e)(2)(a)(i) of the Act. Furthermore, BA-PA states that it is willing to make the arrangements contained in the Agreement available to any other telecommunications carrier certificated to provide local telephone service in Pennsylvania. The Parties further 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. (Joint Petition, pp. 3-4, ¶7).

The Parties assert that the Agreement is an important step towards allowing USLEC 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. (Joint Petition, p. 4, ¶8).

As specified in the Agreement, the Agreement will remain in effect until August 31, 2000. The Agreement further provides that at least one hundred eighty (180) days before the term expires, either party shall file with this 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 must respond to the requested extension. If the new agreement has not been reached by the end of the term, the existing Agreement shall continue, month-to month, under the same terms and conditions, subject to a true-up, until this Commission resolves the disagreements regarding the new Agreement. (Agreement, p. 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 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 USLEC 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 USLEC filed on November 5, 1999; **THEREFORE,**

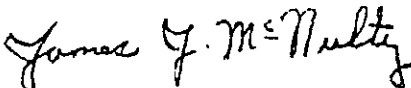
IT IS ORDERED:

1. That the Joint Petition of Bell Atlantic-Pennsylvania, Inc. and US LEC of Pennsylvania, Inc., 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 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 Interconnection 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 27, 2000

ORDER ENTERED: **JAN 28 2000**