

PENNSYLVANIA PUBLIC UTILITY COMMISSION  
Uniform Cover and Calendar Sheet

43

1. <b>REPORT DATE:</b> May 13, 2003	2. <b><u>BUREAU AGENDA NO.</u></b> MAY-2003-OSA-0129* <i>FOSTER</i>
3. <b>BUREAU:</b> Office of Special Assistants	
4. <b>SECTION(S):</b>	5. <b><u>PUBLIC MEETING DATE:</u></b> May 22, 2003 <b>DOCKETED</b> JUN 25 2003
6. <b>APPROVED BY:</b> Director: C.W. Davis 7-1827 Supervisor: D. Munsch 7-1660 Legal Review R. Albert 7-8108 <i>C.W. Davis</i>	
7. <b>PERSONS IN CHARGE:</b> P.C. Foster 3-5243	
8. <b>DOCKET NO.:</b> A-310804F7000	

9. (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 dPi Teleconnect, LLC (dPi) for approval of an Interconnection Agreement under Section 252(e) of the Telecommunications Act of 1996

(b) On April 10, 2003, Verizon PA and dPi filed a Joint Petition for approval of an Interconnection Agreement, under Section 252(e) of the Telecommunications Act of 1996. Notice of the Joint Petition was published in the *Pennsylvania Bulletin* on April 26, 2003. No comments have been received.

(c) The Office of Special Assistants recommends that the Commission adopt the proposed draft Opinion and Order granting the Joint Petition, thereby approving the Agreement, consistent with the Opinion and Order.

Order Doc. No. 396693v1

Calendar Doc. No. 396692v1

10. **MOTION BY:** Commissioner Chm. Fitzpatrick  
**SECONDED:** Commissioner Bloom  
Commissioner Wilson - Yes  
Commissioner Thomas - Yes  
Commissioner Pizzingrilli - 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

MAY 23, 2003

A-310804F7000

DANIEL E MONAGLE ESQUIRE  
VERIZON PENNSYLVANIA, INC.  
1717 ARCH STREET 32-N  
PHILADELPHIA PA 19103

KJR

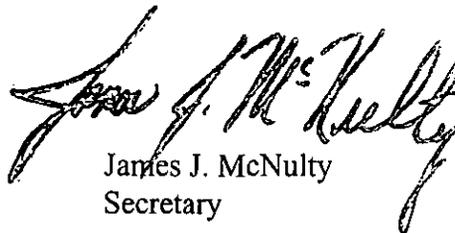
Joint Petition of Verizon Pennsylvania, Inc., and dPi Teleconnect, LLC for approval of an amended, extended, and restated Interconnection Agreement under Section 252(e) of the Telecommunications Act of 1996.

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 22, 2003 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

BRIAN BOLINGER  
DPI TELECONNECT LLC  
2997 LBJ FREEWAY  
DALLAS TX 75234

**DOCKETED**  
JUN 11 2003

DOCUMENT  
FOLDER

PENNSYLVANIA  
PUBLIC UTILITY COMMISSION  
Harrisburg, PA 17105-3265

Public Meeting held May 22, 2003

Commissioners Present:

Terrance J. Fitzpatrick, Chairman  
Robert K. Bloom, Vice Chairman  
Aaron Wilson, Jr.  
Glen R. Thomas  
Kim Pizzingrilli

Joint Petition of Verizon Pennsylvania Inc.  
and dPi Teleconnect, LLC for  
Approval of an Amended, Extended and  
Restated Interconnection Agreement  
under Section 252(e) of the  
Telecommunications Act of 1996

A-310804F7000

**OPINION AND ORDER**

**BY THE COMMISSION:**

Before the Commission for consideration is the Joint Petition of Verizon Pennsylvania Inc. (Verizon PA) and dPi Teleconnect, LLC (dPi), for Approval of an Amended, Extended and Restated Interconnection Agreement (Agreement). The Joint Petition was filed pursuant to Sections 251 and 252 of 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* entered on September 9, 1996). (*Implementation Orders*).

DOCUMENT  
FOLDER

**DOCKETED**  
JUN 11 2003

## History of the Proceeding

On April 10, 2003, Verizon PA and dPi filed the instant Joint Petition, seeking approval of an Interconnection Agreement, which sets forth the terms, conditions, and prices of interconnection provided by Verizon PA to dPi.

The Agreement provides that the “Effective Date” is February 7, 2003. (Agreement, p. 1). Also, pursuant to Section 2 – Term and Termination, the Agreement provides that “This Agreement shall be effective as of the Effective Date and, unless cancelled or terminated earlier in accordance with the terms hereof, shall continue in effect until February 6, 2005 (the “Initial Term”). Thereafter, this Agreement shall continue in force and effect unless and until cancelled or terminated as provided in this Agreement.” (Agreement, p. 2).

The Commission published notice of the Joint Petition and the Agreement in the *Pennsylvania Bulletin* on April 26, 2003, advising that any interested parties could file comments within ten days. No comments have been filed.

### **A. Standard of Review**

The Commission's standard of review of a negotiated interconnection agreement is set forth in Section 252(e)(2) of TA-96, 47 U.S.C. §252(e)(2). Section 252(e)(2) 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 that –

- (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 Verizon PA and dPi.

**B. Timeliness of Filing**

We note that the instant Agreement provides that the “Effective Date” is February 7, 2003. (Agreement, p. 1). Approximately two months has elapsed from the time Agreement was executed until it was submitted to the Commission for review. Neither TA-96 nor the Federal Communications Commission (FCC) rules interpreting TA-96 provide for the specific time in which the negotiated agreement is to be filed with the state commission. However, we have addressed our expectations regarding the proper time considerations to be observed with regard to negotiated agreements. (*See Implementation Order*, June 3, 1996, slip op., p. 33).<sup>1</sup>

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<sup>1</sup> “The Act [TA-96] does not give any express guidance as to when agreements must be filed with the state commission. However, since the period for negotiations concludes on day 160, we conclude that an executed, negotiated interconnection agreement accompanied by a joint petition for adoption of the agreement shall be filed no later than thirty (30) days following the close of the negotiations phase or by day 190 following the request for interconnection.” (*Id.*).

We advise the Parties that failure to comply with our *Implementation Orders*, as well as this Order, could subject the Parties to civil penalties for violations under Section 3301 of the Public Utility Code, 66 Pa. C.S. §3301.

**C. Summary of Terms**

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

- (1) Compensation for Reciprocal Compensation Traffic at rates of \$.001723 or \$.002814 per minute of use, depending on where traffic is terminated on the Verizon PA and dPi networks;
- (2) Unbundled loops – providing dPi access to existing Verizon PA customers – based on a rate methodology specified in the Agreement;
- (3) Customers to retain their telephone numbers when they switch to dPi;
- (4) Including dPi customers’ primary listings in the appropriate alphabetical directory (“White Pages”) and, for business customers, in the appropriate classified directory (“Yellow Pages”);
- (5) The resale of Verizon PA telecommunications services for a wholesale discount of 23.43% or 25.69% (depending upon whether dPi provides its own operator services);
- (6) The continued provision of 911 services to all customers; and
- (7) Performance standards for services provided by Verizon PA to dPi equal to the level of service provided by Verizon PA to its own end-user customers and other telecommunications carriers.

(Joint Petition, p. 2, ¶5).

## D. Disposition

We determine that the Agreement complies with the criteria identified in TA-96 at 47 U.S.C. §252(e)(2)(A) quoted above, pursuant to which we must determine whether to accept or reject the Agreement. We further determine 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. Furthermore, we note that other carriers are not bound by the terms of the Agreement and are free to pursue their own negotiated arrangements with Verizon PA.

We find that the Agreement is an important step towards allowing dPi to compete with Verizon PA as a local telephone service carrier for both residential and business customers, which is what TA-96 contemplated 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 promotes the public interest, convenience, and necessity.<sup>2</sup>

Having reviewed the Agreement, we shall approve it, finding that it satisfies the two-pronged criteria of Section 252(e) of TA-96. 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,

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<sup>2</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 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.

we find that the instant Agreement does not discriminate against a telecommunications carrier not a party to the negotiations.

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 TA-96 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 service. (911 Attachment, pp. 103-105). We conclude that the Agreement's terms relating to 911 and E911 services are consistent with the public interest.

### **Conclusion**

Based on the foregoing and pursuant to Section 252 of TA-96, *supra*, and our *Implementation Orders*, we will approve the Interconnection Agreement between Verizon PA and dPi filed on April 10, 2003; **THEREFORE,**

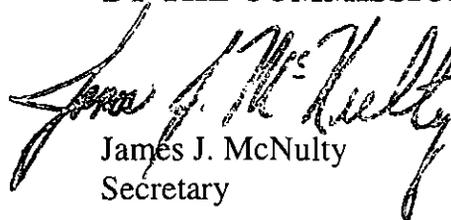
### **IT IS ORDERED:**

1. That the Joint Petition of Verizon Pennsylvania Inc. and dPi Teleconnect, LLC seeking approval of an Amended, Extended and Restated Interconnection Agreement filed on April 10, 2003, pursuant to the Telecommunications Act of 1996, 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* entered on September 9, 1996) is granted, consistent with this Opinion and Order.

2. That approval of the Interconnection Agreement shall not serve as binding precedent for negotiated or arbitrated agreements between non-parties to the instant agreement.

3. That the Parties shall file a true and correct copy of the Interconnection Agreement 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: May 22, 2003

ORDER ENTERED: **MAY 23 2003**