

Uniform Cover and Calendar Sheet

<p>1. <b>REPORT DATE:</b> September 3, 1999</p>	<p>2. <b>BUREAU AGENDA NO.:</b> SEP-1999-FUS-0509*</p>
<p>3. <b>BUREAU:</b> Fixed Utility Services</p>	
<p>4. <b>SECTION(S):</b> Telecommunications</p>	<p>5. <b>PUBLIC MEETING DATE:</b> September 15, 1999</p>
<p>6. <b>APPROVED BY:</b>                  Director: Rosenthal 3-5242                  Supervisor: Wagner 3-6175                  Legal Review by: Arnold 7-8032</p>	
<p>7. <b>PERSONS IN CHARGE:</b>                  Barrett/Spandra/Samuel 3-0697</p>	
<p>8. <b>DOCKET NO.:</b> A-310804</p>	<p>SEP 23 1999</p>

9. (a) **CAPTION (abbreviate if more than 4 lines)**  
 (b) **Short summary of history & facts, documents & briefs**  
 (c) **Recommendation**
- (a) Application of DPI-Teleconnect, L.L.C. for approval to offer, render, <sup>KJR</sup>furnish or supply telecommunication services as a Competitive Local Exchange Carrier.
- (b) On April 29, 1999, the subject application was 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, consistent with the Order.

Order Doc. # 142322

Calendar Doc. # 142216

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 265, HARRISBURG, PA 17105-0265

IN REPLY PLEASE  
REFER TO OUR FILE

SEPTEMBER 20, 1999

REP

A-310804

KYLE DICKSON ESQUIRE  
MAXWELL BAKER & MCFATRIDGE PC  
2525 SOUTH SHORE BLVD STE 410  
LEAGUE CITY TX 77573

Application of DPI-Teleconnect, L.L.C. for approval to offer, render, furnish or supply telecommunication services as a Competitive Local Exchange Carrier to the public in the Commonwealth of Pennsylvania.

DOCKETED

To Whom It May Concern:

SEP 22 1999

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

DOCUMENT  
FOLDER

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 DPI-Teleconnect, L.L.C., for approval to offer, render, furnish or supply telecommunication services as a competitive local exchange carrier to the public in the Commonwealth of Pennsylvania

Docket Number:  
A-310804

DOCKETED

SEP 22 1999

**ORDER**

**BY THE COMMISSION:**

On April 29, 1999, DPI-Teleconnect, L.L.C. ("Applicant"), filed an Application seeking a Certificate of Public Convenience pursuant to the Telecommunication 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 telecommunication services as a Competitive Local Exchange Carrier (CLEC). The Applicant proposes to market its services to residential and business customers as a reseller of CLEC services.

DOCUMENT  
FOLDER

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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).

This application complied with section 5.14 of our regulations, 52 Pa Code §5.14. relating to applications requiring notice. No protests were filed and no hearings were held.

The Applicant requests authority to provide prepaid local exchange telecommunication services throughout the Commonwealth. The applicant provided proof of service of the Application on Bell Atlantic-PA (“Bell”), GTE North, Inc. (“GTE”), and Sprint/United Telephone Company of Pennsylvania (“Sprint”). The Applicant has not, however, provided proof of service of the Application on any of the rural incumbent local exchange carriers (ILECs) nor followed the procedure under 66 Pa. C.S. §1101 and 1103 for entry into small local exchange carrier’s territories. Accordingly, we shall address the Application as a request for CLEC authority in the service territory of Bell, GTE and Sprint. If the Applicant desires to seek CLEC authority in any other service territories other than the ones that are addressed here, the Applicant will have to file a separate application with the Commission.

The Applicant is a Delaware corporation with its principal place of business at 2997 LBJ Free Way, Suite 225, Dallas, Texas 75234. Correspondence to resolve complaints may be directed to David M. Pikoff, Vice President, at the principal place of business. The applicant complied with 15 Pa. C.S. §4124, relating to foreign corporations. The Applicant’s registered office provider is CT Corporation, 1635 Market Street, Philadelphia, Pennsylvania.

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 Application. We, therefore, conclude that the Applicant has demonstrated that it is financially capable of providing telecommunication services as a CLEC to the public in the Commonwealth of Pennsylvania.

We conclude that the Applicant has met the requirements for certification as a CLEC, consistent with this Order. Premised upon our review of the Application and the proposed CLEC 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 note, however deficiencies in the proposed CLEC tariff. See Appendix A for a list of deficiencies found in the proposed tariff.

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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 shall direct the Applicant to revise the proposed CLEC tariff in accordance with the changes noted in Appendix-A of this Order.<sup>5</sup> The Applicant shall thereafter file its CLEC compliance tariff reflecting the requested changes on or before sixty (60) days from the date of entry of this Order. Copies of the CLEC compliance tariff shall also be served upon the same entities receiving service of the original Application, including the ILECs. If the time required for filing of the tariff exceeds sixty (60) days, the Applicant may request an extension of an additional sixty (60) days with the Commission's Secretary. Thus, if the Initial Tariff is not filed within 60 days (120 days including the extension) of the entry of this Order, the Application will be dismissed and the authority granted herein will be revoked without further Commission Order. To the extent that the proposed tariff contains rates, the CLEC compliance tariff may become effective on one (1) day's notice from the date upon which it is filed and served.

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<sup>5</sup> 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 supersede. (52 Pa. Code §64.213).

## Conclusion

Accordingly, we shall grant the Application. The Applicant has had provisional authority under our Implementation Order (p.7, para. B.1.c.4) and our Implementation Reconsideration Order (p.5) to provide the proposed services pursuant to its proposed tariff during the pendency of the application process. Upon the establishment of filed rates and the approval of an Initial Tariff, a Certificate of Public Convenience shall be issued evidencing the Applicant's authority to provide services as a reseller of CLEC service in the service territories of Bell, GTE and Sprint, consistent with this Order and our decisions in the *MFS* and such other proceedings:

**THEREFORE,**

### **IT IS ORDERED:**

1. That the Application of DPI-Teleconnect, L.L.C., at Docket No. A-310804, for authority to operate as a Competitive Local Exchange Carrier as a reseller within the service territories of Bell-Atlantic-Pennsylvania, Inc., GTE North, Inc., and Sprint/United Telephone Company of Pennsylvania, is granted, consistent with this Order.

2. That the Applicant is directed to revise its proposed Competitive Local Exchange Carrier tariff to reflect the changes noted in Appendix-A of this Order.

3. That the Applicant shall file its Initial Competitive Local Exchange Carrier Tariff, consistent with the requisite changes noted in Appendix A of this Order, within sixty (60) days after the date of entry of this Order. The Applicant shall serve a copy of its Initial Tariff on each entity receiving a copy of the original Application. 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. A proposed Tariff which did not contain rates may not become effective prior to sixty (60) days notice. The Initial Competitive Local Exchange Carrier Tariff 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, 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 file such affiliated interest agreements as may be necessary relative to any transactions with affiliates.

7. 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 at Docket No. A-310804, may be dismissed and the authority granted herein revoked without further Commission Order.

8. 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., GTE North, Inc., and Sprint United Telephone company of Pennsylvania, consistent with this Order.

**BY THE COMMISSION,**



James J. McNulty

Secretary

(SEAL)

ORDER ADOPTED: September 15, 1999

ORDER ENTERED: **SEP 20 1999**

**DPI-Teleconnect, L.L.C.**

**Docket No. A-310804**

**Tariff for competitive local exchange carrier services**

DPI-Teleconnect, L.L.C. (“DPI-Teleconnect”) is seeking a Certificate of Public Convenience to provide telecommunication services as a Competitive Local Exchange Carrier (“CLEC”) in Pennsylvania.

The proposed initial tariff filed by DPI-Teleconnect, for providing telecommunications services in Pennsylvania as a Competitive Local Exchange Carrier (CLEC) was found to contain certain deficiencies. The deficiencies discussed here are to be remedied for a timely approval of the tariff:

- 1) The Tariff number should be changed to “PA. PUC Telephone Tariff No. 1.” The tariff number now appearing on the left side of the page should be moved to the right side of all the pages.
- 2) The Title page should contain information on the Company’s principal place of business, the territory served and the type of telecommunication service it provides. The Company should state the type of service it provides as “Competitive Local Exchange Carrier Services.”
- 3) Page 3: The symbols to be used in the tariff to indicate a change in the regulations or rates are as follows:

I	-to signify an increase in rates
D	-to signify a decrease in rates
C	-to signify all other changes
- 4) Page 5: The name of the service provided by the Company should be stated as Competitive Local Exchange Carrier Services.
- 5) Page 9: The description found in this sheet describing the territory served by the Company is not sufficient. The Company should provide detailed description of its serving areas including the name of the incumbent local exchange carriers.
- 6) The Company also failed to provide the name of all exchanges it will be serving, including its local calling areas. The Company should also provide maps of exchanges served by the Company in the tariff.

7) Page 9: At the expiration of any of term service shall continue on a month to month basis at the current rates. But, if the Company terminates the service at the expiration of any term agreement takes away that facility. The Company's right to terminate such service should be removed. However, customer will have the option to terminate service upon 5 days notice.

8) Page 12: If the company seeks to place language that limits its liability for interruption or cessation of service, it should specify it in dollar terms, and must substantiate the dollar amount.

9) Page 20: The Company may only charge its customers only the tariffed rates for any services furnished. The Company may not pass on to its customers any charges imposed by another company or entity for which the customer had already paid the tariff rate.

10) The date of the dispute should be the date the customer contacts the Company with a dispute. The address and phone number for customers to file a complaint in the case of disputes not resolved by the Company, has to be listed in the tariff.

Bureau of Consumer Services,  
P O Box 3265  
Harrisburg, PA 17105-3265.

Phone No. (717)783-5187.

11) Page 21-23: The suspension, termination or cancellation of service provisions should include information on the notice period. According to 52 Pa. Code §§64.71 and 64.121 a local exchange carrier shall mail or deliver written notice to the customer at least 7 days before the date of proposed suspension regardless of the grounds upon which suspension is sought. When at least 10 days have passed since suspension of service, the company may terminate service for failure to pay a reconnection fee and to remedy the original grounds for suspension due to any of the following reasons:

- (1) Failure to make satisfactory arrangements to pay arrearages.
- (2) Failure to post a deposit, furnish a third-party guarantee or otherwise establish credit.
- (3) Failure to meet the requirements of a payment agreement.
- (4) Failure to give adequate assurances that an authorized use or practice will cease.

12) Page 24: The Credit allowances for failure of service and equipment should follow 52 Pa. Code §64.52. When main service is interrupted for a period of at

least 24 hours, credit to customers at the following rate shall apply: 1) One-thirtieth of monthly rate for each of the first three full 24-hour periods. 2) Two-thirtieth of monthly rate for each full 24-hour period beyond the first three 24-hour period.

13 Page 25 & 26: The Company should remove any language that suggest that applications for new service are non-cancellable. The rules are applicable to all customers on an equitable basis and not on a case by case basis.

14) Page 26: The cancellation of service liability before the completion of the term in any case should not exceed the recurring charges for the remainder of the term.

15) Page 27: The customer should have the option to provide either oral or written notice for cancellation of service.

16) Page 28: The statement in the tariff that the Company adopts the exchange maps and legal descriptions filed with the Commission by the incumbent local exchange carriers is not enough to define the Company's local exchange area and maps. The tariff should include a section that list all the exchanges with local calling areas and its respective maps.

17) Page 31: The maximum period promotion offerings should be established and the notice period for filing with the Commission should also be specified.

18) The Company failed to provide the following requirements in the tariff:

- 1) Lifeline Service and Link-Up America Plan;
- 2) Pennsylvania Telephone Relay Service and its surcharge rates currently, at \$0.12 for business and \$0.06 for residential access lines;
- 3) IntraLATA and interLATA Presubscription Plan;
- 4) Caller ID Blocking service and other precautionary measures for the safety and privacy of customers; and
- 5) Two free directory assistance calls per month for residential customers.

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