





COMMONWEALTH OF PENNSYLVANIA  
PENNSYLVANIA PUBLIC UTILITY COMMISSION  
P.O. BOX 3265, HARRISBURG, PA 17105-3265

November 13, 2001

A-310824 F7001

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DOCUMENT  
FOLDER

Joint Petition of Verizon North Inc. and DSLNet Communications  
LLC For Approval of an Amendment to the Interconnection Agreement  
Under Section 252(e) of the Telecommunications Act of 1996

DOCKETED

NOV 15 2001

To Whom It May Concern:

This is to advise you that the Commission in Public Meeting on  
November 9, 2001 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*  
James J. McNulty,  
Secretary

encls  
cert. mail  
law

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PENNSYLVANIA  
PUBLIC UTILITY COMMISSION  
Harrisburg, PA 17105-3265

Public Meeting held November 9, 2001

**Commissioners Present:**

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

DOCKETED  
FOR

Joint Petition of Verizon North Inc.  
Inc. and DSLnet Communications LLC  
For Approval of an Amendment  
to the Interconnection Agreement  
Under Section 252(e) of the Tele-  
communications Act of 1996

A-310824F7001

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**OPINION AND ORDER**

**BY THE COMMISSION:**

Before the Commission for consideration is the Joint Petition for approval of Amendment No. 1 to the existing Interconnection Agreement (Agreement) between Verizon North Inc. (Verizon North) and DSLnet Communications LLC (DSLnet Communications). The Amendment to 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 June 3, 1996; *Order on Reconsideration* entered September 9, 1996) (*Implementation Orders*).

## History of the Proceeding

On September 20, 2001, Verizon North and DSLnet Communications filed the instant Joint Petition seeking approval of the aforementioned Amendment to the existing Agreement. This Amendment supplements the terms of the Agreement that was approved by our Opinion and Order entered September 4, 2001.

The Commission published notice of the Joint Petition and the Amendment in the *Pennsylvania Bulletin* on October 13, 2001, advising that any interested parties could file comments within ten days. No comments have been received.

## Discussion

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

The standard of review of a negotiated interconnection agreement is set forth at 47 U.S.C. §252(e)(2) of TA-96, 47 U.S.C. §252(e)(2). Section 252(e) 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 North and DSLnet Communications.

**B Timeliness of Filing**

We note that the instant Amendment provides that the “Effective Date” is June 14, 2001. (Amendment, p. 1). However, we note that a period of approximately three months has elapsed from the time Amendment No. 1 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>

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.

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<sup>1</sup> “The Act 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.*).

### C. Summary of Terms

Amendment No. 1 establishes the terms and conditions set forth as follows:

Notwithstanding any other provision of the Agreement, Local Traffic does not include any Internet traffic. The Parties' rights and obligation with respect to any intercarrier compensation that may be due in connection with their exchange of Internet traffic shall be governed by the Order on Remand and Report and Order, *In the Matter of Implementation of the Local Competition Provisions in the Telecommunications Act of 1996, Intercarrier Compensation for ISP Bound Traffic*, FCC 01-131, CC Docket Nos. 96-98 and 99-68.

(Amendment, p. 1).

### D. Disposition

We shall approve Amendment No. 1 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, we find that the Agreement does not discriminate against any telecommunications carrier not a party to the negotiations.

TA-96 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 Amendment to the Agreement and the 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 the Parties to embody the terms of the Amendment to the Agreement in a filed tariff, but we will require that the Parties file the Amendment to the Interconnection Agreement with this Commission. The Amendment shall be retained in the public file for inspection and copying consistent with the procedures relating to public access to documents.

### Conclusion

Based on the foregoing and pursuant to Section 252 of TA-96, *supra*, and our *Implementation Orders*, we will approve Amendment No. 1 to the Interconnection Agreement between Verizon North and DSLnet Communications filed on September 20, 2001; **THEREFORE**,

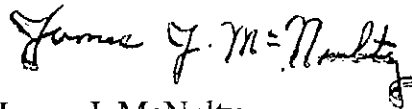
### **IT IS ORDERED:**

1. That the Joint Petition of Verizon North, Inc. and DSLnet Communications LLC filed September 20, 2001, seeking approval of Amendment No. 1 to the existing Interconnection Agreement, pursuant to the Telecommunication Act of 1996 and the Commission's Orders in *In Re: Implementation of the Telecommunications Act of 1996*, Docket No. M-00960799 (Order entered June 3, 1996; *Order on Reconsideration* entered September 9, 1996) (*Implementation Orders*), is hereby granted consistent with this Opinion and Order.

2. That approval of Amendment No. 1 to the 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 Amendment No. 1 to the 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: November 9, 2001

ORDER ENTERED: **NOV 13 2001**