

PENNSYLVANIA PUBLIC UTILITY COMMISSION  
Uniform Cover and Calendar Sheet

26

1. <b>REPORT DATE:</b> August 15, 2001	2. <b>BUREAU AGENDA NO.</b> AUG-2001-OSA-0251*
3. <b>BUREAU:</b> Office of Special Assistants	
4. <b>SECTION(S):</b>	5. <b>PUBLIC MEETING DATE:</b>
6. <b>APPROVED BY:</b> Director: C.W. Davis 7-1827 Supervisor: <i>C. W. Davis</i>	August 30, 2001
7. <b>PERSONS IN CHARGE:</b> D. Munsch 7-1660	<b>DOCKETED</b> JAN 7 2002
8. <b>DOCKET NO.:</b> A-310824F7001	

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

REP

(a) Joint Petition of The Verizon North Inc. (Verizon North) and DSL.net Communications, d/b/a DSL.net (DSL.net), for approval of an Interconnection Agreement under Sections 252, and/or 332 of the Telecommunications Act of 1996

(b) On June 26, 2001, Verizon North and DSL.net filed a Joint Petition for approval of an Interconnection Agreement (Petition). Notice of the Joint Petition was published in the *Pennsylvania Bulletin* on July 14, 2001. No comments have been received.

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

**DOCUMENT FOLDER**

Order Doc. No. 271544v1

Calendar Doc. No. 272067v1

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

**CONTENTS OF MOTION:** Staff recommendation adopted.



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

September 4, 2001

A-310824  
F7001

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3000 K STREET NW  
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DOCUMENT  
FOLDER

Joint Petition of Verizon North Inc.  
and DSLnet Communications, LLC d/b/a DSLnet,  
for Approval of an Interconnection Agreement Under  
Section 252(e) of the Telecommunications Act of 1996

To Whom It May Concern:

This is to advise you that the Commission in Public Meeting on August 30, 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,  
Secretary

encls  
cert. mail  
law

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**PENNSYLVANIA  
PUBLIC UTILITY COMMISSION  
Harrisburg, PA 17105-3265**

Public Meeting held August 30, 2001

Commissioners Present:

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

Joint Petition of Verizon North Inc. and  
DSLnet Communications, LLC d/b/a  
DSLnet, for Approval of an Interconnection  
Agreement Under Section 252(e) of the  
Telecommunications Act of 1996

A-310824F7001

**OPINION AND ORDER**

**BY THE COMMISSION:**

Before the Commission for consideration is the Joint Petition (Petition) of Verizon North Inc. (Verizon North) and DSLnet Communications, LLC d/b/a DSLnet (DSLnet) 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 June 26, 2001, Verizon North and DSLnet filed the instant Joint Petition seeking approval of the subject Agreement. The Effective Date of the Agreement is May 23, 2001. The Agreement shall continue in effect until May 22, 2003, unless and until cancelled or terminated as provided in the Agreement.

The Agreement provides for the interconnection of the two companies' networks and makes available to DSLnet access to unbundled network elements, wholesale telecommunications services, and ancillary services offered by Verizon North. DSL.net is a Competitive Local Exchange Carrier (CLEC) that is authorized to provide local telephone service in Pennsylvania consistent with appropriate legal requirements established by the Commission. (Joint Petition, p. 1, ¶2).

The Commission published notice of the Joint Petition and the Agreement in the *Pennsylvania Bulletin* on July 14, 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 out in Section 252(e)(2) of TA-96. Section 252(e)(2), which 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 --
    - (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.

**B. Summary of Terms**

The Agreement sets forth the terms and conditions of interconnection provided by Verizon to DSLnet. (Joint Petition, p. 1. ¶2).

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

- (1) The avoided cost discount for OS/DA is 2.0% (Agreement, p. 111).
- (2) The avoided cost discount for all services excluding OS/DA is 11.1% from Verizon North's retail rates. (*Id.*).
- (3) The Local Call Termination rate element that applies to Local traffic on a Minute Of Use (MOU) basis for traffic delivered to and end office is \$0.0030000; the

Local Call Termination rate element that applies to Local Traffic on a MOU basis for traffic delivered to a Tandem Switch is \$0.0079884; the Tandem Transiting Charge is \$0.0049884 (Pricing Attachment, Appendix A)

- (4) Unbundled Network Element (UNE) rates are addressed by category in the Pricing Attachment of the Agreement.
- (5) Additional Services and Coordinated Service Arrangements described in the Additional Services Attachment of the Agreement illustrates the operations support systems that Verizon North will use and the related functions and services for trunk-side interconnection, unbundled elements, resold services, centralized message distribution, order processing, maintenance of the systems, network management controls, electronic interface and electronic systems redesign.
- (6) The Collocation Attachment of the Agreement (Agreement, p. 104) specifies the terms by which Verizon North and DSL.net shall provide collocation to each other.
- (7) Pursuant to the Agreement, to the extent required by the Act, Verizon North and DSL.net shall each afford to the other non-discriminatory access to the poles, ducts, conduits and Rights of Way (ROW) it owns or controls on terms, conditions and prices comparable to those offered to any other entity pursuant to each party's tariffs and /or standard agreements. (Agreement, p. 49).
- (8) The continued provision of 911 services to all customers (Agreement, pp. 105-106).
- (9) The parties will follow the Long Term Number Portability provisioning process recommended by the North American Numbering Council and adopted by the Federal Communication Commission. (Agreement, p. 70).

Verizon North and DSLnet aver that the Agreement complies with the criteria identified in TA-96 and quoted above, pursuant to which we must determine whether to accept or reject the Agreement. The Parties assert that Verizon North is willing to make the resale arrangements contained in the Agreement available to any other telecommunications carrier certified to provide local telephone service in Pennsylvania (*see*, 47 U.S.C. §252(e)), and that the Agreement is, therefore, not discriminatory. Furthermore, the Parties note that other carriers are not bound by the terms of the Agreement and are free to pursue their own negotiated arrangements with Verizon North. (Joint Petition, pp. 1-2 , ¶3-4).

The Parties assert that the Agreement is consistent with the public interest, convenience, and necessity, as required by Section 252(e)(2)(a)(ii) of TA-96. (Joint Petition, p. 2, ¶5).<sup>1</sup>

### **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,

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<sup>1</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, for which it has not been authorized to provide and for which tariffs have not been authorized.

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 Verizon North or DSLnet 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.

**IT IS ORDERED:**

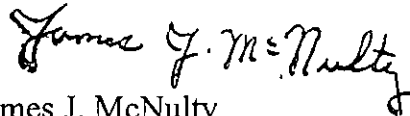
1. That the Joint Petition filed on June 26, 2001, by Verizon North Inc., and DSLnet Communications, LLC d/b/a DSLnet seeking the approval of an

Interconnection Agreement, 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 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: August 30, 2001

ORDER ENTERED: **SEP 04 2001**