

PENNSYLVANIA PUBLIC UTILITY COMMISSION  
Uniform Cover and Calendar Sheet

<b>1. <u>REPORT DATE:</u></b>  December 31, 2007	<b>2. <u>BUREAU AGENDA NO.</u></b>  JAN-2008-OSA-0008*
<b>3. <u>BUREAU:</u></b> Office of Special Assistants	
<b>4. <u>SECTION(S):</u></b>	<b>5. <u>PUBLIC MEETING DATE:</u></b>
<b>6. <u>APPROVED BY:</u></b>  Director: C. W. Davis 7-1827 Mgr/Spvr: R. A. Marinko 3-3930 Legal Review: K. Barrow 2-8840	January 10, 2008
<b>7. <u>PERSONS IN CHARGE:</u></b>  M. Samuel 3-0697	<b>9. <u>EFFECTIVE DATE OF FILING:</u></b> February 19, 2008
<b>8. <u>DOCKET NO.:</u></b>  A-310804F7002	

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

(a) Joint Petition of The United Telephone Company of Pennsylvania d/b/a Embarq (Embarq) and dPi Teleconnect, LLC. (Teleconnect) for approval of a Master Interconnection, Collocation and Resale Agreement Under Section 252(e) of the Telecommunications Act of 1996

(b) On November 21, 2007, Embarq and Teleconnect filed a Joint Petition seeking approval of a Master Interconnection, Collocation and Resale Agreement. Notice of the Joint Petition was published in the *Pennsylvania Bulletin* on December 8, 2007. No comments have been received.

(c) The Office of Special Assistants recommends that the Commission adopt the proposed Opinion and Order which grants the Joint Petition.

**11. MOTION BY:** Commissioner Chm. Holland

Commissioner Christy - Yes  
Commissioner Pizzigrilli - Yes  
Commissioner

**SECONDED:** Commissioner Cawley

**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 10, 2008

A-310804 F7002

**DOCUMENT  
FOLDER**

BRIAN A BOLINGER  
VICE PRESIDENT LEGAL AFFAIRS  
2997 LBJ FREEWAY SUITE 225  
DALLAS TX 75234

Joint Petition of The United Telephone Company of Pennsylvania d/b/a Embarq  
Pennsylvania and dPi Teleconnect, LLC for approval of a Master Interconnection, Collocation  
and Resale 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 January 10, 2008 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  
MH

ZSUZSANNA E BENEDEK ESQUIRE  
240 NORTH THIRD STREET SUITE 201  
HARRISBURG PA 17101

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

Public Meeting held January 10, 2008

Commissioners Present:

Wendell F. Holland, Chairman  
James H. Cawley, Vice Chairman  
Tyrone J. Christy  
Kim Pizzingrilli

Joint Petition of The United Telephone Company  
of Pennsylvania *d/b/a* Embarq Pennsylvania and  
dPi Teleconnect, LLC for Approval of a Master  
Interconnection, Collocation and Resale Agreement  
Under Section 252(e) of the Telecommunications  
Act of 1996

A-310804F7002

**OPINION AND ORDER**

**BY THE COMMISSION:**

Before the Commission for consideration is the Joint Petition for approval of a Master Interconnection, Collocation and Resale Agreement (Joint Petition) between The United Telephone Company of Pennsylvania *d/b/a* Embarq (Embarq) and dPi Teleconnect, LLC. (Teleconnect), 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 *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); *see also Proposed Modifications to the Review of Interconnection Agreements* (Order entered on May 3, 2004) (*Implementation Orders*).

### **History of the Proceeding**

On November 21, 2007, Embarq and Teleconnect filed the Joint Petition seeking approval a Master Interconnection, Collocation and Resale Agreement (Agreement).

The Commission published notice of the Joint Petition and the Agreement in the *Pennsylvania Bulletin* on December 8, 2007, advising that any interested parties could file comments within ten days. No comments have been received.

The Agreement has an effective date of July 30, 2007, and will remain in effect until its termination date of July 29, 2009 (End Date), unless terminated earlier by either of the Parties. The Parties agree that no later than 160 days prior to the End Date, Teleconnect will provide Embarq notice to commence negotiations for a successor agreement to be effective on or before the End Date. Upon expiration of an initial term, if a successor agreement has not been signed by the Parties, the Agreement will continue until a successor agreement has been signed, provided the Parties are in arbitration or mediation before the Commission or the Federal Communication Commission. The Agreement may be terminated by either Party at the end of the initial term or any renewable term, by providing notice to the other at least sixty days prior to the expiration of the initial Term or any renewable term. In the event of termination, if either Party requests to renegotiate a successor agreement, this Agreement will remain in effect until replaced by the successor agreement.

Embarq is an Incumbent Local Exchange Company (ILEC) authorized to provide local exchange telephone service in Pennsylvania. Teleconnect is authorized to provide telecommunications services as a Competitive Local Exchange Carrier.

**A. Standard of Review**

The standard for review of a negotiated interconnection agreement is set out 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 Embarq and Teleconnect.

**B. Summary of Terms**

The Agreement sets forth the general terms, conditions for the interconnection of Parties' local exchange networks for the transmission and termination of calls, that customers of each can receive calls that originate on the other network and

place calls that terminate on the others' network. The Agreement also contains the terms and conditions under which Embarq will provide access to unbundled network elements, Collocation and Resale to Teleconnect. Table One of the Agreement contains the pricing schedules for Embarq's network elements and resale. Agreement at 123-128. Table Two contains the pricing schedules for physical and virtual collocation elements. Agreement at 135-136. Exhibit A of the Agreement contains a list of Embarq's Wire Centers that exceed the FCC-established thresholds for UNE loop DS1, DS3 and 4 fiber-based collocators in accordance with the FCC's Triennial Review Report Order. Agreement at 137. The Parties also agree to reciprocal compensation rates for End Office switching at \$0.003188 per minute of use and for Tandem Switching at \$0.003190 per minute of use. Resale rates for local services will receive a 10.87 percent discount from Embarq retail rates, when Operator and Directory Assistance services are provided, and a 15.26 percent discount with operator services. Agreement at 127.

### **C. Disposition**

We shall approve the Agreement, finding that it satisfies the two-pronged criteria of Section 252(e) of TA-96. We note that in approving this privately negotiated Agreement, including any provisions limiting unbundled access to Embarq's network, we express no opinion regarding the enforceability of our independent state authority preserved by 47 U.S.C. § 251(d)(3) and any other applicable law.

We shall minimize the potential for discrimination against other carriers not parties to the Agreement by providing here that our 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 other telecommunications carriers not parties to the negotiations.

TA-96 requires that the terms of the Agreement be made available for other parties to review. 47 U.S.C. § 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 Embarq and Teleconnect to embody the terms of the Agreement in a filed tariff.

Consistent with our May 3, 2004 Order at Docket No. M-00960799, we shall require that the ILEC file an electronic, true and correct copy of the Agreement to the Interconnection Agreement in “.pdf format” for inclusion on the Commission’s website, within thirty days of the entry date of this Opinion and Order.

### **Conclusion**

Based on the foregoing and pursuant to Section 252(e) of TA-96, *supra*, and our *Implementation Orders*, we determine that the Master Interconnection Agreement between Embarq and Teleconnect is non-discriminatory to other telecommunications companies that are not parties to it and that it is consistent with the public interest;  
**THEREFORE,**

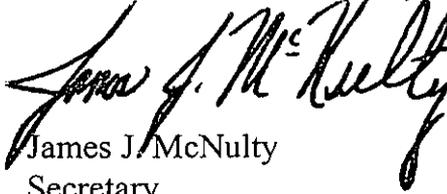
**IT IS ORDERED:**

1. That the Joint Petition for approval of a Master Interconnection Agreement filed on November 21, 2007, by The United Telephone Company of Pennsylvania *d/b/a* Embarq Pennsylvania and dPi Teleconnect, LLC. 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); and *Proposed Modifications to the Review of Interconnection Agreements* (Order entered on May 3, 2004) is granted, consistent with this Opinion and Order.

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

3. That The United Telephone Company of Pennsylvania *d/b/a* Embarq Pennsylvania shall file an electronic copy of the Master Interconnection Agreement in ".pdf format" with this Commission within thirty (30) days of the entry of this Opinion and Order, for inclusion on the Commission's website.

**BY THE COMMISSION,**

  
James J. McNulty  
Secretary

(SEAL)

ORDER ADOPTED: January 10, 2008

ORDER ENTERED: JAN 10 2008