

PENNSYLVANIA PUBLIC UTILITY COMMISSION
Uniform Cover and Calendar Sheet

20

1. REPORT DATE: March 18, 2003	2. BUREAU AGENDA NO.: APR-2003-OSA-0080*
3. BUREAU: Office of Special Assistants	DOCUMENT FOLDER
4. SECTION(S):	
6. APPROVED BY: Director: C.W. Davis 7-1822 Supervisor: D. Munsch 7-1660 Legal Review: R. Albert 7-8108	5. PUBLIC MEETING DATE: April 10, 2003
7. PERSON IN CHARGE: K. Schiavo 3-6165	DOCKETED JUN 25 2003
8. DOCKET NO.: A-310806F7002	

9. (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 Sprint (Sprint) and NOW Communications Inc. (NOW), for approval of a Master Interconnection and Resale Agreement under Sections 252 (a)(1) and (e) of the Telecommunications Act of 1996

(b) On February 25, 2003, Sprint and NOW filed a Joint Petition seeking approval of a Master Interconnection and Resale Agreement (Agreement) under Sections 252 (a)(1) and (e) of the Telecommunications Act of 1996, that would provide for the interconnection of the two companies' networks and make available to NOW services offered by Sprint for resale as well as resale support services. Notice of the Joint Petition was published in the *Pennsylvania Bulletin* on March 15, 2003. No comments have been received.

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

Order Doc. No. 388044v1

Calendar Doc. No. 388120v1

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

APRIL 11, 2003

A-310806 F7002

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

DOCKETED
APR 24 2003

Joint Petition of The United Telephone Company of Pennsylvania, d/b/a Sprint, and NOW Communications, Inc., for approval of a Master Interconnection and Resale Agreement under Sections 252(a)(1) and (e) of the Telecommunications Act of 1996.

DOCUMENT

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 April 10, 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

R SCOTT SEAB VP
NOW COMMUNICATIONS INC
711 SOUTH TEJON ST SUITE 201
COLORADO SPRINGS CO 80903

PENNSYLVANIA
PUBLIC UTILITY COMMISSION
Harrisburg, PA 17105-3265

Public Meeting held April 10, 2003

Commissioners Present:

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

DOCKETED
APR 24 2003
DOCUMENT

Joint Petition of The United Telephone Company of Pennsylvania, d/b/a Sprint, and NOW Communications, Inc. for Approval of a Master Interconnection and Resale Agreement Under Sections 252(a)(1) and (e) of the Telecommunications Act of 1996

A-310806F7002

OPINION AND ORDER

BY THE COMMISSION:

Before the Commission for consideration is the Joint Petition of The United Telephone Company of Pennsylvania, d/b/a Sprint (Sprint), and NOW Communications, Inc. (NOW) for Approval of a Master Interconnection and Resale Agreement (Agreement) Under Sections 252(a)(1) and (e) of the Telecommunications Act of 1996 (TA-96), Pub. L. No. 104-104, 110 Stat. 56 (codified as amended in scattered sections of Title 47, United States Code), 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*).

History of the Proceeding

On February 25, 2003, Sprint and NOW filed the instant Joint Petition seeking approval of the aforementioned Agreement that would provide for the interconnection of the two companies' networks and make available to NOW access to unbundled network elements (UNEs), wholesale telecommunications services, ancillary services, as well as the resale of tariffed services offered by Sprint.

The Commission published notice of the Joint Petition and the Agreement in the *Pennsylvania Bulletin* on March 15, 2003, advising that any interested parties could file comments within ten days. No comments have been received.

Discussion

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 Sprint and NOW.

B. Summary of Terms

This Agreement specifies the rights and obligations of each Party with respect to the establishment, purchase, and sale of local interconnection, resale of telecommunications services, and UNEs. Additionally, this Agreement contains various attachments that set forth, among other things, descriptions of the services, pricing, technical and business requirements, and physical and network security requirements. (Agreement, Table One). Except as otherwise provided, Sprint and NOW agree to provide service to each other under the terms of the Agreement for a period of two years ending February 11, 2005.

The key provisions of the Agreement are:

1. Resale Discounts:

A resale discount of 15.26% will apply in instances where NOW provides its own Operator/Directory Assistance Service and a resale discount of 10.87% will apply in instances where Sprint provides Operator/Directory Assistance Service to NOW.

2. Unbundled Local Loops

The charges that NOW will pay to Sprint for unbundled local loops are set forth in the Agreement for Analog 2-wire, Analog 4-wire, DS0 2-Wire Digital Data Loop

or Interconnection ADSL/ISDN-BRI, DS0 4-Wire Digital Data Loop 56 or 64Kbps, and DS1 -Wire Digital Data DS1/T1/ISDN-PRI. The specific rates for the Analog 2-wire Unbundled Local Loop by Rate Band are as follows:

<u>Analog 2-Wire Local Loop</u>	<u>Recurring Rate</u>
Band 1	\$24.11
Band 2	\$25.81
Band 3	\$27.18
Band 4	\$30.21
Band 5	\$34.01
Band 6	\$39.05
Band 7	\$50.63
Band 8	\$75.19

3. Reciprocal Compensation

• End Office per minute of use	\$0.005951
• Tandem Switching per minute of use	\$0.003050
• Common per minute of use	\$0.001833

4. Interim Number Portability

The following Interim Number Portability Rates will apply until such time that permanent local number portability is established:

<u>Interim Number Portability</u>	<u>Recurring Charge</u>	<u>Non-Recurring Charge</u>
RCF Residential	\$0.13	\$0.41
RCF Business	\$0.68	\$0.41
Call Path Residential	\$0.02	\$0.36
Call Path Business	\$0.11	\$0.36
Specific to Access Settlements	\$7.46	--

5. Local Switching

The following rates will apply for Local Switching service:

<u>Local Switching</u>	<u>Recurring Charge</u>
Residential 1	\$2.46
Business 1	\$2.46
Key System	\$2.46
CENTREX	\$2.46
Pay Station	\$2.46
PBX (DS0)	\$4.85
PBX (DS1)	\$105.19
DID	\$105.19
BRI-ISDN	ICB*
PRI-ISDN One Way	\$304.96
PRI-ISDN Two Way	\$504.99
DS3	ICB*

* ICB = Individual Case Basis.

In addition, the originating and terminating Carrier Common Line rate will be assessed based on the current tariffed rates.

6. 911

The following rates will apply for services associated with 911:

<u>911 Service</u>	<u>Recurring Charge</u>	<u>Non-Recurring Charge</u>
911 Tandem Port	\$18.74	\$119.84
Street Index Guide		--
Monthly	\$41.00	
Tape	\$50.00	

In addition to the rates summarized above, Table 1 of the Agreement also includes, or references, the agreed-upon rates for: sage file charges, various miscellaneous service order charges, Network Interface Device, Custom Calling features and packages, tandem

switching transport, operator services (toll, local, and Directory Assistance), common channel signaling interconnection service, collocation and the Line Information Database.

Sprint and NOW aver that the Agreement complies with the criteria identified in the 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. The Parties assert that the Agreement is not discriminatory and that the interconnection arrangements contained in the Agreement are available to any other local exchange carrier certified to operate in Pennsylvania. Furthermore, the Parties note that other carriers are not bound by the terms of the Agreement and are free to negotiate independently with Sprint pursuant to Section 252 of the TA-96.

The Agreement is an important step towards allowing NOW to compete as a facilities-based and reseller local exchange carrier for both residential and business customers. These are two very important objectives which TA-96 contemplates and the Pennsylvania General Assembly envisioned when it enacted Section 3009(a) of the Public Utility Code, 66 Pa. C.S. §3009(a). As such, the proposed Agreement protects the public interest, convenience, and necessity.

C. Disposition

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,

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 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 Sprint or NOW 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 carrier in the areas of protection of public safety and welfare, service quality, and the rights of consumers. (*See, e.g.*, Section 253(b) of TA-96). This is consistent with TA-96 and with Chapter 30 of the Public Utility Code, wherein service quality and standards, *e.g.*, 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.

Conclusion

Based on the foregoing and pursuant to Section 252 of TA-96, *supra*, and our *Implementation Order*, we will approve the Agreement between Sprint and NOW

filed on February 25, 2003, consistent with the conditions delineated in this Opinion and Order; **THEREFORE,**

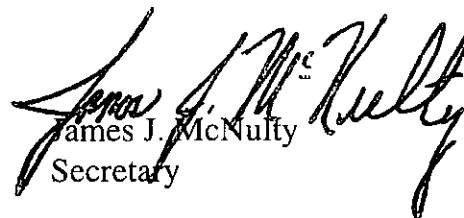
IT IS ORDERED:

1. That the Joint Petition of The United Telephone Company of Pennsylvania, d/b/a Sprint, and NOW Communications, Inc. seeking the approval of a Master Interconnection and Resale Agreement filed February 25, 2003, pursuant to the Telecommunications Act of 1996 and the Commission's June 3, 1996 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 Master Interconnection and Resale 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 Master Interconnection and Resale Agreement, with appropriate amendment, 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: April 10, 2003

ORDER ENTERED **APR 11 2003**