

**PENNSYLVANIA PUBLIC UTILITY COMMISSION**  
**Uniform Cover and Calendar Sheet**

31

<b>1. REPORT DATE:</b> June 13, 2000	<b>2. BUREAU AGENDA NO.:</b> JUN-2000-OSA-0184*
<b>3. BUREAU:</b> Office of Special Assistants	
<b>4. SECTION(S):</b>	<b>5. PUBLIC MEETING DATE:</b> June 22, 2000
<b>6. APPROVED BY:</b> Director: C.W. Davis 7-1827 <i>CW</i> Supervisor:	<b>DOCKETED</b> JUL 13 2000  <b>DOCUMENT FOLDER</b>
<b>7. PERSON IN CHARGE:</b> D. Munsch 7-1660	
<b>8. DOCKET NO.:</b> A-310804	

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, and dPi-Teleconnect, L.L.C. for approval of a Master Resale Agreement under Section 252(e) of the Telecommunications Act of 1996

(b) On April 27, 2000, The United Telephone Company of Pennsylvania, d/b/a Sprint (Sprint) and dPi-Teleconnect, L.L.C., (DPI) filed a Joint Petition seeking approval of a Master Resale Agreement, under Sections 252(a)(1) and (e) of the Telecommunications Act of 1996, which makes available to DPI services offered by Sprint for resale as well as resale support services.

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

Order Doc. No. 196956v1

Calendar Doc. No. 196348v1

**10. MOTION BY:** Commissioner Chm. Quain

**Commissioner Brownell - Yes**

**SECONDED:** Commissioner Bloom

**Commissioner Wilson - Yes**

**Commissioner Fitzpatrick - 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

JUNE 26, 2000

A-310804

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

Joint Petition of The United Telephone Company of Pennsylvania  
d/b/a Sprint and dPi Teleconnect, L.L.C. for Approval of a Master Resale  
Agreement Under Section 252(3) of the Telecommunications Act of 1996

DUCKETED  
JUN 30 2000

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 June 22, 2000 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

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DOCUMENT  
FOLDER

PENNSYLVANIA  
PUBLIC UTILITY COMMISSION  
Harrisburg, PA 17105-3265

Public Meeting held June 22, 2000

Commissioners Present:

John M. Quain, Chairman  
Robert K. Bloom, Vice Chairman  
Nora Mead Brownell  
Aaron Wilson, Jr.  
Terrance J. Fitzpatrick

Joint Petition of The United Telephone Company  
of Pennsylvania, d/b/a Sprint and dPi-  
Teleconnect, L.L.C. for Approval of a  
Master Resale Agreement Under  
Section 252(e) of the Telecommunications  
Act of 1996

A-310804

DOCKETED

JUN 30 2000

DOCUMENT  
FOLDER

**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 dPi Teleconnect, L.L.C. (DPI) for approval of a Master Resale 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 April 27, 2000, Sprint and DPI filed the instant Joint Petition seeking approval of a Master Resale Agreement (Agreement) which sets forth the terms, conditions, and prices under which Sprint will offer and provide to DPI certain telecommunications services available for resale, as well as resale support services. On September 15, 1999, the Commission granted DPI the authority to operate as a Competitive Local Exchange Carrier (CLEC) within the service territories of Sprint, Bell Atlantic-Pennsylvania, Inc., and GTE North Incorporated.

The Commission published notice of the instant Joint Petition and the Agreement in the *Pennsylvania Bulletin* on May 13, 2000, advising that any interested parties could file comments within ten (10) days. To date, no comments have been received.

## Discussion

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

The Commission's standard of review of a negotiated interconnection agreement is set forth at 47 U.S.C. §252(e)(2), which provides, in pertinent part, that:

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 Sprint and DPI.

**B. Summary of Terms**

This Agreement specifies the rights and obligations of each Party with respect to the resale of telecommunications services. The services and facilities to be provided to DPI by Sprint in satisfaction of the Agreement will be provided pursuant to Sprint tariffs and then-current practices on file with this Commission or the Federal Communications Commission (FCC). (Agreement, p. 5). Any additional services beyond those specified within this Agreement will be incorporated into the Agreement by written amendment, upon request by either Party. (Agreement, p. 6). Except as otherwise provided, Sprint and DPI agree to provide service to each other under the terms of the Agreement until May 1, 2001.<sup>1</sup> (Agreement, p. 6).

A resale discount of 15.26% will apply for Sprint's Operator Assistance/Directory Assistance Service and a resale discount of 10.87% will apply to all other services provided by Sprint to DPI.

Sprint also agrees to provide DPI the ability to order all available features on its switches at parity with what Sprint offers its own end-user customers. Where Sprint is the owner or operator of the 911/E911 database, Sprint will maintain daily updating of the 911/E911 database information related to DPI's end users. Sprint will

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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.

provide DPI a default arrangement/disaster recovery plan including an emergency back-up number in case of massive trunk failures. (Agreement, p. 27).

Sprint and DPI aver that the Agreement complies with the criteria identified in the Act 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 1996 Act.

The Agreement is an important step towards allowing DPI to compete as a reseller of local exchange carrier for both residential and business customers. These are two (2) very important objectives which the Act 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 (2)-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, 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 Sprint or DPI 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 resale 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.*, §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 (Resale Agreement, pp. 26-28) and conclude that these provisions of the Agreement are consistent with the public interest.

## Conclusion

Based on the foregoing and pursuant to Section 252(e), *supra*, of the Act and our *Implementation Order*, we determine that the Master Resale Agreement between Sprint and DPI is non-discriminatory to other telecommunications companies not party to it and that it is consistent with the public interest; **THEREFORE,**

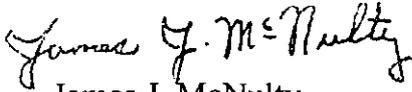
### **IT IS ORDERED:**

1. That the Joint Petition of The United Telephone Company of Pennsylvania, d/b/a Sprint and dPi Teleconnect, L.L.C. seeking the approval of a Master Resale Agreement filed on April 27, 2000, 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 Master Resale Agreement shall not serve as binding precedent for negotiated or arbitrated agreements between non-parties to the subject Resale Agreement.

3. That the Parties shall file a true and correct copy of the Master Resale 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: June 22, 2000

ORDER ENTERED: **JUN 26 2000**