

PENNSYLVANIA PUBLIC UTILITY COMMISSION  
Uniform Cover and Calendar Sheet

16

1. REPORT DATE: June 15, 1999	2. BUREAU AGENDA NO.: JUN-1999-OSA-300*
3. BUREAU: Office of Special Assistants	
4. SECTION(S):	5. PUBLIC MEETING DATE: June 24, 1999
6. APPROVED BY: Director: C.W. Davis 7-1827 Supervisor:	
7. PERSON IN CHARGE: D. Munsch 7-1660	
8. DOCKET NO.: A-310830	

**DOCKETED**  
JUL 12 1999

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

(a) Joint Petition of Bell Atlantic-Pennsylvania, Inc. and Omnipoint Communications, Inc. for approval of an Interconnection Agreement that would provide for the interconnection of the two companies' networks.

(b) On April 8, 1999, Bell Atlantic-Pennsylvania, Inc. (BA-PA) and Omnipoint Communications, Inc. (Omnipoint) filed a Joint Petition seeking approval of an Interconnection Agreement which sets forth the terms, conditions, and prices under which BA-PA and Omnipoint will offer and provide interconnection for the purpose of exchanging traffic.

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

Order Doc. No. 132212v1

Calendar Doc. No. 132281v1

10. MOTION BY: Commissioner Chm. Quain

SECONDED: Commissioner Bloom

CONTENTS OF MOTION: Staff recommendation adopted.

**DOCUMENT FOLDER**  
Commissioner Rolka - Yes  
Commissioner Brownell - Yes  
Commissioner Wilson - Yes

EEF



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

REFER TO OUR FILE

JUNE 28, 1999

A-310830

CHRISTOPHER M ARFAA ESQUIRE  
BELL ATLANTIC-PENNSYLVANIA  
1717 ARCH STREET 32NW  
PHILADELPHIA PA 19103

Joint Petition of Bell Atlantic-Pennsylvania, Inc. and  
Omnipoint Communications, Inc. for approval of a Interconnection  
Agreement under Section 252(e) of the Telecommunications Act of  
1996.

DOCKETED

JUN 29 1999

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 24, 1999 in the  
above entitled proceeding.

An Opinion and Order has been enclosed for your records.

Very truly yours,

James J. McNulty,  
Secretary

EEF

smk  
Encls.  
Cert.Mail  
JERRY O'BRIEN SR DIRECTOR  
OMNIPOINT COMMUNICAITONS  
16 WING DRIVE  
CEDAR KNOLLS NJ 07927

DOCUMENT  
FOLDER

PENNSYLVANIA  
PUBLIC UTILITY COMMISSION  
Harrisburg, PA 17105-3265

Public Meeting held June 24, 1999

Commissioners Present:

John M. Quain, Chairman  
Robert K. Bloom, Vice Chairman  
David W. Rolka  
Nora Mead Brownell  
Aaron Wilson, Jr.

Joint Petition of Bell Atlantic-Pennsylvania,  
Inc. and Omnipoint Communications, Inc.  
For Approval of an Interconnection  
Agreement Under Section 252(e) of the  
Telecommunications Act of 1996

A-310830

OPINION AND ORDER

DOCKETED

BY THE COMMISSION:

JUN 29 1999

Before the Commission for consideration is the Joint Petition of Bell Atlantic-Pennsylvania, Inc. (BA-PA) and Omnipoint Communications, Inc. (Omnipoint) 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*).

DOCUMENT  
FOLDER

## History of the Proceeding

On April 8, 1999, BA-PA and Omnipoint filed the instant Joint Petition seeking approval of the aforementioned Interconnection Agreement that would provide for the interconnection of the two companies' networks, thereby facilitating Omnipoint's provision of commercial mobile radio service ("CMRS") to both residential and business customers in Pennsylvania.

The Commission published notice of the Joint Petition and the Agreement in the *Pennsylvania Bulletin* on April 24, 1999, advising that any interested parties could file comments within twenty (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 BA-PA and Omnipoint.

**B. Summary of Terms**

In their Joint Petition, BA-PA and Omnipoint aver that:

The Agreement sets forth the terms, conditions and prices under which BA-PA and Omnipoint will offer and provide network interconnection, reciprocal call transport and termination, and ancillary network services to each other within each Local Access and Transport Area ("LATA") in which they both operate within Pennsylvania.

(Joint Petition, p. 2, ¶4.)

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

- (1) Reciprocal compensation for terminating local traffic at rates of \$.001864 or \$.003738 per minute of use, depending on where traffic is terminated on the BA-PA and Omnipoint networks.
- (2) The continued provision of 911 services to all customers.

(Joint Petition, p. 2, ¶5.)

BA-PA and Omnipoint 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 CMRS provider 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 BA-PA pursuant to Section 252 of the 1996 Act.

The Agreement is an important step towards allowing Omnipoint to compete as a CMRS provider to both residential and business customers, which is what 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), and that, therefore, the 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). 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 BA-PA or Omnipoint 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.

### Conclusion

Based on the foregoing and pursuant to Section 252, *supra*, and our *Implementation Order*, we will approve the Interconnection Agreement between BA-PA and Omnipoint filed on April 9, 1999; **THEREFORE,**

### **IT IS ORDERED:**

1. That the Joint Petition of Bell Atlantic-Pennsylvania, Inc. and Omnipoint Communications, Inc. seeking the approval of an Interconnection Agreement

filed on April 8, 1999, 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.

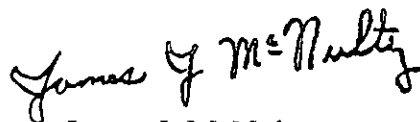
2. That approval of the Agreement shall not serve as binding precedent for negotiated or arbitrated agreements between non-parties to the instant agreement.

3. That the reciprocal compensation rates for terminating local traffic be, and hereby, are approved.

4. That approval of the Interconnection Agreement shall not be construed as a review under 47 U.S.C. §271.

5. That the parties shall file a true and correct copy of the Interconnection 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: June 24, 1999

ORDER ENTERED: **JUN 28 1999**