

PENNSYLVANIA PUBLIC UTILITY COMMISSION
Uniform Cover and Calendar Sheet

1. <u>REPORT DATE:</u> May 9, 2006	2. <u>BUREAU AGENDA NO.</u> MAY-2006-OSA-0113*
3. <u>BUREAU:</u> Office of Special Assistants	
4. <u>SECTION(S):</u>	5. <u>PUBLIC MEETING DATE:</u>
6. <u>APPROVED BY:</u> Director: C.W. Davis 7-1827 Mgr/Spvr: R. Marinko 3-3930 Legal Review: K. House 772-8495 KH	May 19, 2006 DOCUMENT FOLDER
7. <u>PERSONS IN CHARGE:</u> G. Strella 7-1023	9. <u>EFFECTIVE DATE OF FILING:</u> June 23, 2006
8. <u>DOCKET NO.:</u> A-310814F7002	DOCKETED AUG 14 2006

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 Sprint (Sprint) and US LEC of Pennsylvania, Inc. (US LEC) for Approval of a Master Interconnection, Collocation and Resale Agreement Under Section 252(e) of the Telecommunications Act of 1996.

(b) On March 24, 2006, Sprint and US LEC filed the Joint Petition seeking approval of an Interconnection Agreement. Notice of the Joint Petition was published in the *Pennsylvania Bulletin* on April 8, 2006. No comments have been received.

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

Order Doc. No. 606925v1

Calendar Doc. No. 606929v1

11. MOTION BY: Commissioner Chm. Holland
SECONDED: Commissioner Cawley
 Commissioner Shane - Yes
 Commissioner Pizzingrilli - 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

May 24, 2006

A-310814F7002

US LEC OF PENNSYLVANIA INC
TRANSAMERICA SQUARE
6801 MORRISON BOULEVARD
CHARLOTTE NC 28211

DOCUMENT
FOLDER

Joint Petition of The United Telephone Company of Pennsylvania, d/b/a sprint and US LEC of Pennsylvania, Inc. 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 May 19, 2006 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

MMB
encls
cert. mail

UNITED TELEPHONE CO OF PA D/B/A SPRINT
SUZANNA E BENEDEK ATTORNEY
240 N 3RD ST SUITE 201
HARRISBURG PA 17101

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

Public Meeting held May 19, 2006

Commissioners Present:

Wendell F. Holland, Chairman
James H. Cawley, Vice Chairman
Bill Shane
Kim Pizzingrilli
Terrance J. Fitzpatrick

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

A-310814F7002

OPINION AND ORDER

BY THE COMMISSION:

Before the Commission for consideration is the Joint Petition (Joint Petition) for approval of a Master Interconnection, Collocation and Resale Agreement between The United Telephone Company of Pennsylvania, d/b/a Sprint (Sprint) and US LEC of Pennsylvania, Inc. (US LEC) 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 March 24, 2006, Sprint and US LEC filed the Joint Petition seeking approval of the Agreement. The Commission published notice of the Joint Petition and the Agreement in the *Pennsylvania Bulletin* on April 8, 2006, advising that any interested parties could file comments within ten days. No comments have been received.

The Agreement has an effective date of November 15, 2005, and a termination date of November 14, 2007. The Agreement shall remain in effect until its termination date, unless it is cancelled earlier by one of the Parties as provided for in the Agreement. No later than one-hundred sixty (160) days prior to the termination date, US LEC will provide Sprint with notice to commence negotiations pursuant to Sections 251 and 252 of TA-96 regarding the terms, conditions and rates for a successor agreement to be effective on or before the termination date. (Agreement at 16).

In the Joint Petition before us, Sprint is the Incumbent Local Exchange Carrier (ILEC) and US LEC is a Reseller, an Interexchange Carrier and a Competitive Local Exchange Carrier.¹

¹ 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, 66 Pa. C.S. §§ 101 *et seq.*, if the Applicant began offering services or assessing surcharges to end users which it has not been authorized to provide and for which tariffs have not been authorized.

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 US LEC.

B. Summary of Terms

The Agreement contains the resale and wholesale terms, rates and conditions for the interconnection of the Parties' local exchange networks for the purpose of transmission and termination of calls, so that customers of each can receive calls that originate on the other's network and place calls that terminate on the other's network, and for US LEC's purchase of telecommunications services for resale to others. The Agreement also contains the terms, rates and conditions under which Sprint will provide collocation to US LEC. Table 1 of the Agreement provides for a resale discount of

15.26% for operator assisted and directory assistance calls and 10.87% for all others. (Table 1 at 156). Table 1 also contains rates applicable to unbundled network elements, ancillary services and functions and features for which Sprint agrees to provide to US LEC. The Reciprocal Compensation rates for traffic termination are as follows: the rate for traffic to an end office is \$0.003188 per minute of use (MOU); and the rate for tandem traffic is \$0.003190 per MOU. (Table 1 at 160).

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 Sprint'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 Sprint and US LEC to embody the terms of the Agreement in a filed tariff.

With regard to the public interest element of this matter, we note that no negotiated interconnection agreement may affect those obligations of the ILEC 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 TA-96 wherein service quality and standards, *i.e.*, Universal Service, 911, Enhanced 911, and Telecommunications Relay Service, are inherent obligations of the ILEC, 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 instant Agreement are consistent with the public interest.

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 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 Interconnection Agreement between Sprint and US LEC is non-discriminatory to other telecommunications companies not parties to it and that it is consistent with the public interest; **THEREFORE,**

IT IS ORDERED:

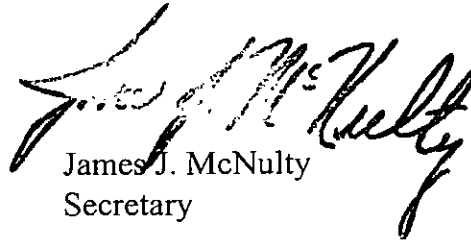
1. That the Joint Petition for approval of a Master Interconnection, Collocation and Resale Agreement filed on March 24, 2006, by The United Telephone Company of Pennsylvania, d/b/a Sprint and US LEC of Pennsylvania, Inc. pursuant to the Telecommunications Act of 1996, and the Commission's Orders in *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 of the 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 Sprint shall file an electronic copy of the 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: May 19, 2006

ORDER ENTERED: **MAY 24 2006**

0001
US LEC OF PENNSYLVANIA INC
TRANSAMERICA SQUARE
6801 MORRISON BOULEVARD
CHARLOTTE NC 28211
US LEC OF PENNSYLVANIA INC

0002
UNITED TELEPHONE CO. OF PA D/B/A SPRINT
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UNITED TELEPHONE CO. OF PA D/B/A SPRINT

Service
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