

CAPTION SHEET

E MANAGEMENT SYSTEM

- 1. REPORT DATE: 00/00/00
- 2. BUREAU: OSA
- 3. SECTION(S):
- 5. APPROVED BY: DIRECTOR: SUPERVISOR:
- 6. PERSON IN CHARGE:
- 8. DOCKET NO: A-310433 F7000
- 4. PUBLIC MEETING DATE: 00/00/00
- 7. DATE FILED: 08/06/02
- 9. EFFECTIVE DATE: 00/00/00

PARTY/COMPLAINANT: VERIZON PENNSYLVANIA INC

RESPONDENT/APPLICANT: PNG TELECOMMUNICATIONS INC

COMP/APP COUNTY: UTILITY CODE: 310433

ALLEGATION OR SUBJECT

JOINT PETITION OF VERIZON PENNSYLVANIA INC. AND PNG TELECOMMUNICATIONS, INC. D/B/A POWERNET GLOBAL COMMUNICATIONS OF ADOPTION OF AN INTERCONNECTION AGREEMENT UNDER SECTION 252(I) OF THE TELECOMMUNICATIONS ACT OF 1996.

DOCUMENT
FOLDER

DOCKETED
AUG 1 2002

DOCKETED
AUG 14 2002

CAPTION SHEET

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JOINT PETITION OF VERIZON PENNSYLVANIA INC. AND PNG TELECOMMUNICATIONS, INC.
 D/B/A POWERNET GLOBAL COMMUNICATIONS OF ADOPTION OF AN INTERCONNECTION AGREE-
 MENT UNDER SECTION 252(I) OF THE TELECOMMUNICATIONS ACT OF 1996.....

 4/5/04 JOINT PETITION OF VERIZON PENNSYLVANIA INC. AND PNG TELECOMMUNICA-
 TIONS, INC. D/B/A POWERNET GLOBAL COMMUNICATIONS FOR APPROVAL OF A REPLACEMENT
 INTERCONNECTION AGREEMENT AND AMENDMENT NO. 1 UNDER SECTION 252(E) OF THE
 TELECOMMUNICATIONS ACT OF 1996.

Daniel E. Monagle
Assistant General Counsel
Pennsylvania



August 5, 2002

1717 Arch Street, 32NW
Philadelphia, PA 19103

Tel: (215) 963-6004
Fax: (215) 563-2658
Daniel.Monagle@Verizon.com

VIA UPS OVERNIGHT

James J. McNulty, Secretary
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street, 2nd Floor
Harrisburg, PA 17120

ORIGINAL

RECEIVED
2002 AUG -6 AM 1:10
SECRETARY'S BUREAU
A. J. C.

RE: Joint Filing of Verizon Pennsylvania Inc.
and PNG Telecommunications, Inc.
d/b/a PowerNet Global Communications
of Adoption of an Interconnection Agreement

A-310433 F 7000

Dear Mr. McNulty:

Enclosed please find an original and three (3) copies of the Joint Filing of Verizon Pennsylvania Inc. and PNG Telecommunications, Inc. d/b/a PowerNet Global Communications, of Adoption of an Interconnection Agreement.

Please date stamp the enclosed additional copy and return it to me in the enclosed self-addressed, stamped envelope.

Very truly yours,

Daniel E. Monagle
Daniel E. Monagle

DOCUMENT
FOLDED

DEM/slb

Enclosure

cc: Dennis Packer, Esquire, General Counsel (Via UPS Overnight)
Attached Service List

BEFORE THE PENNSYLVANIA PUBLIC UTILITY COMMISSION

JOINT FILING OF VERIZON PENNSYLVANIA INC.)
AND PNG TELECOMMUNICATIONS, INC. D/B/A)
POWERNET GLOBAL COMMUNICATIONS OF)
ADOPTION OF AN INTERCONNECTION)
AGREEMENT UNDER SECTION 252(i) OF THE)
TELECOMMUNICATIONS ACT OF 1996)

PUC Docket No.

SECRETARY'S OFFICE
2002 AUG - 6 AM 1:11
A-310433
F7000

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JOINT FILING

ORIGINAL

Verizon Pennsylvania Inc. ("Verizon PA") and PNG Telecommunications, Inc. d/b/a PowerNet Global Communications ("PowerNet") respectfully submit to the Commission, pursuant to Section 252(i) of the Telecommunications Act of 1996 (the "1996 Act")¹, the attached adoption letter effective December 28, 2001 (the "Adoption"). The Adoption provides for the interconnection of the two companies' networks and makes available to PowerNet access to unbundled network elements, wholesale telecommunications services, and ancillary services offered by Verizon PA.

THE PARTIES

1. Verizon PA is an incumbent local exchange carrier authorized to provide local exchange telephone service in Pennsylvania.
2. PowerNet is a competitive local exchange carrier that is authorized to provide local telephone service in Pennsylvania consistent with appropriate legal requirements established by the Commission.

THE ADOPTION

3. PowerNet has exercised its right under Section 252(i) of the 1996 Act to opt into the interconnection agreement between Verizon PA and Level 3 Communications, LLC which the

¹ Citations herein to the 1996 Act should be construed as references to sections of the Communications Act of 1934 as amended by the 1996 Act.

DOCUMENT
FOLDER

DOCKETED
AUG 14 2002

Commission approved on April 19, 2001 in Case No. A-310633F0002. Under the Adoption, PowerNet has agreed that it will be bound by the terms of the agreement between Verizon PA and Level 3 Communications, LLC as such agreement is in effect on the date hereof after giving effect to operation of law.

4. The Adoption sets forth the terms, conditions and prices under which Verizon PA and PowerNet will offer and provide network interconnection, reciprocal call termination for local traffic, access to network elements, ancillary network services, and wholesale telecommunications services available for resale to each other within each Local Access and Transport Area ("LATA") in which they both operate in Pennsylvania.

5. Key provisions of the Adoption provide for:

- (i) Compensation for Reciprocal Compensation Traffic as specified in the agreement which is the subject of the adoption;
- (ii) Unbundled loops -- providing PowerNet access to existing Verizon PA customers -- based on a rate methodology specified in the Agreement;
- (iii) Customers to retain their telephone numbers when they switch to PowerNet;
- (iv) Including PowerNet customers' primary listings in the appropriate alphabetical directory ("White Pages") and, for business customers, in the appropriate classified directory ("Yellow Pages");
- (v) The resale of Verizon PA telecommunications services for a wholesale discount of 23.43% or 25.69% (depending upon whether PowerNet provides its own operator services);
- (vi) The continued provision of 911 services to all customers; and
- (vii) Performance standards for services provided by Verizon PA to PowerNet equal to the level of service provided by Verizon PA to its own end-user customers and other telecommunications carriers.

COMPLIANCE WITH THE 1996 ACT

6. If the Commission determines that it wishes to (or must) review the Adoption under the 1996 Act or otherwise, it is the parties' view that the Adoption satisfies the requirements for

Commission approval (to the extent that they would apply) pursuant to Section 252(e)(2)(A) of the 1996 Act, which provides as follows:

The State commission may only reject ... 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[.]

7. First, the Adoption does not discriminate against any other telecommunications carrier, as required by Section 252(e)(2)(a)(i). To the contrary, any other telecommunications carrier authorized to provide local telephone service in Pennsylvania may obtain the interconnection, unbundling and resale arrangement specified in the underlying interconnection agreement that is the subject of the Adoption on the same terms and conditions (assuming that none of the exclusions to opt-in rights under Section 252(i) of the 1996 Act would apply). Nonetheless, other carriers are not bound by the terms of such interconnection agreement and remain free to negotiate with Verizon PA pursuant to Section 252 of the 1996 Act.

8. Second, the Adoption is consistent with the public interest, convenience, and necessity, as required by Section 252(e)(2)(a)(ii). It is an important step towards allowing PowerNet to compete with Verizon PA as a facilities-based local telephone service carrier for both residential and business customers.

APPROVAL OF THE AGREEMENT

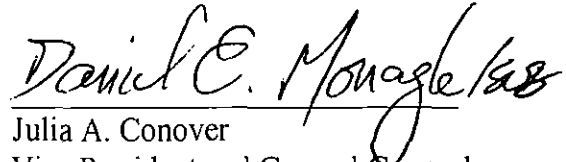
9. Verizon PA and PowerNet respectfully request that, if the Commission chooses to review the Adoption, it expedite such review to facilitate implementation of competition in the local exchange market. Although under Section 252(e)(4) of the 1996 Act, the Commission has

90 days to approve or reject the Agreement, Verizon PA and PowerNet request that the Commission act sooner than that date if at all possible, if it chooses to review the Adoption.

WHEREFORE, Verizon PA and PowerNet respectfully submit the attached Adoption pursuant to Section 252(i) of the 1996 Act.

Of Counsel
Jack H. White

Respectfully submitted,



Julia A. Conover
Vice President and General Counsel
Verizon Pennsylvania Inc.
Daniel E. Monagle
Verizon Pennsylvania Inc.
1717 Arch Street, 32N
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Tel. (215) 963-6001
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Attorneys For
Verizon Pennsylvania Inc.



Mr. Bernie Stevens
President
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d/b/a PowerNet Global Communications
100 Commercial Drive
Fairfield, OH 445014
Tel (513) 942-7900
Fax (513) 645-4960

~~July~~ ^{AUGUST}
DATED: 5, 2002

Steven J. Pitterle
Director - Negotiations
Network Services



600 Hidden Ridge HQE03B67
P.O. Box 152092
Irving, Texas 75038

Phone 972/718-1333
Fax 972/718-1279
steve.pitterle@verizon.com

ORIGINAL

December 14, 2001

Mr. Bernie Stevens
President
PNG Telecommunications, Inc.
d/b/a PowerNet Global Communications
4839 Business Center Way
Cincinnati, OH 45246

A- 310433 F 7000
SECRETARY'S BUREAU
PA, J.C.

2002 AUG - 6 AM 1:12

RECEIVED

Re: Requested Adoption Under Section 252(i) of the TA96

Dear Mr. Stevens:

Verizon Pennsylvania Inc., f/k/a Bell Atlantic - Pennsylvania, Inc. ("Verizon"), has received your letter stating that, under Section 252(i) of the Telecommunications Act of 1996 (the "Act"), PNG Telecommunications, Inc. d/b/a PowerNet Global Communications ("PowerNet") wishes to adopt the terms of the Interconnection Agreement between Level 3 Communications, LLC ("Level 3") and Verizon that was approved by the Pennsylvania Public Utility Commission (the "Commission") as an effective agreement in the Commonwealth of Pennsylvania, as such agreement exists on the date hereof after giving effect to operation of law (the "Terms"). I understand PowerNet has a copy of the Terms. Please note the following with respect to PowerNet's adoption of the Terms.

1. By PowerNet's countersignature on this letter, PowerNet hereby represents and agrees to the following three points:
 - (A) PowerNet adopts (and agrees to be bound by) the Terms of the Level 3/Verizon agreement for interconnection as it is in effect on the date hereof after giving effect to operation of law, and in applying the Terms, agrees that PowerNet shall be substituted in place of Level 3 Communications, LLC and Level 3 in the Terms wherever appropriate.

DOCUMENT DOCKETED
AUG 14 2002
FOLDER

- (B) Notice to PowerNet and Verizon as may be required under the Terms shall be provided as follows:

To: PNG Telecommunications, Inc.
d/b/a PowerNet Global Communications
Attention: Mr. Todd C. Pfister, Chief Operating Officer
4839 Business Center Way
Cincinnati, OH 45246
Telephone number: 513-942-7900 Ext 247
FAX number: 513-942-5506

To Verizon:

Director-Contract Performance & Administration
Verizon Wholesale Markets
600 Hidden Ridge
HQEWMNOTICES
Irving, TX 75038
Telephone Number: 972-718-5988
Facsimile Number: 972-719-1519
Internet Address: wmnotices@verizon.com

with a copy to:

Vice President and Associate General Counsel
Verizon Wholesale Markets
1515 N. Court House Road
Suite 500
Arlington, VA 22201
Facsimile: 703-351-3664

- (C) PowerNet represents and warrants that it is a certified provider of local telecommunications service in the Commonwealth of Pennsylvania, and that its adoption of the Terms will cover services in Verizon Pennsylvania's service territory in the Commonwealth of Pennsylvania only.
2. PowerNet's adoption of the Level 3 Terms shall become effective on December 28, 2001. Verizon shall file this adoption letter with the Commission promptly upon receipt of an original of this letter countersigned by an authorized officer of PowerNet. The term and termination provisions of the Level 3/Verizon agreement shall govern PowerNet's adoption of the Terms. The PowerNet/Verizon agreement is currently scheduled to terminate on September 30, 2002.

3. As the Terms are being adopted by you pursuant to your statutory rights under section 252(i), Verizon does not provide the Terms to you as either a voluntary or negotiated agreement. The filing and performance by Verizon of the Terms does not in any way constitute a waiver by Verizon of any position as to the Terms or a portion thereof, nor does it constitute a waiver by Verizon of all rights and remedies it may have to seek review of the Terms, or to seek review in any way of any provisions included in these Terms as a result of PowerNet's 252(i) election.
4. On January 25, 1999, the Supreme Court of the United States ("Court") issued its decision on the appeals of the Eighth Circuit's decision in *Iowa Utilities Board*. Specifically, the Supreme Court modified several of the FCC's and the Eighth Circuit's rulings regarding unbundled network elements and pricing requirements under the Act. *AT&T Corp. v. Iowa Utilities Board*, 119 S. Ct. 721 (1999). Certain provisions of the Terms may be void or unenforceable as a result of the Court's decision of January 25, 1999, the United States Eighth Circuit Court of Appeals' decision in Docket No. 96-3321 regarding the FCC's pricing rules, and the current appeal before the U.S. Supreme Court regarding the FCC's new UNE rules. Moreover, nothing herein shall be construed as or is intended to be a concession or admission by Verizon that any provision in the Terms complies with the rights and duties imposed by the Act, the decisions of the FCC and the Commissions, the decisions of the courts, or other law, and Verizon expressly reserves its full right to assert and pursue claims arising from or related to the Terms.
5. Verizon reserves the right to deny PowerNet's adoption and/or application of the Terms, in whole or in part, at any time:
 - (a) when the costs of providing the Terms to PowerNet are greater than the costs of providing them to Level 3;
 - (b) if the provision of the Terms to PowerNet is not technically feasible; and/or
 - (c) to the extent that Verizon otherwise is not required to make the Terms available to PowerNet under applicable law.
6. For avoidance of doubt, please note that adoption of the Terms will not result in reciprocal compensation payments for Internet traffic. Verizon has always taken the position that reciprocal compensation was not due to be paid for Internet traffic under section 251(b)(5) of the Act. Verizon's position that reciprocal compensation is not to be paid for Internet traffic was confirmed by the FCC in the Order on Remand and Report and Order adopted on April 18, 2001 ("*FCC Internet Order*"), which held that Internet traffic constitutes "information access" outside the scope of the reciprocal compensation obligations set forth in section 251(b)(5) of the Act.¹ Accordingly, any compensation to be paid for Internet traffic will be handled pursuant to the terms of the *FCC Internet Order*, not

¹ Order on Remand and Report and Order, In the Matters of: Implementation of the Local Competition Provisions in the Telecommunications Act of 1996 and Intercarrier Compensation for ISP-Bound Traffic, CC Docket No. 99-68 (rel. April 27, 2001) ¶44.

pursuant to adoption of the Terms.² Moreover, in light of the *FCC Internet Order*, even if the Terms include provisions invoking an intercarrier compensation mechanism for Internet traffic, any reasonable amount of time permitted for adopting such provisions has expired under the FCC's rules implementing section 252(i) of the Act.³ In fact, the *FCC Internet Order* made clear that carriers may not adopt provisions of an existing interconnection agreement to the extent that such provisions provide compensation for Internet traffic.⁴

7. Should PowerNet attempt to apply the Terms in a manner that conflicts with paragraphs 3-6 above, Verizon reserves its rights to seek appropriate legal and/or equitable relief.
8. In the event that a voluntary or involuntary petition has been or is in the future filed against PowerNet under bankruptcy or insolvency laws, or any law relating to the relief of debtors, readjustment of indebtedness, debtor reorganization or composition or extension of debt (any such proceeding, an "Insolvency Proceeding"), then: (i) all rights of Verizon under such laws, including, without limitation, all rights of Verizon under 11 U.S.C. § 366, shall be preserved, and PowerNet's adoption of the Verizon Terms shall in no way impair such rights of Verizon; and (ii) all rights of PowerNet resulting from PowerNet's adoption of the Verizon terms shall be subject to and modified by any Stipulations and Orders entered in the Insolvency Proceeding, including, without limitation, any Stipulation or Order providing adequate assurance of payment to Verizon pursuant to 11 U.S.C. § 366.

² For your convenience, an industry letter distributed by Verizon explaining its plans to implement the *FCC Internet Order* can be viewed at Verizon's Customer Support Website at URL www.verizon.com/wise (select Verizon East Customer Support, Resources, Industry Letters, CLEC).

³ See, e.g., 47 C.F.R. Section 51.809(c).

⁴ *FCC Internet Order* ¶ 82.

Please arrange for a duly authorized representative of PowerNet to sign this letter in the space provided below and return it to the undersigned.

Sincerely,


VERIZON PENNSYLVANIA INC.



Steven J. Witterle
Director - Negotiations
Network Services

Reviewed and countersigned as to points A, B, and C of paragraph 1:

PNG TELECOMMUNICATIONS, INC.
D/B/A POWERNET GLOBAL COMMUNICATIONS



(SIGNATURE)

Bernie Steilens

(PRINT NAME)

c: R. Ragsdale - Verizon

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PA Public Utility Commission
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400 North Street
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Bureau of Fixed Utility Services
PA Public Utility Commission
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Thomas, Thomas, Armstrong
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Robert C. Barber
AT&T Communications
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Oakton, VA 22185

Daniel Clearfield, Esq.
Wolf, Block
212 Locust Street, Suite 300
Harrisburg, PA 17101-1510

* Pennsylvania Telephone Association has requested not to receive hardcopies, so none has been sent

DATE: August 14, 2002
SUBJECT: A-310433 F7000
TO: Office of Special Assistants
FROM: James J. McNulty, Secretary *KB*

JOINT PETITION OF VERIZON PENNSYLVANIA, INC. AND
PNG TELECOMMUNICATIONS, INC. D/B/A POWERNET GLOBAL
COMMUNICATIONS FOR APPROVAL OF ADOPTION OF AN INTERCONNECTION
AGREEMENT UNDER SECTION 252(i) OF THE TELECOMMUNICATIONS ACT
OF 1996.

Attached is a copy of a Joint Petition for Approval of
Adoption of an Interconnection Agreement filed in connection
with the above-docketed proceeding.

Enclosed is a copy of the notice that we provided to
the Pennsylvania Bulletin to be published on August 24, 2002.
Comments are due on or before 10 days after the publication
of this notice.

This matter is assigned to your Office for appropriate
action.

Attachment

cc: Bureau of Fixed Utility Services
Office of Administrative Law Judge-copy of memo only

DOCUMENT
FOLDER

DOCKETED
AUG 14 2002

PENNSYLVANIA PUBLIC UTILITY COMMISSION

NOTICE TO BE PUBLISHED

RECEIVED
LEGISLATIVE REFERENCE
BUREAU
02 AUG 14 PM 3:26
PA. CODE & BULLETIN

Joint Petition of Verizon Pennsylvania Inc. and PNG Telecommunications, Inc. d/b/a Powernet Global Communications for Approval of Adoption of an Interconnection Agreement Under Section 252(i) of The Telecommunications Act of 1996.
Docket Number: A-310433 F7000.

Verizon Pennsylvania Inc. and PNG Telecommunications, Inc. d/b/a Powernet Global Communications, by its counsel, filed on August 6, 2002, at the Public Utility Commission, a Joint Petition for approval of Adoption of an Interconnection Agreement under Sections 251 and 252 of the Telecommunications Act of 1996.

Interested parties may file comments concerning the petition and agreement with the Secretary, Pennsylvania Public Utility Commission, P. O. Box 3265, Harrisburg, PA 17105-3265. All such Comments are due on or before 10 days after the date of publication of this notice. Copies of the Verizon Pennsylvania Inc. and PNG Telecommunications, Inc. d/b/a Powernet Global Communications Joint Petition are on file with the Pennsylvania Public Utility Commission and are available for public inspection.

Contact person is Cheryl Walker Davis, Director, Office of Special Assistants, (717) 787-1827.

DOCUMENT
FOLDER

BY THE COMMISSION

James J. McNulty
James J. McNulty
Secretary

DOCKETED

AUG 14 2002