


PENNSYLVANIA PUBLIC UTILITY COMMISSION
Uniform Cover and Calendar Sheet

1. <u>REPORT DATE:</u> July 14, 2004	2. <u>BUREAU AGENDA NO.</u> JUL-2004-OSA-0189*
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: A. Arnold Legal Review:	July 23, 2004
7. <u>PERSONS IN CHARGE:</u> K. Miceli 7-1888	
8. <u>DOCKET NO.:</u> A-310489F7000	<div style="text-align: center;">  <p>JUL 29 2004</p> </div>

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

(a) Joint Petition of Verizon Pennsylvania, Inc. (Verizon PA) and Cellco Partnership, Pittsburgh SMSA Limited Partnership, Pennsylvania RSA No. 6(II) Limited Partnership, and Allentown SMSA Limited Partnership, collectively d/b/a Verizon Wireless (Verizon Wireless),

(b) On May 27, 2004, Verizon PA and Verizon Wireless filed a Joint Petition for Approval of Amendment No. 3 to the Agreement filed with the Commission on February 25, 1997, and approved as revised by Opinion and Order entered on December 17, 1998. Notice of the Joint Petition was published in the *Pennsylvania Bulletin* on July 3, 2004. No comments were received.

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

**DOCUMENT
FOLDER**

10. MOTION BY: Commissioner Chm. Fitzpatrick Commissioner Thomas - Yes
 Commissioner Pizzingrilli - Yes
SECONDED: Commissioner Bloom Commissioner Holland - Yes

CONTENT OF MOTION: Staff recommendation adopted.



July 26, 2004

A-310489F7000

DANIEL E MONAGLE
VERIZON PENNSYLVANIA INC
ASSISTANT GENERAL COUNSEL
1717 ARCH STREET 32N
PHILADELPHIA PA 19103

DOCUMENT
FOLDER

Joint Petition for Approval of Amendment
No. 3 of the Interconnection Agreement
Between Verizon Pennsylvania, Inc. and
Cellco Partnership, Pittsburgh SMSA
Limited Partnership, Pennsylvania RSA
No. 6(II) Limited Partnership, and Allentown SMSA
Limited Partnership, collectively d/b/a Verizon
Wireless, under Section 252(e) of the
Telecommunications Act of 1996.

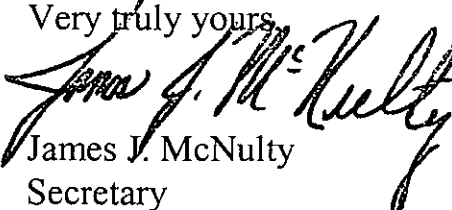
DOCKETED
JUL 28 2004

To Whom It May Concern:

This is to advise you that the Commission in Public Meeting on July 23, 2004 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

Enclosure
Certified Mail
JEH

PENNSYLVANIA
PUBLIC UTILITY COMMISSION
Harrisburg, PA 17105-3265

Public Meeting held July 23, 2004

Commissioners Present:

Terrance J. Fitzpatrick, Chairman
Robert K. Bloom, Vice Chairman
Glen R. Thomas
Kim Pizzingrilli
Wendell F. Holland

DOCUMENT
FOLDER

Joint Petition for Approval of Amendment
No. 3 to the Interconnection Agreement
Between Verizon Pennsylvania, Inc. and
Cellco Partnership, Pittsburgh SMSA
Limited Partnership, Pennsylvania RSA
No. 6(II) Limited Partnership, and Allentown SMSA
Limited Partnership, collectively d/b/a Verizon
Wireless, under Section 252(e) of the
Telecommunications Act of 1996.

A-310489F7000

DOCKETED
JUL 28 2004

OPINION AND ORDER

BY THE COMMISSION:

Before the Commission for consideration is a Joint Petition requesting approval of Amendment No. 3 (Amendment) to the Interconnection Agreement (Agreement) between Verizon Pennsylvania, Inc. (Verizon PA) and Cellco Partnership, Pittsburgh SMSA Limited Partnership, Pennsylvania RSA No. 6(II) Limited Partnership, and Allentown SMSA Limited Partnership, collectively d/b/a Verizon Wireless (Verizon Wireless). The Agreement was 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 *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). (*Implementation Orders*).

History of the Proceeding

On May 27, 2004, Verizon PA and Verizon Wireless filed the instant Joint Petition seeking approval of the Amendment which supplements the terms of the Agreement which was filed with the Commission on February 25, 1997, and approved, as revised by the Commission by our Opinion and Order dated December 17, 1998. This Amendment will be attached and made part of the Agreement.

The Commission published notice of the Joint Petition and the instant Agreement in the *Pennsylvania Bulletin* on July 3, 2004, advising that any interested parties could file comments within ten days. No comments have been received. Verizon Wireless is a wireless company and does not possess a certificate of public convenience from the Commission.

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:

- (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 –
 - (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 Amendment No. 3 submitted by Verizon PA and Verizon Wireless.

B. Timeliness of the Filing

The Agreement Between Verizon PA and Verizon Wireless became effective on January 1, 2004. The Agreement was filed with this Commission on May 27, 2004. Therefore, more than four months have elapsed from the time the Agreement became effective until it was submitted to the state Commission for review. Neither TA-96, nor the Federal Communications Commission (FCC) rules interpreting TA-96 provide for the specific time in which the negotiated agreement is to be filed with the Commission. However, we have addressed our expectations regarding the proper time considerations to be observed with regard to negotiated agreements. (*See Implementation Order*, June 3, 1996 Order, slip op., at 33)¹

¹ “The Act [TA-96] does not give any express guidance as to when agreements must be filed with the state commission. However, since the period for negotiations concludes on day 160, we conclude that an executed, negotiated interconnection agreement accompanied by a joint petition for adoption of the agreement shall be filed by no later than thirty (30) days following the close of the negotiations phase or by day 190 following the request for interconnection.” (*Id.*).

We remind the Parties that failure to comply with our *Implementation Orders*, as well as this Order, could subject the Parties to civil penalties for violations pursuant to Section 3301 of the Public Utility Code, 66 Pa. C.S. § 3301.

C. Summary of Terms

Amendment No. 3 to the Agreement adds provisions to govern the exchange of toll free access code calls between Verizon PA and Verizon Wireless. The Parties agree that the terms and conditions set forth in the Toll Free Service Access Code Traffic Attachment attached to the instant Amendment, shall govern the exchange of toll service access code calls between the parties.

Verizon PA and Verizon Wireless aver that the Agreement complies with the criteria identified in 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 Amendment is not discriminatory and that the interconnection arrangements contained in the Agreement are available to any other telecommunications carrier under § 252(i) of TA-96. Furthermore, the Parties note that other carriers are not bound by the terms of the Agreement and are free to pursue their own negotiated arrangements with Verizon North pursuant to Section 252 of TA-96. The Parties further assert that the Amendment is consistent with the public interest, convenience, and necessity, as required by Section 252(e) of TA-96

C. Disposition

Having reviewed the Amendment, we shall approve it, finding that it satisfies the two-pronged criteria of 47 U.S.C § 252(e). We note that in approving these privately negotiated agreements, including any provisions limiting unbundled access to Verizon PA'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 a party to the Amendment by providing here that our conditional approval of this Amendment 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 instant Amendment does not discriminate against a telecommunications carrier not a party to the negotiations.

TA-96 requires that the terms of the Amendment 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 Amendment and its terms to other parties does not connote any intent that our approval will effect the status of negotiations between the parties. In this context, we will not require Verizon PA or Verizon Wireless to embody the terms of the Amendment in a filed tariff. However, consistent with our May 3, 2004 Order at Docket No. M-00960799, we also require that the incumbent local exchange carrier file an electronic, true and correct copy of the Interconnection Agreement in “.pdf format” for inclusion on the Commission’s website.

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 TA-96 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.

Conclusion

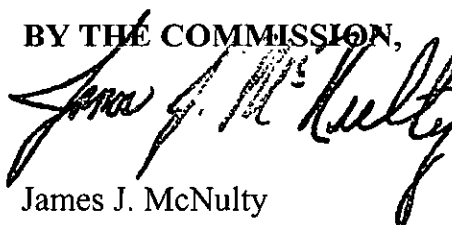
Based on the foregoing and pursuant to Section 252 of TA-96, *supra*, and our *Implementation Orders*, we shall approve the Amendment No. 3 to the Interconnection Agreement between Verizon PA and Verizon Wireless; **THEREFORE,**

IT IS ORDERED:

1. That the Joint Petition for Approval of Amendment No. 3 to the Interconnection Agreement filed on May 27, 2004 by Verizon Pennsylvania, Inc. and Cellco Partnership, Pittsburgh SMSA Limited Partnership, Pennsylvania RSANo. 6(II) Limited Partnership, and Allentown SMSA Limited Partnership, collectively d/b/a Verizon Wireless, pursuant to the Telecommunications Act of 1996, 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, is granted, consistent with this Opinion and Order.
2. That approval of Amendment No. 3 to the Interconnection Agreement shall not serve as binding precedent for negotiated or arbitrated agreements between non-parties to the instant Agreement.
3. That Verizon Pennsylvania, Inc. shall file a true and correct copy of Amendment No. 3 to the Interconnection Agreement with this Commission within thirty (30) days of the date of entry of this Opinion and Order.

4. That within thirty (30) days of the date of entry of this Opinion and Order, Verizon Pennsylvania, Inc. shall notify the Commission as to whether the Interconnection Agreement filed on May 27, 2004 is a signed, true and correct copy. If the Interconnection Agreement filed on May 27, 2004, is not a signed, true and correct copy of the Interconnection Agreement, Verizon Pennsylvania, Inc. is further direct to file a signed, true and correct copy of the Interconnection 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: July 23, 2004

ORDER ENTERED: JUL 26 2004