

PENNSYLVANIA PUBLIC UTILITY COMMISSION
Uniform Cover and Calendar Sheet

1. REPORT DATE: May 10, 2005	2. BUREAU AGENDA NO. MAY-2005-OSA-0180*
3. BUREAU: Office of Special Assistants	5. PUBLIC MEETING DATE: May 19, 2005
4. SECTION(S):	9. EFFECTIVE DATE OF FILING: May 31, 2005
6. APPROVED BY: Director: C.W. Davis 7-1828 Mgr/Spvr: Legal Review: A. Arnold 7-8032	
7. PERSONS IN CHARGE: T. Maher 7-5704 <i>TM</i>	
8. DOCKET NO.: A-310752F7005	

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

RJP

(a) Joint Petition of North Pittsburgh Telephone Company and MCImetro Access Transmission Services LLC, for approval of adoption of an interconnection agreement under section 252(e) of the Telecommunications Act of 1996.

(b) On March 1, 2005, North Pittsburgh Telephone Company and MCImetro Access Transmission Services LLC, filed a Petition under Section 252(e) of the Telecommunications Act of 1996. Notice was published in the *Pennsylvania Bulletin* on April 2, 2005, initiating a ten day comment period. No comments have been filed with the Commission.

(c) The Office of Special Assistants recommends that the Commission adopt the proposed Opinion and Order granting the Joint Petition, thereby approving the Agreement.

DOCKETED
MAY 25 2005

**DOCUMENT
FOLDER**

Order Doc. No. 541536v1

Calendar Doc. No. 541535v1

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

Commissioner Pizzingrilli - Yes
 Commissioner
 Commissioner

SECONDED: Commissioner Bloom

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, 2005

A-310752F7005

RENARDO HICKS
ANDERSON GULOTTA & HICKS PC
121 STATE STREET
HARRISBURG PA 17101

DOCKETED
AUG 30 2005

Joint Petition of North Pittsburgh Telephone Company and MCImetro Access Transmission Services, LLC., for Approval of an Interconnection Agreement under Section 252(e) of the Telecommunications Act of 1996.

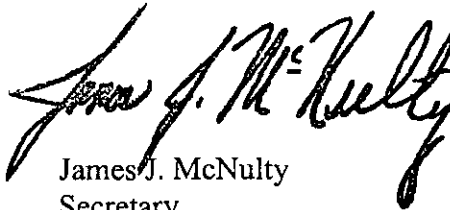
**DOCUMENT
FOLDER**

To Whom It May Concern:

This is to advise you that the Commission in Public Meeting on May 19, 2005 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

fg
encls
cert. mail

MICHELLE PAINTER ESQUIRE
22001 LOUDOUN COUNTY PARKWAY
ASHBURN VA 20147

PENNSYLVANIA
PUBLIC UTILITY COMMISSION
Harrisburg, PA 17105-3265

Public Meeting held May 19, 2005

Commissioners Present:

Wendell F. Holland, Chairman
Robert K. Bloom, Vice Chairman
Kim Pizzingrilli

DOCKETED
AUG 30 2005

Joint Petition of North Pittsburgh Telephone
Company and MCImetro Access Transmission
Services, LLC, for Approval of an
Interconnection Agreement Under Section
252(e) of the Telecommunications Act of 1996.

A-310752F7005

OPINION AND ORDER

**DOCUMENT
FOLDER**

BY THE COMMISSION:

Before the Commission for consideration and disposition is the Joint Petition of North Pittsburgh Telephone Company (NPTC) and MCImetro Access Transmission Services LLC, (MCI) for Approval of an Interconnection Agreement (Joint Petition). The Joint Petition 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). *Proposed Modifications to the review of Interconnection Agreements* (Order entered on May 3, 2004). (*Implementation Orders*).

History of the Proceeding

On March 1, 2005, NPTC and MCIIm filed the instant Petition, wherein NPTC is an incumbent local exchange carrier in Pennsylvania and MCIIm is a certified competitive local exchange carrier authorized to provide local exchange service in the territories of Verizon Pennsylvania Inc. and Verizon North.¹ Petitioners desire to interconnect their local exchange networks for the purposes of transmission and termination of calls, so that customers of each party can receive calls that originate on the other's network and place calls that terminate on the other's network, and for MCIIm's use in the provision of exchange access or local interconnection. Subsequently, on April 6, 2005, the Petitioners filed an Amendment to the March 1, 2005 filing. This Amendment replaces the original Attachment B to the Agreement and corrects a typographical error which adds clarity to Section 4.7 of the Agreement. Since the amendment is ministerial in nature, we shall not require the notice be re-published in the Pennsylvania Bulletin.

The Agreement, as amended, provides for an effective date consistent with the Commission's Entry date of this Order, with an initial term of one year, and shall subsequently continue in force and effect unless and until cancelled or terminated as provided within the instant Agreement. (Agreement at 12).

The Commission published notice of the instant Agreement in the *Pennsylvania Bulletin*, on April 30, 2005, advising that any interested parties could file comments within ten days. No comments have been filed.

¹ On November 2, 2004, MCIIm filed an Application to expand its certification to the territories of several other incumbent carriers, including NPTC.

A. Standard of Review

The Commission's standard of review of a negotiated interconnection agreement is set forth 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

Regarding the availability of Interconnection Agreements to other telecommunications carriers, Section 252(i) of TA-96 provides that:

A local exchange carrier shall make available any interconnection, service, or network element provided under an agreement approved under this section to which it is a party to any other requesting telecommunications carrier upon the same terms and conditions as those provided in the agreement.

With these criteria in mind, we will review the Agreement, as amended, submitted by NPTC and MCIIm.

B. Summary of Terms

The Agreement sets forth the terms, conditions and prices under which NPTC and MCIIm negotiated to offer and provide network interconnection, reciprocal call termination and ancillary network services to each other within each Local Exchange and Transport Area in which they both operate in Pennsylvania. The Petitioners state that the instant Agreement is an integrated package that reflects a negotiated balance of many interests and concerns critical to both parties. (Petition at 2).

NPTC and MCIIm 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 Agreement 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 pursuant to Section 252 of TA-96.

The parties further assert that the Agreement is consistent with the public interest, convenience, and necessity, as required by Section 252(e) of TA-96.²

² 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 which it has not been authorized to provide and for which tariffs have not been authorized.

C. Disposition

Having reviewed the Agreement, we shall approve it, finding that it satisfies the two-pronged criteria of Section 252(e) of TA-96. We note that in approving these privately negotiated agreements, including any provisions limiting unbundled access to NPTC's network, we express no opinion regarding the enforceability of our independent state authority preserved by 47 USC § 251(d)(3) and any other applicable law.

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 instant Agreement does not discriminate against a telecommunications carrier not a party to the negotiations.

TA-96 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 NPTC or MCI to embody the terms of the Agreement in a filed tariff. However, consistent with our May 3, 2004 Order at Docket No. M-00960799, we do 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.

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. We have reviewed the applicability of the Agreement's terms relative to 911 and E911 services and conclude that these provisions of the instant Agreement are consistent with the public interest; **THEREFORE,**

IT IS ORDERED:

1. That the Joint Petition for approval of the Joint Petition of North Pittsburgh Telephone Company, and MCImetro Access Transmission Services LLC, for Approval of Adoption of an Interconnection Agreement, 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.

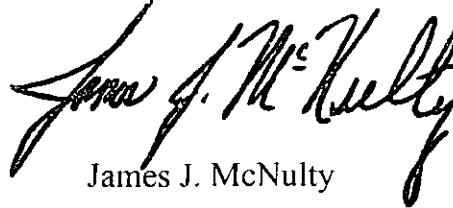
2. That approval of the Interconnection Agreement shall not serve as binding precedent for negotiated or arbitrated agreements between non-parties to the subject Agreement.

3. That North Pittsburgh Telephone Company 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.

4. That within thirty (30) days of the date of entry of this Opinion and Order, North Pittsburgh Telephone Company shall notify the Commission as to whether the Interconnection Agreement filed March 1, 2005, and amended on April 6, 2005, is a signed, true and correct copy. If the Interconnection Agreement filed March 1, 2005, as amended on April 6, 2005, is not a signed, true and correct copy, North Pittsburgh Telephone Company is directed to file a signed, true and correct copy of 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: May 19, 2005

ORDER ENTERED: **MAY 24 2005**