

PENNSYLVANIA PUBLIC UTILITY COMMISSION  
Uniform Cover and Calendar Sheet

1. <b>REPORT DATE:</b> March 29, 2005	2. <b>BUREAU AGENDA NO.</b> APR-2005-OSA-0095*
3. <b>BUREAU:</b> Office of Special Assistants	
4. <b>SECTION(S):</b>	5. <b>PUBLIC MEETING DATE:</b>
6. <b>APPROVED BY:</b> Director: C.W. Davis 7-1828 Mgr/Spvr: Legal Review: A. Arnold 7-8032 4A	April 7, 2005
7. <b>PERSONS IN CHARGE:</b> T. Maher 7-5704 TM	9. <b>EFFECTIVE DATE OF FILING:</b>
8. <b>DOCKET NO.:</b> A-311014F7012	April 25, 2005

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

(a) Joint Petition for approval of a Local Wireline Network Interconnection and Traffic Exchange Agreement, under Sections 252(a)(1) and 252(e) of the Telecommunications Act of 1996.

(b) On January 25, 2005, Citizens Telephone of Kecksburg and Armstrong Telephone Communications, Inc., filed a Petition, under Sections 252(a)(1) and 252(e) of the Telecommunications Act of 1996. Notice was published in the *Pa. Bulletin*, Vol. 36, on February 5, 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 Draft Opinion and Order granting the Joint Petition, thereby approving the Agreement, consistent with the Opinion and Order.

**DOCKETED**  
APR 27 2005

**DOCUMENT  
FOLDER**

Order Doc. No. 528657v1

Calendar Doc. No. 528655v1

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

Commissioner Pizzigrilli - Yes  
 Commissioner  
 Commissioner

**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

April 15, 2005

A-311014 F7012

NORMAN JAMES KENNARD ESQUIRE  
HAWKE MCKEON SNISCAK & KENNARD LLP  
100 NORTH 10<sup>TH</sup> STREET  
HARRISBURG PA 17101

**DOCKETED**  
JUN 24 2005

Joint Petition of Citizens Telephone Company of Kecksburg and Armstrong  
Telecommunications, Inc. for Approval of Local Wireline Network Interconnection and Traffic  
Exchange 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 April 7, 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

BTL

Enclosure  
Certified Mail  
LJM

DRU A SEDWICK PRESIDENT  
ARMSTRONG TELECOMMUNICATIONS INC  
ONE ARMSTRONG PLACE  
BUTLER PA 16001

PENNSYLVANIA  
PUBLIC UTILITY COMMISSION  
Harrisburg, PA 17105-3265

Public Meeting held April 7, 2005

Commissioners Present:

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

**DOCKETED**  
JUN 24 2005

Joint Petition of Citizens Telephone  
Company of Kecksburg and Armstrong  
Telecommunications, Inc. for Approval of  
Local Wireline Network Interconnection  
and Traffic Exchange Agreement Under  
Section 252(e) of the Telecommunications  
Act of 1996.

A-311014F7012

**OPINION AND ORDER**

**DOCUMENT  
FOLDER**

**BY THE COMMISSION:**

Before the Commission for consideration is the Petition for approval of Agreement for Local Wireline Network Interconnection and Traffic Exchange (Agreement) between Citizens Telephone Company of Kecksburg (Citizens-Kecksburg) and Armstrong Telecommunications, Inc. (Armstrong). 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). *Proposed Modifications to the review of Interconnection Agreements* (Order entered on May 3, 2004). (*Implementation Orders*).

## History of the Proceeding

On January 25, 2005, Citizens-Kecksburg and Armstrong (Petitioners) filed the instant Petition, seeking approval of the Agreement that would provide for local wireline network interconnection and traffic exchange.

The Agreement provides that the effective date will be the Order Entered date of this Opinion and Order, and that it will continue for a period of three years and consecutive one year terms thereafter, unless earlier terminated in accordance with Section 12.1 of the Agreement.

The Commission published notice of the Joint Petition and the Agreement in the *Pennsylvania Bulletin*, on February 5, 2005, advising that any interested parties could file comments within ten days. No comments have been filed.

In the Joint Petition before us, Citizens-Kecksburg is the incumbent local exchange carrier (ILEC) and Armstrong is the competitive local exchange carrier (CLEC).

### **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. . .

With these criteria in mind, we will review the Agreement submitted by Citizens-Kecksburg and Armstrong.

**B. Summary of Terms**

The instant Petition sets forth the terms and conditions under which the Parties will operate. The main provisions of the Agreement provide are as follows:

1. The POI may be modified by either Party with written consent of the other, which shall not be unreasonable withheld.
2. Each Party shall make available, trunks from the POI to accommodate delivery of Local Traffic for termination to end users of the other Party.
3. Traffic terminated over Traffic Exchange Trunk Groups shall be compensated on a bill and keep basis pursuant to Section 3.4 of this Agreement.
4. This Agreement is applicable only to traffic originating or terminating in the local serving area as defined by Citizens' effective local exchange tariff(s).
5. The Parties agree that they will share the responsibility for all maintenance and repair of trunks/trunk groups.

6. Neither Party will deliver Switched Access Traffic to the other Party over the trunk group(s) as established in this Agreement.
7. Neither Party shall have any responsibility to provide operator services, directory assistance or directory listings, including white or yellow pages, to the other Party or any end user.
8. If either Party publishes its own directory during the term of this Agreement, it shall, on reasonable terms and conditions, extend to the other Party the opportunity to include its customer listings in the directory.
9. The Parties acknowledge that under current network and service arrangements, ISP traffic may be switched and transported as if this ISP traffic were actual local (i.e. local exchange and /or EAS traffic).
10. The Agreement only applies to traffic originating or terminating in the local serving area as defined by the Citizens-Kecksburg effective local exchange tariff(s).

### **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, 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 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.

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 Citizens-Kecksburg or Armstrong to embody the terms of the Agreement in a filed tariff.

Consistent with our May 3, 2004 Order at Docket No. M-00960799, we do require that the ILEC file a jointly signed, true and correct copy of the Agreement with the Commission within thirty days of the date that it is signed, for retention in the Commission's official files so that it is available to the public for inspection and copying consistent with the procedures related to public access to documents. We also 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 Agreement's terms relating to 911 and E911 services and conclude that these provisions of the instant Agreement are consistent with the public interest.

Based on the foregoing and pursuant to Section 252(e) of TA-96, *supra*, and our *Implementation Orders*, we determine that to the Network Interconnection and Traffic Exchange Agreement between Citizens-Kecksburg and Armstrong is non-discriminatory to other telecommunications companies not party to it and that it is consistent with the public interest; **THEREFORE,**

**IT IS ORDERED:**

1. That the Joint Petition for approval of the Network Interconnection and Tariff Exchange Agreement filed on January 25, 2005, by Citizens Telephone of Kecksburg and Armstrong Telephone Communications, 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.

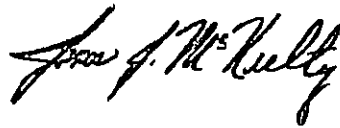
3. That Citizens Telephone of Kecksburg, shall file an electronic copy of the Interconnection Agreement in ".pdf format" with this Commission within thirty (30) days of the entry of this Opinion and Order, for inclusion on the Commission's website.

4. That within thirty (30) days of the date of entry of this Opinion and Order, Citizens Telephone of Kecksburg, shall notify the Commission as to whether the



Interconnection Agreement filed January 25, 2005, is a signed, true and correct copy. If the Interconnection Agreement filed January 25, 2005, is not a signed, true and correct copy, Citizens Telephone of Kecksburg, 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: April 7, 2005

ORDER ENTERED: **APR 15 2005**