

PENNSYLVANIA PUBLIC UTILITY COMMISSION  
Uniform Cover and Calendar Sheet

<b>1. <u>REPORT DATE:</u></b> December 6, 2005	<b>2. <u>BUREAU AGENDA NO.</u></b> DEC-2005-OSA-0352*
<b>3. <u>BUREAU:</u></b> Office of Special Assistants	
<b>4. <u>SECTION(S):</u></b>	<b>5. <u>PUBLIC MEETING DATE:</u></b>
<b>6. <u>APPROVED BY:</u></b> Director: C.W. Davis 7-1827 Mgr/Spvr: R. Marinko 3-3930 Legal Review: A. Arnold 7-8032	December 15, 2005
<b>7. <u>PERSONS IN CHARGE:</u></b> G. Stella 7-1023	<b>9. <u>EFFECTIVE DATE OF FILING:</u></b> January 25, 2006
<b>8. <u>DOCKET NO.:</u></b> A-310898F7001	

**DOCUMENT  
FOLDER**

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

(a) Joint Petition of Verizon North Inc. (Verizon North) and Navigator Telecommunications LLC (Navigator) for Approval of an Interconnection Agreement and Amendments No. 1 and 2 Under Section 252(e) of the Telecommunication Act of 1996.

(b) On October 27, 2005, Verizon North and Navigator filed the Joint Petition seeking approval of an Interconnection Agreement and Amendments No. 1 and 2 to the Agreement. Notice of the Joint Petition was published in the *Pennsylvania Bulletin* on November 19, 2005. 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. 578989v1

Calendar Doc. No. 578990v1

**11. MOTION BY:** Commissioner Chm. Holland  
  
**SECONDED:** Commissioner Cawley

Commissioner Shane - Yes  
 Commissioner Pizzigrilli - Yes  
 Commissioner Fitzpatrick - Yes

**CONTENT OF MOTION:** Staff recommendation adopted.

**DOCKETED**  
JAN 9 2006



COMMONWEALTH OF PENNSYLVANIA  
PENNSYLVANIA PUBLIC UTILITY COMMISSION  
P.O. BOX 3265, HARRISBURG, PA 17105-3265

IN REPLY PLEASE  
REFER TO OUR FILE

December 20, 2005

A-310898F7001

DANIEL E. MONAGLE  
ASST GENERAL COUNSEL  
VERIZON NORTH INC  
1717 ARCH STREET 10W  
PHILADELPHIA PA 19103

DOCUMENT  
FOLDER

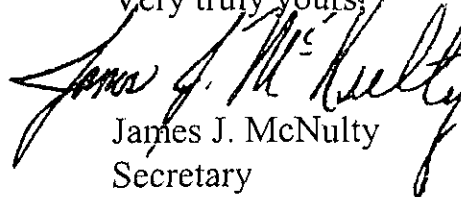
Joint Petition of Verizon North, Inc. and  
Navigator Telecommunications LLC for  
Approval of an Interconnection Agreement and  
Amendments No. 1 and 2 Under Section  
252(e) of the Telecommunication Act of 1996

To Whom It May Concern:

This is to advise you that the Commission in Public Meeting on December 15, 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

RJP

Enclosure  
Certified Mail  
jeh

NAVIGATOR TELECOMMUNICATIONS LLC  
8525 RIVERWOOD PARK DRIVE  
NORTH LITTLE ROCK AR 72113

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

Public Meeting held December 15, 2005

Commissioners Present:

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

Joint Petition of Verizon North Inc. and  
Navigator Telecommunications LLC for  
Approval of an Interconnection Agreement and  
Amendments No. 1 and 2 Under Section  
252(e) of the Telecommunication Act of 1996

A-310898F7001

**OPINION AND ORDER**

**BY THE COMMISSION:**

Before the Commission for consideration is the Joint Petition (Joint Petition) for approval of an Interconnection Agreement (Agreement) and Amendments No. 1 and 2 (Amendments) between Verizon North Inc. (Verizon North) and Navigator Telecommunications LLC (Navigator) 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 October 27, 2005, Verizon North and Navigator filed the Joint Petition seeking approval of the Agreement and the Amendments which supplements some of the terms of the Agreement. The Commission published notice of the Joint Petition, the Agreement and the Amendments in the *Pennsylvania Bulletin* on November 19, 2005, advising that any interested parties could file comments within ten days. No comments have been received.

The Agreement and both of the Amendments have an effective date of October 9, 2005, and a termination date of October 8, 2007. All three shall remain in effect after their termination date, unless cancelled by one of the Parties as provided for in the Agreement.

Verizon North is an Incumbent Local Exchange Company (ILEC) authorized to provide local exchange telephone service in Pennsylvania. Navigator is certificated with the Pennsylvania Public Utility Commission to provide service as a Competitive Access Provider, a Reseller and a Competitive Local Exchange Company.

#### **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 and Amendments submitted by Verizon North and Navigator.

**B. Summary of Terms**

The Agreement contains the terms, rates and conditions for the interconnection of the Parties' local exchange networks for the 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. The Agreement also contains the terms, rates and conditions under which Verizon North will provide collocation to Navigator. The Resale Discount Rate for the resale of retail services is as stated in Verizon North's approved Tariffs. Reciprocal Compensation rates for traffic termination are as follows: the rate for traffic to an end office is \$0.003000 per minute of use (MOU); and the rate for tandem traffic is \$0.0079536 per MOU.

In Amendment No. 1, the Parties agree that Verizon North will provide access to unbundled network elements (UNEs) and combinations of UNEs to the CLEC only to the extent required by the Federal Communications Commission's (FCC's)

unbundling rules. In this regard, Verizon North shall not be obligated to offer or provide access on an unbundled basis at rates prescribed under Section 251 of the TA-96 to any facility that is or becomes a “discontinued facility” to the extent required by the FCC’s *Triennial Review Remand Order* (TRRO),<sup>1</sup> and to the extent that the TRRO remains effective and is not stayed, reversed, modified or vacated. Amendment No. 1 also contains provisions under which the CLEC may continue to obtain access to a discontinued facility.<sup>2</sup>

Amendment No. 2 provides for certain provisions relating to commingling and associated network modifications pursuant to the TRRO.<sup>3</sup> Exhibit A to Amendment No. 2 contains the non-recurring charges for the associated network modifications.

### C. Disposition

We shall approve the Agreement and Amendments, finding that they satisfy 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

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<sup>1</sup> *In re Unbundled Access to Network Elements, et al.*, WC Docket No. 04-313, CC Docket No. 01-338 (FCC Released February 4, 2005) *Order on Remand*, FCC 04-290.

<sup>2</sup> 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.

<sup>3</sup> The FCC defines commingling as follows: “Commingling means the connecting, attaching, or otherwise linking of an unbundled network element, or a combination of unbundled network elements, to one or more facilities or services that a requesting telecommunications carrier has obtained at wholesale from an incumbent LEC, or the combining of an unbundled network element, or a combination of unbundled network elements, with one or more such facilities or services. Commingle means the act of commingling.” 47 C.F.R. § 51.5

Verizon North'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 and Amendments by providing here that our approval of the Agreement and Amendments 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 and Amendments do not discriminate against a telecommunications carrier not a party to the negotiations.

TA-96 requires that the terms of the Agreement and Amendments 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 Amendments and their 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 Verizon North and Navigator to embody the terms of the Agreement and Amendments 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 and Amendments' terms relating to 911 and E911 services and conclude that these provisions of the instant Agreement and Amendments 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 and Amendments 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 and Amendments No. 1 and 2 between Verizon North and Navigator are non-discriminatory to other telecommunications companies not parties to them and that they are consistent with the public interest; **THEREFORE**,

### **IT IS ORDERED:**

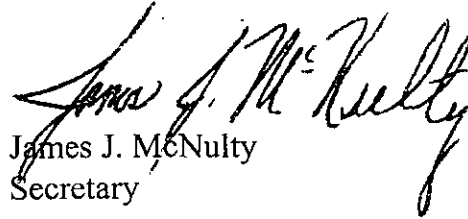
1. That the Joint Petition for approval of the Interconnection Agreement and Amendments No. 1 and No. 2, filed on October 27, 2005, by Verizon North Inc. and Navigator Telecommunications LLC pursuant to the Telecommunications Act of 1996, and the Commission's Orders in *In Re: Implementation of the Telecommunications 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 and Amendments No. 1 and 2 shall not serve as binding precedent for negotiated or arbitrated agreements between non-parties to the subject Agreement and Amendments.

3. That Verizon North Inc. shall file electronic copies of the Interconnection Agreement and Amendments No. 1 and 2 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: December 15, 2005

ORDER ENTERED: **DEC 20 2005**