



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

IN REPLY PLEASE
REFER TO OUR FILE

MAY 14, 2002

A-311140; A-311140F0002
A-311140F0003; A-311140F0004

ROBERT C BARBER
STEPHANIE BALDANZI
3033 CHAIN BRIDGE ROAD
OAKTON VA 22185

DOCKETED
MAY 28 2002

Application of AT&T Broadband Phone, LLC for approval to offer, render, furnish or supply Telecommunication services as an Interexchange Carrier Reseller, to the public, in the Commonwealth of Pennsylvania.

Application of AT&T Broadband Phone, LLC for approval to offer, render, furnish, or supply Telecommunication services as a Facilities-Based Competitive Local Exchange Carrier, to the public, in the Commonwealth of Pennsylvania.

Application of AT&T Broadband Phone, LLC for approval to offer, render, furnish, or supply Telecommunication services as a Competitive Access Provider, to the public, in the Commonwealth of Pennsylvania.

Application of AT&T Broadband Phone, LLC for approval to offer, render, furnish, or supply Telecommunication services as a Facilities-Based Interexchange Carrier, to the public, in the Commonwealth of Pennsylvania.

To Whom It May Concern:

This is to advise you that the Commission in Public Meeting on May 9, 2002 has adopted an Order in the above entitled proceeding.

An Order has been enclosed for your records.

Very truly yours,

James J. McNulty
Secretary

DOCUMENT

fg
encls
cert. mail
DANIEL CLEARFIELD ESQ
ALAN C KOHLER ESQ
WOLF BLOCK SCHORR AND
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212 LOCUST STREET SUITE 300
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**PENNSYLVANIA
PUBLIC UTILITY COMMISSION
Harrisburg, PA. 17105-3265**

Public Meeting held May 9, 2002

Commissioners Present:

Glen R. Thomas, Chairman
Robert K. Bloom, Vice Chairman
Aaron Wilson, Jr.
Terrance J. Fitzpatrick
Kim Pizzingrilli

DOCKETED
MAY 28 2002

Application of AT&T Broadband Phone, LLC for approval to offer, render, furnish or supply Telecommunication services as an Interexchange Carrier Reseller to the public in the Commonwealth of Pennsylvania.

Docket Number
A-311140

DOCUMENT

Application of AT&T Broadband Phone, LLC for approval to offer, render, furnish or supply Telecommunication services as a Facilities-Based Competitive Local Exchange Carrier to the public in the Commonwealth of Pennsylvania.

Docket Number
A-311140F0002

Application of AT&T Broadband Phone, LLC for approval to offer, render, furnish or supply Telecommunication services as a Competitive Access Provider to the public in the Commonwealth of Pennsylvania.

Docket Number
A-311140F0003

Application of AT&T Broadband Phone, LLC for approval to offer, render, furnish or supply Telecommunication services as a Facilities-Based Interexchange Carrier to the public in the Commonwealth of Pennsylvania.

Docket Number
A-311140F0004

ORDER

BY THE COMMISSION:

On October 2, 2001, AT&T Broadband Phone, LLC ("AT&T Broadband" or "Applicant"), filed Applications seeking a Certificate of Public Convenience pursuant to the Telecommunication Act of 1996, 47 U.S.C. §§201, *et seq.*, (TA-96)¹ and to Chapter 11 and 30 of the Public Utility Code (Code) (66 Pa. C.S. §1101, *et seq.*, and §§3001, *et seq.*) evidencing authority to provide the following telecommunication services to residential and business customers:

- (1) As a Reseller of intra and interLATA Interexchange Toll Services (IXC) throughout the Commonwealth,
- (2) As a Facilities-Based Competitive Local Exchange Carrier in the service territories of Verizon Pennsylvania, Inc., Verizon North, Inc., ALLTEL Pennsylvania, Inc., Armstrong Telephone Company-Pennsylvania, The Bentleyville Telephone Company, Citizens Telephone Company of Kecksburg, Hickory Telephone Company, Marianna & Scenery Hill Telephone Company, North Pittsburgh Telephone Company and Yukon Waltz Telephone Company.
- (3) As a Competitive Access Provider (CAP) throughout the Commonwealth, and
- (4) As a Facilities-Based intra and interLATA IXC toll services throughout the Commonwealth.

¹ Market entry requirements, in light of the policy objectives of the TA-96, for telecommunication service providers are set out in *In Re: Implementation of the Telecommunications Act of 1996*. Docket No. M-00960799 (Implementation Order: June 3, 1996; and Implementation reconsideration Order: September 9, 1996).

The Applicant complied with Section 5.14 of our regulations, 52 Pa Code §5.14, relating to Applications requiring notice. No protests were filed. No hearings were held.

The Applicant included rural telephone companies' service areas in its request for CLEC authority. The Applicant served a copy of the Application upon Verizon Pennsylvania, Inc., Verizon North, Inc., ALLTEL Pennsylvania, Inc., Armstrong Telephone Company-Pennsylvania, The Bentleyville Telephone Company, Citizens Telephone Company of Kecksburg, Hickory Telephone Company, Marianna & Scenery Hill Telephone Company, North Pittsburgh Telephone Company and Yukon Waltz Telephone Company.

On October 15 and 16, 2001, counsel for the Rural Telephone Companies filed letters with the Commission, the purpose of which was to bring the Commission's attention, that in the opinion of the Rural Telephone Companies, AT&T Broadband's request for authority in the service territory of the Rural Telephone Companies was based on incorrect information. On January 17, 2002, the Applicant filed a request to withdraw, without prejudice, the authority to provide Facilities-Based Local Exchange Service in the territories of ALLTEL Pennsylvania, Inc., Armstrong Telephone Company-Pennsylvania, The Bentleyville Telephone Company, Citizens Telephone Company of Kecksburg, Hickory Telephone Company, Marianna & Scenery Hill Telephone Company, North Pittsburgh Telephone Company and Yukon Waltz Telephone Company.

By letter dated February 11, 2002, counsel for the Rural Telephone Companies presented the joint understanding of the Rural Telephone Companies, as confirmed by AT&T, that AT&T Broadband would not seek authority to provide CLEC services within the service territories of the Rural Telephone Companies and that with the approval of the Application, AT&T will not be authorized or certificated to provide CLEC services in the service territories of the Rural Telephone Companies.

On April 4, 2002, the Applicant withdrew its Application for CAP authority at Docket No. A-311140F0003.

The Applicant is a Delaware corporation with its principal place of business at 1600 Market Street, Philadelphia, PA 19103. Correspondence to resolve complaints may be directed to the Mr. Vince Apruzzese at the principal place of business. The Applicant complied with 15 Pa. C.S. §8981, relating to foreign limited liability corporations. The Applicant's registered office provider is CT Corporation System, 1635 Market Street, Philadelphia Pennsylvania 19103. The Applicant is not currently doing business in Pennsylvania. The Applicant has the following affiliates doing business in Pennsylvania; AT&T Communications of Pennsylvania, Inc., TCG Pittsburgh, and TCG Delaware Valley, Inc.

The following Affiliates are certificated to provide service outside of Pennsylvania; AT&T Broadband Phone of California, LLC, AT&T Broadband Phone of Colorado, LLC, AT&T Broadband Phone of Florida, LLC, AT&T Broadband Phone of Georgia, LLC, AT&T Broadband Phone of Massachusetts, LLC, AT&T Broadband Phone of Minnesota, LLC, AT&T Broadband Phone of New Hampshire, LLC, AT&T Broadband Phone of Oregon, LLC, AT&T Broadband Phone of Washington, LLC, and MediaOne Telecommunications of Virginia, Inc.

The Applicant has no affiliates providing service to or rendering service from the Applicant.

AT&T Broadband proposes to offer Facilities-Based local and long distance telephony using its own cable facilities in the areas of western Pennsylvania. These services currently are being provided in those areas through AT&T Communications of Pennsylvania, Inc. and TCG Pittsburgh. AT&T Broadband's provision of these services will begin as soon as possible after Commission approval of the petition of AT&T

Broadband, AT&T Communications of Pennsylvania, Inc. and TCG Pittsburgh, under 66 Pa. C.S. §1102(a)(3) for approval of the transfer of certain assets².

Issues affecting CLECs have been addressed and are being addressed in a number of Commission proceedings.³ A CLEC Applicant is expected to adhere to the requirements relative to Universal Service and Lifeline Programs, as initially set forth or as subsequently enlarged or modified.⁴ Also, per federal rules CLECs are required to ensure the efficient usage of their numbering resources and are required to semi-annually report their utilization and forecast data to the North American Numbering Plan Administrator. See 47 C.F.R. § 52.5 et.seq. Any CLEC failing to comply with state and/or Commission orders related to numbering may be subject to the reclamation of their numbering resources as well as fines pursuant to the Public Utility Code, 66 Pa.C.S. § 3301. See *Implementation of Numbering Conservation Measures Granted to Pennsylvania by the Federal Communications Commission in its Order released March 31, 2000 – NXX Code Reclamation*, Docket No. M-00001373 (Order entered August 22, 2000), 30 Pa. B. 4701 (September 2, 2000) (Commission established process for reclaiming NXX codes from carriers who have failed to activate them within 6 months of their availability for assignment to customers.) Further, Section 253(b) of the TA-96 permits a state Commission to impose, on a competitively neutral basis and consistent with the Universal Service Section, requirements necessary to preserve and advance universal service, protect the public safety and welfare, ensure the continued quality of telecommunication services, and safeguard the rights of consumers. In response, we articulated explicit concerns relative to an Applicant's financial fitness, tariff compliance, and rates.⁵

² On October 1, 2001, AT&T Communications of Pennsylvania, Inc., TCG Pittsburgh filed an application for approval of the transfer of certain assets to AT&T Broadband Phone of Pennsylvania, LLC at Docket Nos. A-311140F0005, A-310213F0007 and A-310125F0004.

³ See, e.g., *MFS, Intelenet, et al.*, Docket Nos. A-310203, F0002, *et al.*, (October 4, 1995; July 31, 1996; and August 7, 1997); *Pa. PUC v. Bell*, Docket No. R-00963578; *Pa. PUC v. GTE*, Docket No. R-0093666, *Global Order*, Docket Nos. P-00991648 and P-00991649, as well as other CLEC proceedings.

⁴ *Universal Service Invest.*, Docket No. I-00940035 (January 28, 1997).

⁵ *Blue Ribbon*, Docket No. A-310442 (April 25 and August 4, 1997).

The Applicant has provided financial information to support its Applications. We, therefore, conclude that the Applicant has demonstrated that it is financially capable of providing telecommunication services as a CLEC, and as an IXC Reseller, and a Facilities-Based IXC Carrier.

We conclude that the Applicant has met the requirements for certification as an IXC Reseller, a CLEC, and as a Facilities-Based IXC, consistent with this Order. Premised upon our review of the Applications and the proposed tariffs, and consistent with our Orders, the Code, our Regulations and the TA-96, we conclude that the Applicant's proposed services do not raise concerns at this time regarding safety, adequacy, reliability, or privacy as contemplated by Section 3009(b)(4) of the Code. We note, however deficiencies in the proposed tariffs. See Appendix A.

We shall direct the Applicant to revise the proposed tariff(s) in accordance with the changes noted in Appendix A of this Order.⁶ The Applicant shall thereafter file its Initial Tariff(s) reflecting the requested changes on or before sixty (60) days from the date of entry of this Order. Copies of the Initial Tariff(s) shall also be served upon the same entities receiving service of the original Application(s), including the ILECs. If the time required for such resolution and filing exceeds sixty (60) days, the Applicant may request an extension of an additional sixty (60) days with the Commission's Secretary. Thus, if the Initial Tariff(s) is/are not filed within 60 days (120 days including the extension) of the entry of this Order, the Application(s) will be dismissed and the authority granted herein will be revoked without further Commission Order. To the extent that the proposed tariff(s) contain(s) rates, the Initial Tariff(s) may become effective on one (1) day's notice from the date upon which they are/(it is) filed and served.

⁶ Leonard Peyton, 717-787-3665, is the FUS contact. Regardless of the review process, any tariff provision(s) inconsistent with the provisions of the Code, the TA-96, or our Regulations or Orders will be deemed inoperative and superseded. (52 Pa. Code §64.213).

Conclusion

Accordingly, we shall grant the Application(s). The Applicant has had provisional authority under our *Implementation Order* (p. 7, para. B.1.c.4) and our *Implementation Reconsideration Order* (p. 5) to provide the proposed IXC Reseller, CLEC, and Facilities-Based IXC services pursuant to its proposed tariffs during the pendency of the application process. Upon the establishment of filed rates and the approval of the Initial Tariff(s), a Certificate of Public Convenience shall be issued evidencing the Applicant's authority to provide services as an IXC in the Commonwealth, and as a CLEC in the service territories of Verizon Pennsylvania, Inc., Verizon North, Inc., consistent with this Order and our decisions in the *MFS* and such other proceedings; **THEREFORE,**

IT IS ORDERED:

1. That the Application of AT&T Broadband Phone, LLC at Docket No. A-311140, for authority to operate as a Reseller of Interexchange Toll Services throughout the Commonwealth is granted, consistent with this Order.
2. That the Application of AT&T Broadband Phone, LLC at Docket No. A-311140F0002, for authority to operate as a Competitive Local Exchange Carrier within the service territories of Verizon Pennsylvania, Inc. and Verizon North, Inc. is granted, consistent with this Order.
3. That the Application of AT&T Broadband Phone, LLC at Docket No. A-311140F0004 for authority to operate as a Facilities-Based Interexchange Toll Services Carrier throughout the Commonwealth is granted, consistent with this Order.
4. That the Applicant is directed to revise its proposed tariffs to reflect the changes noted in Appendix A of this Order.

5. That the Applicant shall file its Initial Tariff(s) consistent with the requisite changes noted in Appendix A of this Order, within sixty (60) days after the date of entry of this Order. The Applicant shall serve copies of its Initial Tariff(s) on each entity receiving a copy of the original Application(s). To the extent the Proposed Tariff(s) contain(s) rates, the Initial Tariff(s) may become effective on or after one (1) days' notice from the date upon which they are (it is) filed and served. If the Proposed Tariff(s) did not contain rates, the Initial Tariff(s) may not become effective prior to sixty (60) days' notice. The Initial Interexchange Tariff shall be labeled "Interexchange Reseller Toll Tariff." The Initial Facilities-Based Competitive Local Exchange Carrier Tariff shall be labeled "Facilities-Based Competitive Local Exchange Carrier Tariff." The Initial Facilities-Based Interexchange Tariff shall reflect on its face that it is a "Facilities-Based Interexchange Tariff."

6. That the Applicant shall comply with all the provisions of the Public Utility Code, as now exist or as may be hereafter amended, and with all pertinent rules, regulations, and Orders of the Pennsylvania Public Utility Commission, now in effect or as may be prescribed by the Pennsylvania Public Utility Commission, including but not limited to: the *MFS Intelenet, et al.*, Docket Nos. A-310203F0002, *et al.*; the *Universal Service Investigation*, Docket No. I-00940035; the *Global Order*, Docket No. P-00991648, *et al.*, and the *NXX Code Reclamation*, Docket No. M-00001373.

7. That the authority granted herein, to the extent that it duplicates authority now held by or subsequently granted to the Applicant, shall not be construed as conferring more than one operating right to the Applicant.

8. That the Applicant shall file such affiliated interest agreements as may be necessary relative to any transactions with affiliates.

9. That the Applicant contact each county or municipal authority where it intends to provide CLEC telecommunications service, and make the necessary arrangements for the provisioning of Emergency 911 service.

10. That the Applicant shall make 711 abbreviated dialing available to access Telecommunications Relay Service and to arrange its switching equipment to translate these calls to the assigned toll-free number, (888) 895-1197, in order to route calls to the Telecommunications Relay Service Provider, in accordance with Commission's Order entered on February 4, 2000 at Docket No. M-00900239.

11. That in the event that the Applicant has not, on or before sixty (60) days (120 days including an approved extension) from the date of entry of this Order, complied with the requirements set forth herein, the Applications at Docket Nos. A-311140, A-311140F0002 and A-311140F0004 may be dismissed and the authority granted herein revoked without further Commission Order.

12. That upon the establishment of filed rates and the approval of the Initial Tariff(s), a Certificate of Public Convenience shall be issued authorizing the Applicant to furnish services as a Facilities-Based Interexchange Carrier and Reseller of Interexchange Toll Services within the Commonwealth of Pennsylvania and to furnish services as a Facilities-Based Competitive Local Exchange Services within the service territories of

Verizon Pennsylvania, Inc. and Verizon North, Inc., consistent with this Order.

BY THE COMMISSION,

A handwritten signature in black ink that reads "James J. McNulty". The signature is written in a cursive style with a large, stylized "M" and "N".

James J. McNulty
Secretary

(SEAL)

ORDER ADOPTED: May 9, 2002

ORDER ENTERED: **MAY 14 2002**

**AT&T Broadband Phone of Pennsylvania, LLC
Docket Nos. A-311140, A-311140F0002 & A-311140F0004**

AT&T Broadband Phone of Pennsylvania, LLC ("AT&T Broadband") has filed proposed tariffs for providing telecommunications services in Pennsylvania as a Facilities-Based CLEC and as a Facilities-based IXC and IXC Reseller.

The tariffs filed for CLEC and IXC services were found to contain certain deficiencies, which are discussed here. The Company is requested to make the necessary changes in the initial tariffs as suggested with each of the deficiencies discussed here, for a timely approval of the tariffs:

Interexchange Tariff (IXC Reseller)

1. Separate Tariffs should be filed and labeled "IXC Reseller" and "Facilities-Based IXC")
2. Services appear to be restrictive to those who subscribe to AT&T Broadband Local Services. This restriction must be removed. Tariff must include rates for those customers not subscribing to Local Services.

Facilities-Based Competitive Local Exchange Carrier Tariff (CLEC)

1. Company's providing Facilities-Based Competitive Local Exchange Carrier service must file a Switched Access Tariff.
2. The Company needs to update its Telecommunications Relay Service language. See attached.
3. The Company needs to update the Lifeline language. See attached.

Pennsylvania Telecommunications Relay Service

1. General

The Pennsylvania Telecommunications Relay Service is a relay telecommunication service for the deaf, hearing and/or speech disabled population of the Commonwealth. The service permits telephone communications between deaf, hearing, and/or speech disabled individuals who must use a Text Telephone and individuals with normal hearing and speech as provided in the AT&T Communications of Pennsylvania, Inc. Tariff PA P.U.C. No. 13.

2. Surcharge

In addition to the charges provided in this tariff and other intrastate toll tariffs in which this Company concurs, a surcharge will apply to all residence and business access lines served by this Company. This surcharge applies regardless of whether or not the access line uses the Pennsylvania Telecommunications Relay Service.

This surcharge serves as the funding vehicle for the operation of the Pennsylvania Telecommunications Relay Service, and shall be calculated by the Pennsylvania Public Utility Commission (the Commission). The Commission shall compute the Pennsylvania Telecommunications Relay Service Surcharge each year and notify local exchange carriers of the surcharge amount to be applied for the twelve month period commencing with July 1 of each year.

The Commission may revise the surcharge more frequently than annually at its discretion.

Tariff revisions will be filed whenever the Commission calculates a new surcharge amount and notifies the Company.

The following surcharge rates apply to all bills issued on or after July 1, 2000

Per residence access line, per month	\$. <u>06</u>
Per business line, per month	\$. <u>12</u>

Centrex lines will be charged on an equivalency basis as determined by the Commission.

Telephone Company Name

-Illustrative Tariff
Original Page No.

Pennsylvania Telecommunications Relay Service (Continued)

3. Rates

Local calls will be charged at the applicable local flat rate or local measured service rate, except for calls originating from Pay Telephones, which shall be completed free of charge. All IntraLata toll calls placed through the Pennsylvania Telecommunications Relay Service will be rated according to the Rates Applicable on Messages Placed by Certified Speech and/or Hearing Disabled rates in the Pennsylvania Telephone Association Toll Tariff PA P.U.C. No. 10. This Company concurs in this tariff.

The Company will make available to the Telecommunications Relay Service (TRS) user either a calling card or a prepaid debit card. The rates for either option will not exceed those that would apply to identical calls for non-TRS users of coin-sent-paid service.

Please refer to the appropriate Interexchange Carrier tariff for interstate charges.

Issued:

Effective:



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

IN REPLY PLEASE
REFER TO OUR FILE

January 11, 2002

R-00017044

To: All Pennsylvania Local Exchange Telecommunications Carriers
(Incumbent and Competitive Local Exchange Carriers)

Re: Lifeline Service Subscriber Line Charges (SLCs)

In compliance with Pennsylvania Public Commission (PUC) Order at Docket Numbers P-00991648 and P-00991649 ("Global Order") entered August 17, 2000, all Local Exchange Carriers (LECs) are required to offer the Lifeline 150 plan to their customers, a plan designed to make phone service affordable to all low-income households in Pennsylvania. As part of the reduction in the cost of phone service, the Federal Line Subscriber Charge (SLC) is charged to Lifeline subscribers, and a credit is given in the same amount of the charge. Thus, Lifeline subscribers are not liable to pay the SLC.

On July 1, 2000, for price cap LECs only, the primary residential and single line business SCL increased to \$4.35, the non-primary residential SLC and the multiline business SLC remained \$7.00 and \$9.20, respectively. The SLC for rate of return LECs was \$3.50 for residential and single line business and \$6.00 for multiline business customers. On July 1, 2001, for price cap LECs only, the primary residential and single line business SLC increased to \$5.00.

On January 1, 2002, as a result of Federal Communications Commission (FCC) Order at Docket Nos. 00-256, 96-45, 98-77, 98-166, and 00-193, the primary residential and single line business SLC for rate-of-return LECs was increased to \$5.00, and the multiline business SCL increased to \$9.20. Pursuant to the FCC provisions, all LECs must submit a supplement to their tariff reflecting this change to the SLC in their Lifeline Programs.

This letter serves as notification to all LECs to file a tariff supplement proposing to change the SLC reference in the Lifeline Program from a specific rate to an approved FCC rate, (sample language is attached). This will eliminate the need to file a tariff supplement when and if the SLC changes. The tariff supplement should be received by the PUC within 10 days of receipt of this letter, and should be filed on one day's notice at Docket No. R-00017044.¹

It is anticipated that there will be further increases in the SLC on July 1, 2002, and on July 1, 2003, assuming the FCC takes no action to halt the increase as a result of its SLC cost review for the price cap LECs.

If you have any questions in this matter, please contact Ms. Grace House of the Telecommunications Group in the Bureau of Fixed Utility Services at (717) 783-6174.

Sincerely,

James J. McNulty
Secretary

Attachment
cc: Kerry Klinefelter, FUS
Janet Patrick, Secretary's Bureau

¹ If you have already filed a Supplement to your Tariff(s) for the change in the SLC, please disregard this Secretarial Letter.

Company Name _____

Supplement No. _____
to Tariff Pa. P.U.C. No. _____
Revised Page No. _____
Canceling # Revised Page No. _____

LIFELINE SERVICE

C. LIFELINE SERVICE DIAL TONE LINE MONTHLY RATE

1. Applicable Residence Dial Tone monthly rate minus \$1.75 (1)
2. Lifeline Service customers will be billed the applicable Subscriber Line Charge monthly rate and will be given credit for the same amount of the Subscriber Line Charge as prescribe by the Federal Communications Commission at Docket Nos. 00-256, 96-45, 98-77, 98-166, and 00-193. (C)
3. Lifeline Service is subject to all applicable state, local and federal taxes and surcharges, and to all applicable tariff rates, charges, surcharges and regulations. (C)

NOTE:

- (1) The Dial Tone Line and Subscriber Line Charge monthly rate discounts will be reduced to the extent that application of the full discount would not result in rates that are less than zero.

* * *

(C)

(C) Indicates Change

Issued: _____

Effective: _____