

PENNSYLVANIA PUBLIC UTILITY COMMISSION
Uniform Cover and Calendar Sheet

1. <u>REPORT DATE:</u> July 30, 2007	2. <u>BUREAU AGENDA NO.</u> AUG-2007-OSA-0179*
3. <u>BUREAU:</u> Office of Special Assistants	
4. <u>SECTION(S):</u>	5. <u>PUBLIC MEETING DATE:</u> August 8, 2007
6. <u>APPROVED BY:</u> Director: C. W. Davis Mgr/Spvr: R. A. Marinko 3-3930 Legal Review: C. Pennington 346-2615	9. <u>EFFECTIVE DATE OF FILING:</u> September 19, 2007
7. <u>PERSONS IN CHARGE:</u> S. Wilmarth 3-5117	
8. <u>DOCKET NO.:</u> A-311426F7001	<p style="text-align: right;">REPORT FOLDER</p> <p style="text-align: right;">X-CAL</p> <p style="text-align: right;">AUG 08 2007</p>

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 Ygnition Networks, Inc. (Ygnition) for Approval of an Interconnection Agreement Under Section 252(e) of the Telecommunications Act of 1996.

(b) On June 21, 2007, Verizon North and Ygnition filed a Joint Petition seeking approval of an interconnection agreement pursuant to Section 252(e) of the Telecommunications Act of 1996. Notice of the Joint Petition was published in the *Pennsylvania Bulletin* on July 14, 2007. No comments were received.

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

11. **MOTION BY:** Commissioner

SECONDED: Commissioner

Commissioner
Commissioner
Commissioner

BTL

CONTENT OF MOTION:

PENNSYLVANIA
PUBLIC UTILITY COMMISSION
Harrisburg, PA 17105-3265

Public Meeting held August 8, 2007

Commissioners Present:

Wendell F. Holland, Chairman
James H. Cawley, Vice Chairman
Terrance J. Fitzpatrick
Tyrone J. Christy
Kim Pizzingrilli

Joint Petition of Verizon North Inc.
and Ygnition Networks, Inc. for Approval
of an Interconnection Agreement Under
Section 252(e) of the Telecommunications
Act of 1996

A-311426F7001

OPINION AND ORDER

BY THE COMMISSION:

Before the Commission for consideration is the Joint Petition for approval of an Interconnection Agreement (Agreement) between Verizon North Inc. (Verizon North) and Ygnition Networks, Inc. (Ygnition). 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 June 3, 1996); Order on Reconsideration entered September 9, 1996; see also *Proposed Modifications to the Review of Interconnection Agreements* (Order entered May 3, 2004) (*Implementation Orders*).

History of the Proceeding

On June 21, 2007, Verizon North and Ygnition filed the instant Joint Petition seeking approval of the Agreement. The Commission published notice of the Joint Petition and the Agreement in the *Pennsylvania Bulletin* on July 14, 2007, advising that any interested parties could file comments within ten days. No comments have been received.

The Agreement has an effective date of May 25, 2007, and unless cancelled or terminated earlier in accordance with the terms of the Agreement, will continue in effect until May 24, 2009. Thereafter, the Agreement will continue in force and effect unless and until cancelled or terminated as provided in the Agreement. (Agreement at 2).

In the Joint Petition before us, Verizon North is the Incumbent Local Exchange Carrier (ILEC) and Ygnition is certified to provide facilities-based and resold local exchange services as a Competitive Local Exchange Carrier (CLEC).¹

Discussion

A. Standard of Review

The Commission's standard of review of a negotiated interconnection agreement is set out in Section 252(e)(2) of TA-96, 47 U.S.C § 252(e)(2), which provides, in pertinent part, that:

¹ 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 Ygnition 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.

- (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) discriminated 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 submitted by Verizon North and Ygnition.

B. Summary of Terms

The Agreement contains the terms, rates and conditions for the interconnection of the Parties' local exchange networks, for the purpose of 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, as well as Ygnition's purchase of telecommunication services for resale to others. The Parties agree that the charges for a specific service shall be the charges for the service as stated in the providing party's applicable tariff. (Pricing Attachment at 129). The Discount Resale Rate for the resale of retail service is 22.00 percent if Ygnition provides its own operator services platform, and 18.34 percent if Ygnition uses Verizon North's operator services platform. (Appendix A to the Pricing Attachment at 134).

Reciprocal Compensation Rates for traffic termination are as follows: the rate for traffic to an end office is \$0.0030000 per minute of use (MOU); and the rate for tandem traffic is \$0.0079536 per MOU. (Appendix A to the Pricing Attachment at 133).

The Parties also agree to provide Number Portability (NP) in accordance with the rules and regulations prescribed by the Federal Communications Commission (FCC), and to follow the Local Number Portability (LPN) provisioning process recommended by the North American Numbering Council (NANC) and the Industry Numbering Council (INC), and adopted by the FCC. Local Number Portability will be provided on a reciprocal basis. (Agreement at 75).

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, including any provisions limiting unbundled access to 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 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.* Based on the foregoing, we find that the Agreement does not discriminate against telecommunications carriers not parties 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 Verizon North and Ygnition to embody the terms of the Agreement 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) of TA-96. This is consistent with TA-96 wherein service quality and standards, *i.e.*, Universal Service, 911, Enhanced 911(E911), and Telecommunications Relay Service, are inherent obligations of the ILEC 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.

Consistent with our May 3, 2004 Order at Docket No. M-00960799, we will 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, within thirty days of the date of entry 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 between Verizon North and Ygnition is non-discriminatory to other telecommunications companies not parties to it and that it is consistent with the public interest;

THEREFORE,

IT IS ORDERED:

1. That the Joint Petition for approval of an Interconnection Agreement filed on June 21, 2007, by Verizon North Inc. and Ygnition Networks, 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 June 3, 1996); *Order on Reconsideration* (Order entered September 9, 1996); and *Proposed Modifications to the Review of Interconnection Agreements* (Order entered 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 Verizon North Inc. shall file an electronic, true and correct copy of the Interconnection Agreement, in ".pdf format", with this Commission within thirty (30) days of the date of entry of this Opinion and Order, for inclusion on the Commission's website.

BY THE COMMISSION

James J. McNulty
Secretary

(SEAL)

ORDER ADOPTED: August 8, 2007

ORDER ENTERED: