

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

Public Meeting held May 24, 2001

Commissioners Present:

John M. Quain, Chairman  
Robert K. Bloom, Vice Chairman  
Nora Mead Brownell  
Aaron Wilson, Jr.  
Terrance J. Fitzpatrick

Joint Petition of Verizon Pennsylvania Inc.  
and Comcast Telecommunications, Inc.  
For Approval of an InterConnection  
Agreement Under Section 252(i)  
of the Telecommunications Act of 1996, by  
Means of Adoption of an Interconnection  
Agreement between Verizon Pennsylvania  
Inc. and US West Interprise America, Inc.

A-311019F0002

**OPINION AND ORDER**

**BY THE COMMISSION:**

Before the Commission for consideration is a Joint Petition filed by Verizon Pennsylvania Inc. (Verizon PA) and Comcast Telecommunications, Inc. (Comcast), for approval of an Interconnection Agreement (Agreement) by means of adoption of an Interconnection Agreement between Verizon PA and US West Interprise America, Inc. (US West). 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 June 3, 1996 Order in *In Re: Implementation of the Telecommunications Act of 1996*, Docket No. M-00960799 (*Implementation Orders*).

### **History of the Proceeding**

On March 9, 2001, Verizon PA and Comcast filed the instant Joint Petition for approval of an Interconnection Agreement (Agreement) that provides for the interconnection of the two companies' networks and makes available to Comcast access to unbundled network elements, wholesale telecommunications services and ancillary services offered by Verizon PA. The Agreement which Verizon PA and Comcast seek to adopt was between Verizon PA and US West and was approved by the Opinion and Order entered on April 14, 2000, at Docket No. A-310437F0002.

The Commission published notice of the Joint Petition and the instant Agreement in the *Pennsylvania Bulletin* on March 24, 2001, advising that any interested parties could file comments within ten days. No comments have been received.

### **Discussion**

#### **A. Standard of Review**

The Commission's standard of review of a negotiated interconnection agreement is set forth at 47 U.S.C. §252(e)(2), which 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 –

- (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 the Act states:

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 shall review the Agreement submitted by Verizon PA and Comcast.

**B. Timeliness of Filing**

We note that Verizon PA and Comcast entered into the instant Agreement on November 8, 2000. The Parties represent that the Agreement shall be in force for the period commencing with the date set forth and continuing until September 8, 2001. Based on the foregoing, a period of approximately four months has elapsed from the time the Agreement was executed until it was submitted to the Commission for review. Neither TA-96 nor the Federal Communications Commission (FCC) rules interpreting TA-96 provide for the specific time in which the negotiated Agreement is to be filed with the state commission. However, we have addressed our expectations regarding the proper

time considerations to be observed with regard to negotiated agreements. (*See Implementation Order*, June 3, 1996 Order, slip op., p. 33).<sup>1</sup>

We remind the Parties that failure to comply with our *Implementation Orders*, as well as this Order, could subject the Parties to civil penalties for violations pursuant to Section 3301 of the Public Utility Code, 66 Pa. C.S. §3301.

### **C. Summary of Terms**

In their Joint Petition, Verizon and Comcast agree that Comcast will exercise its right under Section 252(I) of TA-96 to adopt the Agreement between Verizon PA and US West which was approved by the Commission at Docket No. A-310437F0002 on April 14, 2000. Under the Adoption, Comcast agreed that it will be bound by the terms of the Verizon PA/US West Interconnection Agreement presently in effect. (Joint Petition, ¶3).

The Agreement sets forth the terms, conditions and prices under which Verizon PA and Comcast will offer and provide network interconnection, reciprocal call termination, access to network elements, ancillary network services, and wholesale telecommunications services available for resale to each other within each Local Access and Transport Area (“LATA”) in which they both operate in Pennsylvania. (Joint Petition, ¶4).

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<sup>1</sup> “TA-96 does not give any express guidance as to when agreements must be filed with the state commission. However, since the period for negotiations concludes on day 160, we conclude that an executed, negotiated interconnection agreement accompanied by a joint petition for adoption of the agreement shall be filed by no later than thirty (30) days following the close of the negotiations phase or by day 190 following the request for interconnection.” (*Id.*)

The key provisions of the Agreement, as summarized by the Parties in the Joint Petition are:

- (1) Reciprocal compensation for terminating local traffic at rates of \$.001723 or \$.002814 per minute of use (or as otherwise provided in the rate sheets of the Verizon PA/US West Interprise America, Inc. Interconnection Agreement), depending on where traffic is terminated on the Verizon PA and Comcast networks.
- (2) Unbundled loops--providing Comcast access to existing Verizon PA customers--based on a rate methodology specified in the Agreement.
- (3) Customers to retain their telephone numbers when they switch to Comcast.
- (4) Including Comcast customers' primary listings in the White Pages (two listings for each residence telephone number and one listing for each business telephone number) and Yellow Pages (one listing for each business telephone number) directories.
- (5) The resale of Verizon PA telecommunications services for a wholesale discount of 18.43% or 20.69% (depending upon whether Comcast provides its own operator services).
- (6) The continued provision of 911 services to all customers.

(Joint Petition, p. 2, ¶5).

We determine 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. We further determine 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, we note that other carriers are not bound by the terms of the Agreement and are free to pursue their own negotiated arrangements with Verizon PA.

We find that the Agreement is an important step towards allowing Comcast to compete with Verizon PA as a facilities-based local telephone service carrier for both residential and business customers, which is what TA-96 contemplates and the Pennsylvania General Assembly envisioned when it enacted Section 3009(a) of the Public Utility Code, 66 Pa. C.S. §3009(a), and that, therefore, the Agreement protects the public interest, convenience, and necessity.<sup>2</sup>

The Agreement between Verizon PA and US West, which Comcast is opting-in to, provides, in pertinent part, for an initial term until September 8, 2001 and will remain in effect no longer than the date the US West Agreement terms are terminated or expire.

#### **D. 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 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

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<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 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.

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 Verizon PA or Comcast to embody the terms of the Agreement in a filed tariff, but we will require that the Parties file the Agreement with this Commission. It shall be retained in the public file for inspection and copying consistent with the procedures relating to public access to documents.

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 and with Chapter 30 of the Public Utility Code, 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.

## Conclusion

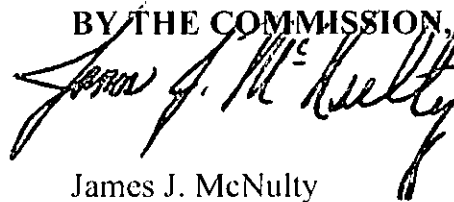
Based on the foregoing and pursuant to Section 252 of TA-96, *supra*, and our *Implementation Orders*, we will approve the Replacement Interconnection and Resale Agreement between Verizon PA and Comcast filed on March 9, 2001; **THEREFORE,**

### **IT IS ORDERED:**

1. That the Joint Petition of Verizon Pennsylvania Inc. and Comcast Telecommunications, Inc. seeking the approval of an Interconnection Agreement filed on March 9, 2001, pursuant to the Telecommunications Act of 1996 and the Commission's June 3, 1996, Opinion and Order in *In Re: Implementation of the Telecommunications Act of 1996*, Docket No. M-00960799, is hereby granted, consistent with this Opinion and Order.
  
2. That approval of the Agreement shall not serve as binding precedent for negotiated or arbitrated agreements between non-parties to the instant agreement.
  
3. That approval of the Interconnection Agreement shall not be construed as a review under 47 U.S.C. §271.

4. That the Parties shall file a true and correct copy of the Inter-connection Agreement, with appropriate amendment, with this Commission within thirty (30) days of the date of entry of this Opinion and Order.

BY THE COMMISSION,

A handwritten signature in black ink, appearing to read "James J. McNulty", written in a cursive style.

James J. McNulty  
Secretary

(SEAL)

ORDER ADOPTED: May 24, 2001

ORDER ENTERED: May 25, 2001