**PENNSYLVANIA**

**PUBLIC UTILITY COMMISSION**

**Harrisburg, PA 17120**

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|  | Public Meeting held April 15, 2021 |
| Commissioners Present:  Gladys Brown Dutrieuille, Chairman  David W. Sweet, Vice Chairman  John F. Coleman, Jr.  Ralph V. Yanora | |
| Joint Petition of TDS Telecommunications LLC and Teleport Communications America, LLC for Approval of an Interconnection Agreement under Section 252(e) of the Telecommunications Act of 1996. | A-2021-3024103 |

**OPINION AND ORDER**

**BY THE COMMISSION:**

Before the Pennsylvania Public Utility Commission (Commission) for consideration is a Joint Petition filed by TDS Telecommunications LLC, filed on behalf of its affiliates Mahantango and Mahanoy Telephone Company (M&M) and Sugar Valley Telephone Company (SVTC), (collectively TDS) and Teleport Communications America, LLC (Teleport), requesting approval of an Interconnection Agreement (Agreement or Interconnection Agreement). 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, including 47 U.S.C. §§ 251, 252, and 271) (TA-96), 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) (*May 3, 2004 Implementation Order*) (collectively, *Implementation Orders*)*.*

**History of the Proceeding**

On February 10, 2021, TDS and Teleport (collectively, Parties) filed the instant Joint Petition for approval of the Agreement for network interconnection and traffic exchange. The Commission’s *May 3, 2004 Implementation Order* requires parties to file a signed copy of the Agreement with the Commission within thirty days of its signing. The last Party signed the Agreement on January 28, 2021, and the Agreement has been filed in accordance with the required thirty-day deadline. The Commission published notice of the Joint Petition in the *Pennsylvania Bulletin* on February 27, 2021, advising that any interested parties could file comments within ten days. 51 *Pa. B*. 1117. No comments have been received.

The Agreement became effective upon execution of the Agreement by both Parties on January 28, 2021. Agreement at 13, 49. The Agreement will remain in effect until February 14, 2022 (Initial Term). Thereafter, the Agreement shall continue in force and effect unless terminated earlier in accordance with the terms of the Agreement. Upon the expiration of the Initial Term or any time thereafter, either Party may terminate the Agreement by providing ninety days written notice prior to the date of termination of the Agreement. Agreement at 13-14.

TDS has signed the Interconnection Agreement on behalf of its affiliates M&M and SVTC, who are Incumbent Local Exchange Carriers (ILECs) in Pennsylvania, making the Agreement equally applicable to each of the two ILECs. In order to facilitate the adoption of an interconnection agreement by other parties, pursuant to 47 U.S.C. §252(i), only one ILEC should be party to a single interconnection agreement. To facilitate timely consideration of this Agreement, according to the schedule set forth in TA-96, we shall sever the Agreement into two agreements (one pertaining to M&M and the other pertaining to SVTC) for purposes of consideration and disposition here (and, in the future, for purposes of adoption by non-parties).

Teleport is authorized to provide Competitive Local Exchange Carrier (CLEC) service in the TDS’s service territories.[[1]](#footnote-2)

**Discussion**

**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) of this section 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 submitted by TDS and Teleport.

**B. Summary of Terms**

The Agreement is filed in accordance with Sections 251 and 252 of TA-96, which sets forth the terms, conditions and prices under which M&M and SVTC may provide services for network interconnection, and ancillary functions for the exchange of indirect traffic and direct traffic with the other’s network. The Agreement also sets forth the terms and conditions under which Teleport will provide services to M&M and SVTC where applicable. Agreement at 1.

The Agreement contains the following appendixes in Schedule I: Appendix ITR – Interconnection Trunking Requirements; Appendix NIM – Network Interconnection Methods; Appendix NP – Number Portability; Appendix Numbering; Appendix – Pricing; Appendix Reciprocal Compensation; Appendix WP – White Pages Directory; Appendix 911.

The Interconnection Appendix addresses such things as points of interconnection and interconnection methods, whether it is direct or indirect through third parties. The Parties mutually agree where one-way or two-way trunking arrangements will be available and utilizing Signaling System or multi-frequency signaling protocol. The Parties mutually agreed to interconnection through Indirect Interconnection, Leased Facilities Interconnection; and other methods. The Parties agree to ensure the deployment of sufficient trunking capacity at all times at the Point of Interconnection to accommodate the exchange of traffic and to minimize the likelihood of call blocking. Agreement Appendixes: ITR, NIM.

The Parties agree to properly equip central offices to mutually provide local number portability (LNP) services. LNP applies only when a customer with an active account wishes to change local carriers while retaining the telephone number or numbers associated with the account. Agreement, Appendix NP.

The Parties agree to reciprocally terminate telecommunications traffic originating on each other’s network. The reciprocal compensation rate for local traffic termination as well as ISP‑Bound Traffic[[2]](#footnote-3) will be on a bill and keep basis. Accordingly, neither Party shall owe the other party any compensation for the origination, transport or termination of such traffic.[[3]](#footnote-4) ISP Traffic directed to an ISP physically located outside the originating End Users’ local calling area will be considered toll traffic and subject to access charges. Agreement, Appendixes; Pricing, Reciprocal Compensation at 3-5.

TDS publishes White Pages (WP) directories for geographic areas in which Teleport also provides local exchange services, and Teleport End Users will have access to such WP directories. These directories will include primary alphabetical listings of Teleport End Users on the same basis as TDS’s own listings. Each Teleport subscriber will receive copies of TDS’s WP directory at the same time that they are delivered to TDS subscribers during the annual delivery of newly published directories. Agreement, Appendix WP at 3-6.

As of the effective date of this Agreement, M&M and SVTC are no longer the 911 service providers serving the public safety answering point (PSAP) for customers now served by Teleport, and each party is solely responsible for making its own 911 Arrangements to connect to the current 911 service provider and for making updates on a timely basis to the automatic location identification database for its respective Customers.[[4]](#footnote-5) Agreement, Appendix 911.

**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 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*. On the basis of the foregoing, we find that the Agreement does not discriminate against other 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 intentthat our approval will affect the status of negotiations between other parties. In this context, we will not require M&M, SVTC, and Teleport to embody the terms of the Agreement in filed tariffs.

With regard to the public interest element of this matter, we note that no negotiated interconnection agreement may eliminate statutory obligations of telecommunications carriers in the area of protection of the public safety and welfare, service quality, and the rights of consumers. *See, e.g*., Section 253(b). This is consistent with TA‑96 and Chapter 30 of the Code,[[5]](#footnote-6) wherein service quality and standards, *e.g.*, Universal Service, 911, Enhanced 911,[[6]](#footnote-7) and Telecommunications Relay Service, are and remain statutory obligations of the telecommunications carriers. We have reviewed the Agreement’s terms relating to 911 and E911 services and concluded that these provisions of the Agreement are consistent with the public interest. In addition, an ILEC cannot, through the negotiation of an amendment, eliminate its carrier of last resort obligations.[[7]](#footnote-8)

Before concluding, we note that the Joint Petitioners have filed a signed, true and correct copy of the Agreement as part of their Joint Petition and that the Agreement has been filed in accordance with the required thirty-day deadline set forth in the Commission’s *Implementation Orders*. Further, the Commission’s Secretary’s Bureau has published an electronic copy of the Agreement to the Commission’s website prior to publishing notice of the Agreement in the *Pennsylvania Bulletin*. Consistent with our *May 3, 2004 Implementation Order*, since we will approve the Interconnection Agreement as filed, without any modifications, we will not require the Joint Petitioners to file an electronic copy of the Interconnection Agreement after the 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 Agreement between TDS and Teleport 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 by TDS Telecommunications LLC on behalf of Mahantango and Mahanoy Telephone Company and Teleport Communications America, LLC, filed on February 10, 2021, is granted, consistent with this Opinion and Order.

2. That the Joint Petition for approval of an Interconnection Agreement filed by TDS Telecommunications LLC on behalf of Sugar Valley Telephone Company and Teleport Communications America, LLC, filed on February 10, 2021, is granted, consistent with this Opinion and Order.

3. That approval of the Agreement shall not serve as binding precedent for negotiated or arbitrated agreements between non-parties to the subject Agreements.

4. That this matter be marked closed.

**BY THE COMMISSION**

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Rosemary Chiavetta

Secretary

(SEAL)

ORDER ADOPTED: April 15, 2021

ORDER ENTERED: April 15, 2021

1. We note that regardless of the types of services covered by this Interconnection Agreement, it would be a violation of the Public Utility Code (Code), 66 Pa. C.S. §§ 101, *et seq*. if Teleport began offering services or assessing surcharges to end users, where it has not been authorized to provide such services and for which tariffs have not been authorized. [↑](#footnote-ref-2)
2. ISP stands for Internet Service Provider. Agreement at 8. [↑](#footnote-ref-3)
3. Agreement, Appendix Reciprocal Compensation, Sec. 4.1, p. 6. [↑](#footnote-ref-4)
4. Each of the Parties will also be responsible for updating the automatic location identification data base associated with the provision of E911 emergency call service. [↑](#footnote-ref-5)
5. 66 Pa. C.S. §§ 3011 *et seq.* [↑](#footnote-ref-6)
6. Both ILECs and CLECs are under the affirmative obligation to route 911/E911 call traffic to the appropriate PSAP. Although CLECs may have direct trunking arrangements with PSAPs for the handling of 911/E911 call traffic, we note that such traffic is often routed to the PSAP through the switching and trunking facilities of an interconnected ILEC. [↑](#footnote-ref-7)
7. *See, e.g*., Section 253(b) of TA-96. [↑](#footnote-ref-8)