**PENNSYLVANIA**

**PUBLIC UTILITY COMMISSION**

**Harrisburg, PA 17120**

Public Meeting held May 20, 2021

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| Commissioners Present:  Gladys Brown Dutrieuille, Chairman, Statement, Recusal  David W. Sweet, Vice Chairman  John F. Coleman, Jr.  Ralph V. Yanora |  |
| Joint Petition of Frontier Communications of Breezewood, LLC, Comcast Phone of Pennsylvania and Comcast Business Communications, LLC for Approval of Amendments to Interconnection Agreements under Section 252(e) of the Telecommunications Act of 1996 | A-2021-3024942 |
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**OPINION AND ORDER**

**BY THE COMMISSION:**

Before the Pennsylvania Public Utility Commission (Commission) for consideration is the Joint Petition requesting approval of Amendments to Interconnection Agreements between (1) Frontier Communications Breezewood, LLC (Frontier) and Comcast Phone of Pennsylvania (Comcast Phone) and (2) Frontier and Comcast Business Communications, LLC (Comcast Business) (collectively, Parties) (Amendments). The Amendments were 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 or Act), 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) (*June* *1996 Implementation Order*); Order on Reconsideration entered September 9, 1996; *see also* *Proposed Modifications to the Review of Interconnection Agreements* (Order entered May 3, 2004) (*May 2004 Implementation Order*) (collectively, *Implementation Orders*).

**History of the Proceeding**

On March 30, 2021, Frontier, Comcast Phone and Comcast Business filed a Joint Petition for approval of Amendments to existing Interconnection Agreements between the Parties. The Commission’s *May 2004 Implementation Order* requires the Parties to file signed copy of the Amendments with the Commission within thirty days of their signing. Since the last Party signed the Amendments on March 15, 2021, the Amendments have been filed in accordance with the required thirty-day deadline. Notice of the Joint Petition and Amendments were published in the *Pennsylvania Bulletin* on April 17, 2021, at 51 *Pa.B*. 2249, advising that any interested parties could file comments concerning the Joint Petition and Amendments within ten days. No comments have been received.

The Amendments have an effective date of January 1, 2021. Amendments at 1. In the Joint Petition before us, Frontier is the Incumbent Local Exchange Carrier (ILEC). Both, Comcast Phone and Comcast Business are certificated Competitive Local Exchange Carriers (CLEC) in the service territory of Frontier.[[1]](#footnote-1)

**Discussion**

**A. Standard of Review**

The standard for review of a negotiated interconnection agreement is set forth 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 Amendments submitted by Frontier, Comcast Phone and Comcast Business.

**B.** **Summary of Terms**

The Parties note that the Federal Communications Commission (FCC) issued its proposed Order and Further Notice of Proposed Rulemaking in *Call Authentication Trust Anchor*, WC Docket No. 17-97; *Implementation of TRACED Act Section 6(a)—Knowledge of Customers by Entities with Access to Numbering Resources*, WC Docket No. 20-67, that was released on March 31, 2020, by which the FCC mandated that all voice service providers implement the STIR/SHAKEN caller ID authentication framework in internet protocol (IP) portion of their networks by June 30, 2021, to enable voice service providers to verify that the caller ID information transmitted with a particular call matches the caller’s number (*FCC STIR/SHAKEN Order*). The Parties also note that the Amendments were made without waiving any rights or arguments they may have with respect to whether the amendments are required to effectuate the *FCC STIR/SHAKEN Order* under the existing terms of the agreements. Amendments at 1.

The existing agreements are being amended by defining Prohibited Traffic and requiring Parties to promptly respond in good faith request of call information from each Parties, as follows:

**Prohibited Traffic:** The Service provided under this Agreement shall not knowingly be used for any traffic which reasonably appears to be in violation of applicable law, rules or regulations or that furthers an illegal purposes (“Prohibited Traffic”).

If a Party reasonably believes that the other Party is knowingly transmitting Prohibited Traffic using any Service provided under the Agreement, that Party may notify the other Party. Upon Notification, the Parties agree to cooperate to determine whether the traffic is Prohibited Traffic. Either Party also may initiate a dispute under the Resolution of Disputes provisions of the Agreements.

Parties agree that if either Party receives a request for information about traffic sent to a Party by the other Party which is reasonably believed to be Prohibited Traffic from an authorize traceback administrator, as authorized by US Telecom’s Traceback Group, or its successor, or a Party, they will promptly respond to the authorized traceback request in good faith. The Parties agree to provide complete and accurate information in response to the authorized traceback request. The response shall identify the provider from which it accepted the traffic. Parties agree to provide this information to the authorized traceback administrator without requiring a subpoena.

Amendments at 1-2.

The Amendments revise the terms of the existing agreements to the extent necessary to give effect to the terms of the Amendments. In the event of a conflict between the terms and conditions of the Amendments and the terms and conditions of the existing agreements, the terms and conditions of the Amendments shall govern. *See* Amendment at 2.

**C. Disposition**

We shall approve the Amendments, finding that they satisfy the two-pronged criteria of Section 252(e) of TA-96. We note that in approving these privately negotiated Amendments, 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 telecommunications carriers not parties to the Amendments by providing that our approval of these 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 Amendments do not discriminate against other telecommunications carriers not parties to the negotiations that resulted in the Amendments or to the Agreements.

TA‑96 requires that the terms of the Amendments be made available for other parties to review. 47 U.S.C. § 252(h). However, this availability is solely for the purpose of full disclosure of the terms and arrangements contained therein. The accessibility of the Amendments and their terms to other parties does not connote any intentthat our approval of such amendments will affect the status of negotiations between other parties. In this context, we will not require Frontier and/or Comcast Phone or Comcast Business to embody the terms of the Amendments in a filed tariff.

With regard to the public interest element of this matter, we note that no negotiated amendment or interconnection agreement may affect or 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,[[2]](#footnote-2) wherein service quality and standards, *e.g.*, Universal Service, 911, Enhanced 911,[[3]](#footnote-3) and Telecommunications Relay Service, are and remain statutory obligations of the telecommunications carriers. In addition, an ILEC cannot, through the negotiation of an amendment, eliminate its carrier of last resort obligations.[[4]](#footnote-4)

Before concluding, we note that the Joint Petitioners have filed signed, true and correct copies of the Amendments as part of their Joint Petition and that the Amendments have 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 electronic copies of the Amendments to the Commission’s website prior to publishing notice of the Amendments in the *Pennsylvania Bulletin*. Consistent with our *May 2004 Implementation Order*, since we will approve the Amendments as filed, without any modifications, we will not require the Joint Petitioners to file electronic copies of the Amendments after the entry of this Opinion and Order.

**Conclusion**

Based on the foregoing and pursuant to Section 252(e) of TA‑96 and our *Implementation Orders*, we determine that the Amendments to the Interconnection Agreements between Frontier and Comcast Phone and Frontier and Comcast Business are non-discriminatory to other telecommunications carriers not party to the Amendments and that they are consistent with the public interest; **THEREFORE,**

**IT IS ORDERED:**

1. That the Joint Petition for approval of Amendments to the Interconnection Agreements filed on March 30, 2021, by: (1) Frontier Communications of Breezewood, LLC and Comcast Phone of Pennsylvania; (2) Frontier Communications of Breezewood, LLC and Comcast Business Communications, LLC is granted, consistent with this Opinion and Order.

2. That approval of the Amendments to the Interconnection Agreements, shall not serve as binding precedent for negotiated or arbitrated agreements between non-parties to the Interconnection Agreements and Amendments.

3. That this matter be marked closed.

 **BY THE COMMISSION,**

Rosemary Chiavetta

Secretary

(SEAL)

ORDER ADOPTED: May 20, 2021

ORDER ENTERED: May 20, 2021

1. We note that regardless of the types of services covered by this Amendment, it would be a violation of the Public Utility Code (Code), 66 Pa. C.S. §§ 101 *et seq*., if Comcast 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-1)
2. 66 Pa. C.S. §§ 3011 *et seq.* [↑](#footnote-ref-2)
3. Both ILECs and CLECs are under the affirmative obligation to route 911/E911 call traffic to the appropriate public safety answering points (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-3)
4. *See, e.g*., Section 253(b) of TA-96. [↑](#footnote-ref-4)