**PENNSYLVANIA**

**PUBLIC UTILITY COMMISSION**

**Harrisburg, PA 17120**

Public Meeting held August 26, 2021

Commissioners Present:

Gladys Brown Dutrieuille, Chairman, Statement, Recusal

David W. Sweet, Vice Chairman

John F. Coleman, Jr.

Ralph V. Yanora

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| Joint Petition of Commonwealth Telephone Company d/b/a Frontier Communications Commonwealth Telephone Company and Onvoy, LLC for Approval of an Amendment to an Interconnection Agreement under Section 252(e) of the Telecommunications Act of 1996 | A-2021-3026639 | |
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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 an Amendment to an Interconnection Agreement (Amendment) between Commonwealth Telephone Company d/b/a Frontier Communications Commonwealth Telephone Company (Frontier) and Onvoy, LLC (Onvoy) (collectively, Parties). The Amendment 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 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 June 18, 2021, Frontier and Onvoy filed a Joint Petition for approval of an Amendment to an existing Interconnection Agreement between the Parties. The Commission’s *May 2004 Implementation Order* requires Parties to file a signed copy of the Amendment with the Commission within thirty days of its signing. The last Party signed the Amendment on May 10, 2021. Accordingly, the Amendment was not filed in accordance with the required thirty-day deadline. Notice of the Joint Petition and Amendment was published in the *Pennsylvania Bulletin* on July 3, 2021, at 51 *Pa.B*. 3690, advising that any interested parties could file comments concerning the Joint Petition and Amendment within ten days. No comments have been received.

The Amendment became effective on May 17, 2021. Amendment at 1. In the Joint Petition before us, Frontier is the Incumbent Local Exchange Carrier (ILEC). Onvoy is certificated Competitive Local Exchange Carrier (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 Amendment submitted by Frontier and Onvoy.

**B. Timeliness of Filing**

As earlier indicated, the last Party signed the Amendment on May 10, 2021. A period of thirty-nine days had elapsed after the Amendment was executed until it was submitted to the Commission for review. Frontier and Onvoy did not provide a reason for the late filing. Neither TA‑96 nor the Federal Communications Commission (FCC) rules interpreting TA‑96 provide for a specific time frame in which a negotiated agreement is to be filed with a state commission. However, we have addressed our expectations on numerous occasions regarding the proper time considerations to be observed with regard to negotiated agreements.[[2]](#footnote-2)

While we note that this Order addresses amendment to an Interconnection Agreement previously approved by this Commission, 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 Code, 66 Pa. C.S. § 3301.

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

The Amendment address a recently issued FCC advisory regarding, *inter alia*,caller Identification or caller ID. The Parties note that the 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, 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*).[[3]](#footnote-3) The Parties also note that the Amendment was made without waiving any rights or arguments they may have with respect to whether the amendment is required to effectuate the *FCC STIR/SHAKEN Order* under the existing terms of the agreement. Amendment at 1.

The existing agreement is 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.

Amendment at 1-2.

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

**D. Disposition**

We shall approve the Amendment, finding that it satisfies the two-pronged criteria of Section 252(e) of TA-96. We note that in approving this privately negotiated Amendment, 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 Amendment by providing here that our approval of the Amendment 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 Amendment does not discriminate against other telecommunications carriers not parties to the negotiations that resulted in the Amendment or to the Agreement

TA‑96 requires that the terms of the Amendment 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 Amendment and its terms to other parties does not connote any intentthat our approval of such amendment will affect the status of negotiations between other parties. In this context, we will not require Frontier and/or Onvoy to embody the terms of the Amendment in a filed tariff.

With regard to the public interest element of this matter, we note that under Chapter 30 of the Code,[[4]](#footnote-4) a negotiated interconnection agreement does not alter the obligations of any telecommunications carrier with regard to protection of the public safety and welfare, continued service quality, and preservation of the rights of consumers.[[5]](#footnote-5) This is consistent with TA‑96 and Chapter 30, wherein service quality and standards, *e.g.*, Universal Service, 911, Enhanced 911,[[6]](#footnote-6) and Telecommunications Relay Service, are inherent obligations of the telecommunications carriers and continue unaffected by a negotiated agreement. In addition, an ILEC cannot, through the negotiation of an interconnection agreement, eliminate its carrier of last resort obligations.[[7]](#footnote-7)

Before concluding, we note that the Joint Petitioners have filed a signed, true and correct copy of the Amendment as part of their Joint Petition. We also note that, as identified above, the Amendment was not filed within the thirty-day deadline set forth in the Commission’s *Implementation Orders*.

The Commission’s Secretary’s Bureau has published an electronic copy of the Amendment to the Commission’s website prior to publishing notice of the Amendment in the *Pennsylvania Bulletin*. Consistent with our *May 2004 Implementation Order*, since we will approve the Amendment as filed without any modifications, we will not require the Joint Petitioners to file an electronic copy of the Amendment 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 Amendment to the Interconnection Agreement between Frontier and Onvoy is non-discriminatory to other telecommunications carriers not party to the Amendment and that it is consistent with the public interest; **THEREFORE,**

**IT IS ORDERED:**

1. That the Joint Petition for approval of Amendment to the Interconnection Agreement filed on June 18, 2021, by Commonwealth Telephone Company d/b/a Frontier Commonwealth Telephone Company and Onvoy, LLC is granted, consistent with this Opinion and Order.

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

3. That this matter be marked closed.

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Rosemary Chiavetta

Secretary

(SEAL)

ORDER ADOPTED: August 26, 2021

ORDER ENTERED: August 26, 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 Onvoy 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. The Act [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 no later than thirty (30) days following the close of the negotiations phase or by day 190 following the request for interconnection.” *See June 1996 Implementation Order* at 33; *also see May 2004 Implementation Order* at Ordering Paragraph 5. [↑](#footnote-ref-2)
3. The FCC has encouraged the telecommunications industry to develop and implement new caller ID authentication technology, known as STIR/SHAKEN, that allows voice service providers to verify that the caller ID information transmitted with a particular call matches the caller's number. This was done under the view that its widespread implementation will reduce the effectiveness of illegal “spoofing,” *i.e.* calls whereby the caller falsifies caller ID information that appears on a recipient's phone to deceive them into thinking the call is from someone they know or can trust, allow law enforcement to identify bad actors more easily, and help voice service providers identify calls with illegally spoofed caller ID information before those calls reach their subscribers. *See FCC STIR/SHAKEN Order* at ⁋ 1-2. [↑](#footnote-ref-3)
4. 66 Pa. C.S. §§ 3011-3019. [↑](#footnote-ref-4)
5. *See, e.g*., 66 Pa. C.S. § 3019(b). [↑](#footnote-ref-5)
6. Both ILECs and CLECs are under the affirmative obligation to route 911/E911 call traffic to the appropriate public safety answering point (PSAP). Although CLECs may have direct trunking arrangements with PSAPs for handling of 911/E911 call traffic, we note that such traffic is often routed to the PSAP through switching and trunking facilities of an interconnected ILEC. [↑](#footnote-ref-6)
7. *See, e.g*., Section 253(b) of TA-96. [↑](#footnote-ref-7)