**PENNSYLVANIA**

**PUBLIC UTILITY COMMISSION**

**Harrisburg, PA 17120**

Public Meeting held January 13, 2022

Commissioners Present:

Gladys Brown Dutrieuille, Chairman

John F. Coleman, Jr., Vice Chairman

Ralph V. Yanora

Joint Petition of The United Telephone Company A-2021-3029242

of Pennsylvania LLC d/b/a CenturyLink and

Dish Wireless L.L.C. for Approval of an

Interconnection Agreement under Section 252(e)

of the Telecommunications Act of 1996

**OPINION AND ORDER**

**BY THE COMMISSION:**

Before the Pennsylvania Public Utility Commission (Commission) for consideration is the Joint Petition filed by The United Telephone Company of Pennsylvania LLC d/b/a CenturyLink (CenturyLink) and Dish Wireless L.L.C. (Dish Wireless) (collectively, Parties) requesting approval of a Commercial Mobile Radio Service (CMRS) Interconnection Agreement (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) (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) (*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 October 22, 2021, CenturyLink and Dish Wireless filed a Joint Petition for approval of the Agreement. The Commission’s *May 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 September 30, 2021. Accordingly, the Agreement was filed in accordance with the required thirty-day deadline. Notice of the Joint Petition and Agreement was published in the *Pennsylvania Bulletin* on November 6, 2021, at 51 *Pa.B.* 7035, advising that any interested parties could file comments within ten days. No comments have been received.

The Agreement will become effective on the date of the Commission’s approval of the Agreement. The Parties also agree that each Party may implement the provisions of the Agreement upon its execution by both Parties. The Agreement will have an Initial Term of three years (Initial Term). Thereafter, the Agreement will continue in full force and effect on a month to month basis unless and until cancelled or terminated as provided in the Agreement. Under the Agreement, either Party may terminate the Agreement effective upon the expiration of the Initial Term by providing written notice of termination at least thirty days in advance of the termination. Agreement at 16-17.

In the Joint Petition before us, CenturyLink is the Incumbent Local Exchange Carrier (ILEC). Dish Wireless is authorized by the Federal Communications Commission (FCC) to provide CMRS in parts of Pennsylvania.[[1]](#footnote-1)

**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) if it finds that –

(i) the agreement (or portion thereof) discriminates against a telecommu-nications 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 CenturyLink and Dish Wireless.

**B. Summary of Terms**

The Agreement sets forth, *inter alia*, terms and conditions under which the Parties agree to interconnect their networks for purposes of exchanging Wireless–to-Wireline or Wireline-to-Wireless traffic of both Parties. Agreement at 4.

The Agreement contains a separate Definition Section as well as Sections dealing with: (1) General Terms and Conditions; (2) Implementation; (3) Operational Terms; (4) Interconnection, Transport and Termination of Traffic; (5) Additional Services; (6) Pricing, with attached Table 1 containing rates for services; and (7) Miscellaneous.

The key provisions of the Agreement are:

(1) The Parties agree not to bill each other for the exchange of local traffic.

(2) The Parties will use InterMTA[[2]](#footnote-2) Traffic (*i.e*., non-local traffic) factors and a percent interstate usage factor (PIU) to estimate the amount of traffic that is InterMTA and for intercarrier compensation purposes.

The Parties also agree to the Price list in Table 1 of the Agreement. The interMTA Mobile-Land (M-L) factor accounts for Dish Wireless originated traffic that crosses the MTA boundary and traverses the local interconnection trunks. The 5% interMTA M-L factor contained in Table 1 of the Agreement shall be applied to minutes of use (MOUs) terminating from Dish Wireless to CenturyLink. CenturyLink will bill Dish Wireless for the resulting interMTA M-L minutes at the terminating interstate switched access rates.[[3]](#footnote-3) Conversely, the interMTA Land-Mobile (L-M) factor of 10% from Table 1 shall be applied to MOUs originating from CenturyLink to Dish Wireless. The PIU factor of Table 1 will be utilized to split the interMTA L-M traffic into intrastate and interstate components. CenturyLink will bill Dish Wireless for the resulting interMTA L-M minutes at CenturyLink’s originating intrastate or interstate switched access charges.[[4]](#footnote-4) Finally, CenturyLink will not pay any reciprocal compensation to Dish Wireless for interMTA traffic.[[5]](#footnote-5)

CenturyLink offers E911 Universal Emergency Number Service to Dish Wireless end users where CenturyLink is the 911 Service Provider and CenturyLink will switch 911 calls through Selective Routers to the designated Public Safety Answering Points (PSAPs). Agreement at 76-77.

**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 CenturyLink and Dish Wireless to embody the terms of the Agreement in a filed tariff.

With regard to the public interest element of this matter, we note that under Chapter 30 of the Code,[[6]](#footnote-6) 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.[[7]](#footnote-7) This is consistent with TA‑96 and Chapter 30, wherein service quality and standards, *e.g.*, Universal Service, 911, Enhanced 911,[[8]](#footnote-8) 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.[[9]](#footnote-9)

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. 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 Order at Docket No. M-00960799, since we will approve the Agreement as filed without any modifications, we will not require the Joint Petitioners to file an electronic copy of the Agreement 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 Agreement between CenturyLink and Dish Wireless is non-discriminatory to other telecommunications companies not party to it and that it is consistent with the public interest; **THEREFORE,**

**IT IS ORDERED:**

1. That the Joint Petition for Approval of a Commercial Mobile Radio Services Interconnection Agreement filed on October 22, 2021, by The United Telephone Company of Pennsylvania LLC d/b/a CenturyLink and Dish Wireless L.L.C. 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 Interconnection Agreement.

3. That this matter be marked closed.

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Description automatically generated **BY THE COMMISSION,**

Rosemary Chiavetta

Secretary

(SEAL)

ORDER ADOPTED: January 13, 2022

ORDER ENTERED: January 13, 2022

1. In this instance the interconnection agreement is between a wireline and wireless carrier. In prior interconnection orders between wireline carriers the Commission has included a notice that all carriers and applicants beginning to provide service in Pennsylvania should not do so without Commission authorization and without complying with applicable provisions to the Public Utility Code (Code) and our Regulations. Although one carrier in this interconnection agreement is a wireless carrier, and the Commission’s regulatory oversight is more circumscribed under the Code and our Regulations, the Commission will preserve its jurisdiction over those areas allowed by law.  [↑](#footnote-ref-1)
2. MTA is an acronym for Major Trading Area that refers to an FCC authorized wireless territory. [↑](#footnote-ref-2)
3. Agreement, Sec. 57.3.1.a, pp. 67-70. [↑](#footnote-ref-3)
4. Agreement, Sec. 57.3.1.b, p. 70. [↑](#footnote-ref-4)
5. Agreement, Sec. 57.3.2, p. 70. *See also* Agreement, Table 1, p. 1. [↑](#footnote-ref-5)
6. 66 Pa. C.S. §§ 3011-3019. [↑](#footnote-ref-6)
7. *See, e.g*., 66 Pa. C.S. § 3019(b). [↑](#footnote-ref-7)
8. Both ILECs and wireless carriers are under the affirmative obligation to route 911/E911 call traffic to the appropriate PSAP. Although wireless carriers 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-8)
9. *See, e.g*., Section 253(b) of TA-96. [↑](#footnote-ref-9)