



COMMONWEALTH OF PENNSYLVANIA  
PENNSYLVANIA PUBLIC UTILITY COMMISSION  
COMMONWEALTH KEYSTONE BUILDING  
400 NORTH STREET  
HARRISBURG, PENNSYLVANIA 17120

IN REPLY PLEASE  
REFER TO OUR FILE  
A-2022-3036436

**December 28, 2022**

Re: Docket No. A-2022-3036436 - Joint Petition of Frontier Communications of Breezewood, LLC, Frontier Communications of Canton, LLC, Frontier Communications of Lakewood, LLC, Frontier Communications of Oswayo River, LLC, & Frontier Communications of Pennsylvania, LLC and CenturyLink Communications, LLC for Approval of Second Amendments to Interconnection Agreements under Section 252(e) of the Telecommunications Act of 1996  
**(Joint Petition for Approval of Interconnection Amendments)**

**TO ALL PARTIES OF RECORD:**

**Background**

On October 31, 2022, Frontier Communications of Breezewood, LLC, Frontier Communications of Canton, LLC, Frontier Communications of Lakewood, LLC, Frontier Communications of Oswayo River, LLC, & Frontier Communications of Pennsylvania, LLC (Frontier Companies) and CenturyLink Communications, LLC (CenturyLink) (collectively, Party or Parties) filed a Joint Petition for Approval of Second Amendments to Interconnection Agreements (Joint Petition) in the above-captioned proceeding. The Amendments to the Interconnection Agreements (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), 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 Agreement* (Order entered May 3, 2004) (*May 2004 Implementation Order*) (collectively, *Implementation Orders*).<sup>1</sup> *See also Proposed Modifications to the Review of Voluntarily Negotiated Interconnection Agreement*

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<sup>1</sup> Section 252(e) of TA-96 requires that the Commission's review of the Amendments be completed within 90 days of its filing. The Amendments were filed on October 31, 2022, and the statutory deadline for the Commission to approve or disapprove the Amendments is on January 29, 2022.

*Pursuant to 47 U.S.C. § 252(e)(2), et al., Docket No. M-2022-3030709 (Final Order entered June 16, 2022) (June 2022 Modifications Order).*<sup>2</sup>

The Commission's *May 2004 Implementation Order* requires the Parties to file signed copies of the Amendments with the Commission within thirty days of their signing. The last Party signed the Amendments on September 27, 2022. Accordingly, the Amendments were not filed in accordance with the required thirty-day deadline. The Commission published notice of the Joint Petition in the *Pennsylvania Bulletin* on November 12, 2022, at 52 *Pa. B.* 7088, advising that any interested parties could file comments within ten days. No comments have been received.

The Amendments became effective on August 3, 2022. Amendments at 1. In the Joint Petition before the Commission, the Frontier Companies are the Incumbent Local Exchange Carriers (ILEC) and CenturyLink is certificated as a Competitive Local Exchange Carrier (CLEC) in the Frontier Companies' service territories.<sup>3</sup>

### **Standard of Review**

The standard for review of a negotiated interconnection Agreement is set out in pertinent part, Section 252(e)(2) of TA-96, 47 U.S.C. § 252(e)(2), which provides that the state commission may only reject an Agreement adopted by negotiation under subsection (a) if it finds that: (1) the Agreement discriminates against a telecommunications carrier not a party to the Amendment; or (2) the implementation of such Agreement or portion is not consistent with the public interest, convenience, and necessity.

### **Timeliness of Filing**

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<sup>2</sup> The Commission, through the issuance of the *June 2022 Modifications Order*, revised its practice of considering for disposition at a scheduled Public Meeting voluntarily negotiated interconnection Agreements and amendments thereto between telecommunications carriers that are routine, ministerial, and do not involve policymaking considerations. In the *June 2022 Modifications Order*, the Commission determined that such routine, non-policymaking review of Interconnection Agreement will be delegated to Commission Staff to advise the parties of such disposition through the issuance of a Secretarial Letter, which shall have the same legal effect as disposition at Public Meeting.

<sup>3</sup> 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 CenturyLink 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.

As earlier indicated, the last Party signed the Amendments on September 27, 2022. A period of thirty-four days had elapsed after the Amendments were executed until they were submitted to the Commission for review. Frontier Companies and CenturyLink 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 Agreement.<sup>4</sup>

While we note that this Sec Letter addresses amendments to Interconnection Agreements previously approved by this Commission, we would remind the Parties that failure to comply with our *Implementation Orders*, as well as this Sec Letter, could subject the Parties to civil penalties for violations pursuant to Section 3301 of the Code, 66 Pa. C.S. § 3301.

### Summary of Terms

The Amendments addresses 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, 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

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<sup>4</sup> “The Act [TA-96] does not give any express guidance as to when Amendments must be filed with the state commission. However, since the period for negotiations concludes on day 160, we conclude that an executed, negotiated interconnection Amendment accompanied by a joint petition for adoption of the Amendment 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.

*STIR/SHAKEN Order*).<sup>5</sup> 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 to requests for call information from each Party, 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 authorized 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

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<sup>5</sup> 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.

it accepted the traffic. Parties agree to provide this information to the authorized traceback administrator without requiring a subpoena.

Amendment 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* Amendments at 3.

### **Disposition**

The Commission approves the Amendments, finding that they satisfy the two-pronged criteria of Section 252(e) of TA-96. In approving these privately negotiated Amendments, the Commission expresses no opinion regarding the enforceability of its independent state authority preserved by Section 251(d)(3) of TA-96, 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 here that our approval of these Amendments shall not serve as precedent for Amendments 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 the Commission's Statement of Policy relating to the Alternative Dispute Resolution Process, 52 Pa. Code § 69.391, *et seq.* On the basis of the foregoing, 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 do not connote any intent that the approval of such Amendments will affect the status of negotiations between other parties. In this context, we will not require the Frontier Companies or CenturyLink to embody the terms of the Amendments in filed tariffs. In addition, we note that the Parties have filed signed, true and correct copies of the Amendments as part of their Joint Petition, and the Secretary's Bureau has published electronic copies of the Amendments to our website prior to its publication in the *Pennsylvania Bulletin*. Since we approve the

Amendments as filed, without any modifications, we will not require the Joint Petitioners to file electronic copies of the Amendments upon its approval by this Secretarial Letter.

With regard to the public interest element of this matter, no negotiated interconnection Amendment may affect or eliminate ILEC's obligations with regard to protection of the public safety and welfare, continued service quality, and preservation of the rights of consumers. *See, e.g.*, Section 253(b) of TA-96. This is consistent with TA-96 and with Chapter 30 of the Code,<sup>6</sup> wherein service quality and standards, *i.e.*, Universal Service, 911, Enhanced 911,<sup>7</sup> and Telecommunications Relay Service, are and remain statutory obligations of the telecommunications carriers. In addition, ILECs cannot, through the negotiation of Amendments or agreements, eliminate its carrier of last resort obligations.<sup>8</sup>

### Conclusion

Based on the foregoing and pursuant to Section 252(e) of TA-96 and our subsequent orders thereunder, we determine that the Amendments between the Frontier Companies and CenturyLink are non-discriminatory to other telecommunications companies not party to the Amendments and that the Amendments are consistent with the public interest. Therefore, we shall grant the Joint Petition of the Frontier Companies and CenturyLink for approval of these Amendments and mark this docket closed.

Any affected party may appeal the staff action (approval or rejection of the Joint Petition under TA-96 standards) to the full Commission by filing a Petition for Appeal from actions of staff pursuant to 52 Pa. Code § 5.44 within twenty (20) days of the date of this Secretarial Letter. Should you have any questions, you may contact the

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<sup>6</sup> 66 Pa. C.S. §§ 3011-3019.

<sup>7</sup> 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 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.

<sup>8</sup> *See, e.g.*, Section 253(b) of TA-96.

Office of Special Assistants, Kathryn G. Sophy, Director. Please direct your inquiry to (717) 787-1827 or [RA-OSA@pa.gov](mailto:RA-OSA@pa.gov).

Very truly yours,

A handwritten signature in black ink, reading "Rosemary Chiavetta". The signature is written in a cursive style with a large initial "R" and a long, sweeping underline.

Rosemary Chiavetta  
Secretary