



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

IN REPLY,  
PLEASE REFER  
TO OUR FILE  
A-2023-3045100

March 18, 2024

Re: Docket No. A-2023-3045100 - Joint Petition of Pymatuning Independent Telephone Company and Level 3 Communications, LLC for Approval of an Interconnection Agreement, under Section 252(e) of the Telecommunications Act of 1996 (**Joint Petition for Approval of Interconnection Agreement**)

**TO ALL PARTIES OF RECORD:**

**Background**

On December 21, 2023, Pymatuning Independent Telephone Company (Pymatuning) and Level 3 Communications, LLC (Level 3) (collectively, Party or Parties) filed a Joint Letter-Petition for Approval of an Interconnection Agreement (Joint Petition) in the above-captioned proceeding. The Interconnection Agreement (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 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 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>

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<sup>1</sup> Section 252(e) of TA-96 requires that the Commission's review of the agreements be completed within 90 days of its filing. The Agreement was filed on December 21, 2023, and the statutory deadline for the Commission to approve or disapprove the Agreement is on March 20, 2024.

<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 agreements will be delegated to Commission Staff to advise the parties of such disposition through

The Commission's *May 2004 Implementation Order* requires the Parties to file signed copies of the agreements with the Commission within thirty days of their signing. The Parties signed the Agreement on December 18, 2023. Accordingly, the Agreement was filed in accordance with the required thirty-day deadline. The Commission published notice of the Joint Petition in the *Pennsylvania Bulletin* on January 6, 2024, at 54 *Pa. B.* 83, advising that any interested parties could file comments within ten days. No comments have been received.

The Agreement becomes effective upon the Commission's approval. Agreement at 2. In the Joint Petition before the Commission, Pymatuning is the Incumbent Local Exchange Carrier (ILEC), and Level 3 is certificated as a Competitive Local Exchange Carrier (CLEC) in Pymatuning's service territory.<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 Agreement; or (2) the implementation of such Agreement or portion is not consistent with the public interest, convenience, and necessity.

### **Summary of Terms**

The Agreement specifies the rights and obligations of each Party with respect to the establishment of rates, terms and conditions for interconnection and the exchange of, *inter alia*, Indirect Traffic and Direct Traffic with the other's network.

The Agreement also contains four (4) Attachments and two Tables. The four Attachments include the following: (1) Glossary of Terms, including General Terms and Conditions (Attachment A); (2) Additional Services (Attachment B); (3) Interconnection and Number Portability (Attachment C); and (4) Pricing (Attachment D). The two Tables are: (1) Appendix A containing designation of interconnection points, Compensation, Charges, Directory Listing Services and (2) Appendix B containing ILEC Local Exchange Telecommunications Service Areas.

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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 Agreement, it would be a violation of the Public Utility Code (Code), 66 Pa. C.S. §§ 101, *et seq.*, if Level 3 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.

Both Parties agree that it will deliver local traffic to each other over their interconnection facilities. The purpose and extent of the Agreement is to exchange Local Exchange Telecommunications Service Traffic. Agreement at 2. Calls that originate by a Local Exchange Telecommunications Service Customer of one Party within one of these Local Exchange Telecommunications Service Areas and that terminates to a Local Exchange Telecommunications Service Customer of the other Party within the very same Local Exchange Telecommunications Service Area are considered Local Traffic. The exchange of non-local traffic is subject to interstate and intrastate access charges. Each Party is solely responsible for the receipt of 911/E911 traffic originated by its End Users of its Telephone Exchange Services. Appendix A contains the pricing for various services and features.

### **Disposition**

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

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 solely for the purpose of full disclosure of the terms and arrangements contained therein. The accessibility of the Agreement and its terms to other parties do not connote any intent that the approval of such Agreement will affect the status of negotiations between other parties. In this context, we will not require Pymatuning to embody the terms of the Agreement in filed tariffs. In addition, we note that the Parties have filed signed, true and correct copies of the Agreement as part of their Joint Petition, and the Secretary's Bureau has published an electronic copy of the Agreement to our website prior to its publication in the *Pennsylvania Bulletin*. Since we approve the Agreement as filed, without any modifications, we will not require the Joint Petitioners to file an electronic copy of the Agreement upon its approval by this Secretarial Letter.

With regard to the public interest element of this matter, no negotiated interconnection Agreement may affect or eliminate the 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>4</sup> wherein service quality and standards, *i.e.*, Universal Service, 911, Enhanced 911,<sup>5</sup> and Telecommunications Relay Service, are and remain statutory obligations of the telecommunications carriers. In addition, the ILEC cannot, through the negotiation of amendments or agreements, eliminate its carrier of last resort obligations.<sup>6</sup>

### Conclusion

Based on the foregoing and pursuant to Section 252(e) of TA-96 and our subsequent orders thereunder, we determine that the Agreement between Pymatuning and Level 3 is non-discriminatory to other telecommunications companies not party to the Agreement and that the Agreement is consistent with the public interest. Therefore, we shall grant the Joint Letter-Petition of Pymatuning and Level 3 for approval of the Agreement 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 Office of Special Assistants, Kim Hafner, Director. Please direct your inquiry to (717) 787-1827 or [RA-OSA@pa.gov](mailto:RA-OSA@pa.gov).

Very truly yours,



Rosemary Chiavetta  
Secretary

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<sup>4</sup> 66 Pa. C.S. §§ 3011-3019.

<sup>5</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>6</sup> *See, e.g.*, Section 253(b) of TA-96.