**PENNSYLVANIA**

**PUBLIC UTILITY COMMISSION**

**Harrisburg, PA 17105-3265**

Public Meeting held May 19, 2015

Commissioners Present:

Gladys M. Brown, Chairman

John F. Coleman, Jr., Vice Chairman

James H. Cawley

Pamela A. Witmer

Robert F. Powelson

Joint Petition of The United Telephone Company A-2015-2475631

of Pennsylvania, LLC d/b/a CenturyLink and New

Cingular Wireless PCS, LLC 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 and disposition is a Joint Petition filed by The United Telephone Company of Pennsylvania LLC d/b/a CenturyLink (CenturyLink) and New Cingular Wireless PCS, LLC (New Cingular) 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); Order on Reconsideration entered September 9, 1996); see also *Proposed Modifications to the Review of Interconnection Agreements*, Docket No. M-00960799 (Order entered May 3, 2004) (*Implementation Orders*)*.*

**History of the Proceeding**

On April 7, 2015, CenturyLink and New Cingular filed a Joint Petition seeking approval of an Agreement. The Agreement that was entered into between the Parties sets forth the terms, conditions and rates under which the parties agree to interconnect the CMRS network of New Cingular and the incumbent local exchange network of CenturyLink for purposes of mutually exchanging traffic. According to the Agreement, the service provided by New Cingular to its customers is two-way CMRS mobile services as defined in 47 U.S.C. § 153(27). Notice of the Joint Petition and the Agreement was published in the *Pennsylvania Bulletin* on April 18, 2015, 45 *Pa. B*. 2029, advising that any interested parties could file comments within ten days. No comments have been received.

The Agreement provides that it shall become effective upon Commission’s approval; however the Parties may agree to implement the provisions of the Agreement upon execution by both Parties. The agreement was executed on March 23, 2015, and shall continue for a period of three years (Initial Term) unless terminated earlier in accordance with the terms of the Agreement. If neither Party terminates the Agreement as of the last day of the Initial Term, the Agreement shall continue in force and effect on a month-to-month basis until terminated.

In the Joint Petition before us, CenturyLink is the Incumbent Local Exchange Carrier (ILEC). New Cingular is authorized by the FCC to provide CMRS in parts of Pennsylvania. The Agreement applies solely to the geographic territory in which CenturyLink operates as an ILEC.

**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 New Cingular.

**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 mutually exchanging local traffic that includes transit traffic as well as ancillary traffic and the establishment of reciprocal compensation rates. Agreement at 1, 6.

The Agreement contains a separate Definition Section as well as Sections dealing with: (1) General Terms and Conditions; (2) Interconnection and Reciprocal Compensation; (3) Network Maintenance and Management; (4) Access to Telephone Numbers; (5) Transit Service (Non-251 Service); and (6) a Price List contained in Table I.

The Parties agree to exchange local traffic on a bill and keep basis. For Non-local Traffic New Cingular will pay CenturyLink applicable access charges in accordance with the FCC and the Commission Rules and Regulations. Transit Traffic service for the exchange of traffic between New Cingular and interconnected third parties will be at the rate of $0.00325 per minute of use. Agreement at 31-32, 41, Table I.

**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 the 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 a party 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 instant Agreement does not discriminate against a telecommunications carrier not a party 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 New Cingular to embody the terms of the Agreement in a filed tariff.

With regard to the public interest element of this matter, we note that no negotiated interconnection agreement may affect those obligations of the telecommunications company in the areas of protection of public safety and welfare, service quality, and the rights of consumers. (*See*, *e.g.*, Section 253(b)). This is consistent with TA‑96 wherein service quality and standards, *i.e.*, Universal Service, 911, Enhanced 911, and Telecommunications Relay Service, are inherent obligations of the local exchange company, and continue unaffected by a negotiated agreement. We have reviewed the terms of the Agreement relating to 911 and E911 services and conclude that these provisions are consistent with the public interest.

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 without any modifications, as filed, 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 New Cingular 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 an Interconnection Agreement filed on April 7, 2015, by The United Telephone Company of Pennsylvania, LLC d/b/a CenturyLink and New Cingular PCS, LLC d/b/a New Cingular, 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.

 **BY THE COMMISSION,**

Rosemary Chiavetta

Secretary

(SEAL)

ORDER ADOPTED: May 19, 2015

ORDER ENTERED: May 19, 2015