

STATE OF VERMONT
PUBLIC SERVICE BOARD

Docket No. 6641

Amendment No. 1 to Interconnection Agreement)
between Verizon New England Inc., d/b/a Verizon)
Vermont and Nextel Communications of the Mid-)
Atlantic, Inc.

Order entered: 5/1/2002

ORDER APPROVING AMENDMENT NO. 1 TO INTERCONNECTION AGREEMENT

I. BACKGROUND

On February 8, 2002, Nextel Communications of the Mid-Atlantic, Inc. ("Nextel") and Verizon New England Inc., d/b/a Verizon Vermont ("Verizon"), requested that, pursuant to Section 252(e) of the Telecommunications Act of 1996 (the "Act"), the Public Service Board ("Board") approve Amendment No. 1 to an Interconnection Agreement ("Agreement") between them.¹

On February 22, 2002, the Board solicited a recommendation from the Vermont Department of Public Service ("Department"). The Department, by letter dated March 13, 2002, recommended that the Board approve the Agreement in whole, finding that the amended Interconnection Agreement did not violate Section 252 of the federal Telecommunications Act of 1996 and that the amended Agreement did not contain terms that will harm Vermont consumers or competitors. The Department pointed out that Nextel does not have a Certificate of Public Good, as required by 30 V.S.A. § 231, to provide telecommunications services in Vermont.

II. DISCUSSION

The Board's review of the Interconnection Agreement is governed by the federal law that authorizes such agreements. Under Subsection 252(a) of the Act, any interconnection agreement negotiated under Section 252(a) must be submitted to the State commission for review under

1. The Board approved the original Interconnection Agreement between Verizon and Nextel on November 19, 1997. Docket 6001, Order of 11/19/97.

Section 252(e).² The State commission has the authority to "approve or reject the agreement, with written findings as to any deficiencies." The Board may not reject the proposed Interconnection Agreement in whole or in part unless it finds that the agreement or any material portion thereof discriminates against a non-party carrier or is inconsistent with the public interest. The Board may also establish and enforce other requirements of State law in its review of the agreement under Section 252(e)(3). The Board must act to approve or reject the amendment within 90 days of its submission, or the amendment is deemed approved.³ The 90-day review period mandated by that section ends on May 9, 2002.

The Interconnection Agreement negotiated by Verizon and Nextel set out the terms and conditions under which Verizon will make certain services available to Nextel, consistent with orders of the Federal Communications Commission ("FCC"). Amendment No. 1 to the Agreement governs provisions for an optional reciprocal compensation rate plan for Internet traffic, pursuant to FCC 01-131, CC Docket Nos. 96-98 and 99-68, and Section 251(b)(5) of the Act.

The Amendment to the Interconnection Agreement is the result of arms-length negotiations between two telecommunications carriers. The Board's focus, as the Act provides, is therefore limited to the issues set forth in Section 252(e)(2)(A): whether the Agreement, as amended, (or portions thereof) discriminates against a telecommunications carrier not a party to the Agreement, and whether the Agreement is consistent with the public interest, convenience, and necessity. As the Board concluded previously, in making its determination, the Board must focus upon the potential effect of the Agreement on the evolution of competition in this state and whether the Agreement raises the risk of harm to consumers (and thus is not consistent with the public interest).⁴

The competition enabled by this and other interconnection agreements will likely benefit Vermont consumers and is consistent with the State's telecommunications goals as set out in

2. Under the Act, the Board is the "State Commission" in Vermont. 47 U.S.C.A. § 3(41).

3. 47 U.S.C. § 252(e)(4).

4. Docket 5905, Order of 11/4/96 at 12.

30 V.S.A. § 202c and the Telecommunications Plan adopted under Section 202d. At the same time, the Agreement does not contain terms that will harm consumers or competitors. It thus promotes the public interest.

The Agreement also does not discriminate against telecommunications carriers who are not a party to it. Pursuant to 47 U.S.C. § 252(i), other companies seeking to interconnect may adopt the same terms and conditions.

Finally, our approval of the Amended Agreement applies only to those terms and conditions set out therein. To the extent parties negotiate modifications or clarifications to the Amended Agreement, they are not subsumed in our approval of the current Amended Agreement. To the extent the changes are material, the parties will need to seek additional approvals from the Board.

III. ORDER

IT IS HEREBY ORDERED, ADJUDGED AND DECREED by the Public Service Board of the State of Vermont that:

1. Pursuant to Section 252(e)(1) of the Telecommunications Act of 1996, Amendment No. 1 to the Interconnection Agreement between Verizon New England Inc., d/b/a Verizon Vermont, and Nextel Communications of the Mid-Atlantic, Inc., is hereby approved.

2. Verizon and Nextel shall be bound to comply with any lawful requirement imposed by the Board in Docket 5713, Docket 5903, any docket or rule established with respect to E-911 service, and any other docket or rulemaking proceeding governing the obligations of telecommunications carriers in Vermont.

3. Verizon and Nextel shall notify the Board and Department of any modifications to the Interconnection Agreement, as amended, or the establishment of any terms and conditions that the Interconnection Agreement as filed leaves to further negotiations. If necessary, Verizon and Nextel shall seek Board approval for the new or changed terms and conditions.

Dated at Montpelier, Vermont, this 1st day of May, 2002.

<u>s/Michael H. Dworkin</u>)	PUBLIC SERVICE
)	
)	BOARD
<u>s/David C. Coen</u>)	
)	OF VERMONT
)	
<u>s/John D. Burke</u>)	

OFFICE OF THE CLERK

FILED: May 1, 2002

ATTEST: s/Susan M. Hudson
Clerk of the Board

Notice to Readers: This decision is subject to revision of technical errors. Readers are requested to notify the Clerk of the Board (by e-mail, telephone, or in writing) of any apparent errors, in order that any necessary corrections may be made. (E-mail address: Clerk@psb.state.vt.us)

Appeal of this decision to the Supreme Court of Vermont must be filed with the Clerk of the Board within thirty days. Appeal will not stay the effect of this Order, absent further Order by this Board or appropriate action by the Supreme Court of Vermont. Motions for reconsideration or stay, if any, must be filed with the Clerk of the Board within ten days of the date of this decision and order.