

STATE OF VERMONT
PUBLIC SERVICE BOARD

Docket No. 6725

Amendment No. 1 to Interconnection Agreement)
between Verizon New England Inc. d/b/a Verizon)
Vermont and Teleconex, Inc.)

Order entered: 9/18/2002

ORDER APPROVING AMENDMENT NO. 1 TO INTERCONNECTION AGREEMENT

I. BACKGROUND

On July 1, 2002, Teleconex, Inc. ("Teleconex") 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 July 10, 2002, the Board solicited a recommendation from the Vermont Department of Public Service ("Department"). The Department, by letter dated July 30, 2002, recommended that the Board approve the Amendment in whole, finding that the amended Interconnection Agreement did not violate Section 252 of the federal Telecommunications Act of 1996 and that the Amendment did not contain terms that will harm Vermont consumers or competitors. The Department points out, however, that Teleconex does not hold a Certificate of Public Good ("CPG"), and must obtain a CPG from the Board prior to offering telecommunications service in the state of 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

¹The original Interconnection Agreement between Verizon and Teleconex became effective on October 17, 2001. Docket 6535.

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 September 30, 2002.

The Interconnection Agreement negotiated by Verizon and Teleconex sets out the terms and conditions under which Verizon will make certain services available to Teleconex, consistent with orders of the Federal Communications Commission ("FCC"). Amendment No. 1 to the Agreement clarifies that internet traffic shall not be eligible for reciprocal compensation, and that the parties' rights and obligations with respect to any intercarrier compensation that may be due in connection with their exchange of internet traffic shall be governed by the FCC's *Order on Remand and Report and Order*.⁴

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 Interconnection Agreement, as amended, (or portions thereof) discriminates against a telecommunications carrier not a party to the Amendment, and whether the amended Interconnection 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 Amendment on the evolution of competition in this state and whether the amended Interconnection Agreement raises the risk of harm to consumers (and thus is not consistent with the public interest).⁵

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

³47 U.S.C. § 252(e)(4).

⁴*In the Matter of Implementation of the Local Competition Provisions in the Telecommunications Act of 1996, Intercarrier Compensation for ISP Bound Traffic*, FCC 01-131, CC Docket Nos. 96-98 and 99-68.

⁵Docket 5905, Order of 11/4/96 at 12.

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

The Amendment 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 Teleconex, Inc., is hereby approved.

2. Verizon and Teleconex 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 Teleconex 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 Teleconex shall seek Board approval for the new or changed terms and conditions.

Dated at Montpelier, Vermont, this 18th day of September, 2002.

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

OFFICE OF THE CLERK

FILED: September 18, 2002

ATTEST: 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 mail) of any technical 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.