

STATE OF VERMONT
PUBLIC SERVICE BOARD

Docket No. 6954

Interconnection Agreement between Verizon New)
England Inc., d/b/a Verizon Vermont, and)
Metropolitan Telecommunications of Vermont, Inc.,)
d/b/a MetTel

Order entered: 8/31/2004

ORDER APPROVING INTERCONNECTION AGREEMENT

I. BACKGROUND

On May 3, 2004, Metropolitan Telecommunications of Vermont, Inc., d/b/a MetTel ("MetTel"), 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 Vermont Public Service Board ("Board") approve the adoption, with the exclusions detailed below, of the Interconnection Agreement as negotiated between NUI Telecom, Inc. and Verizon, that was approved as an effective agreement by the Board.¹ The parties state that the new Interconnection Agreement ("Agreement"), adopting the NUI Telecom/Verizon Agreement, shall be effective as of February 19, 2004.

On May 10, 2004, the Board solicited a recommendation from the Vermont Department of Public Service ("Department"). The Department did not respond within the time period requested. We find that the Agreement in whole does not violate Section 252 of the federal Telecommunications Act of 1996 and that the Agreement does not contain terms that will harm Vermont consumers or competitors.

II. DISCUSSION

The Board's review of interconnection agreements 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 Docket 6703, Order of August 7, 2002.

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 interconnection 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 interconnection agreement under Section 252(e)(3).

The Agreement adopted by Verizon and MetTel sets out the terms and conditions under which Verizon will make certain services available to MetTel. In particular, the Agreement specifies compensation arrangements that will apply to the resale of Verizon's services, purchasing of unbundled network elements, interconnection and collocation. The initial term of the adopted Agreement ended on April 14, 2004, but because it continues in force and effect unless terminated by either party, and it has not been terminated, the new Agreement will remain in effect until terminated by either Verizon or MetTel.³

In addition to "Appendix 1, Verizon Vermont and MetTel V1.2," which constitutes the pricing terms and conditions of the Interconnection Agreement, Verizon submitted a letter dated February 5, 2004 ("Adoption Letter"), from Verizon to MetTel, which outlines several points. MetTel countersigned the Adoption Letter, but added a statement of disagreement with all but six of the points Verizon put forth.⁴ MetTel asserts that Verizon's language is "nothing more than a position statement," that it signs the letter under duress, and that Verizon is violating its obligation to negotiate in good faith. We do not rule here on MetTel's argument. However, we note that our approval of the Agreement, obviously, does not imply any opinion on the positions taken by Verizon, with which MetTel disagrees.

The 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 (or portions thereof) discriminates against a telecommunications carrier not a party to the Agreement; and whether the Agreement is

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

³ NUI Telecom/Verizon Agreement at 1.

⁴ Curiously, Verizon states that MetTel's countersignature represents that MetTel agrees to five points, while there are six points set out by Verizon (and agreed to by MetTel).

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).⁵

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 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 Agreement applies only to those terms and conditions set out therein. To the extent parties negotiate modifications or clarifications to the Agreement, they are not subsumed in our approval of the current 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, the Interconnection Agreement between Verizon New England Inc., d/b/a Verizon Vermont, and Metropolitan Telecommunications of Vermont, Inc., d/b/a MetTel, is hereby approved.

2. Verizon and MetTel 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.

⁵ Docket 5905, Order of 11/4/96 at 12.

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

Dated at Montpelier, Vermont, this 31st day of August, 2004.

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

OFFICE OF THE CLERK

FILED: August 31, 2004

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.