

STATE OF VERMONT
PUBLIC SERVICE BOARD

Docket No. 7152

Amendment Nos. 1 and 2 to Interconnection)
Agreement between Verizon New England, Inc.)
d/b/a Verizon Vermont, and Covista, Inc.)

Order entered: 4/26/2006

ORDER APPROVING AMENDMENT NOS. 1 AND 2
TO INTERCONNECTION AGREEMENT

I. BACKGROUND

On February 6, 2006, Covista, Inc. ("Covista") 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 an Amended, Extended and Restated Interconnection Agreement ("Agreement") between them, as well as Amendment Nos. 1 and 2 ("Amendments") to that Agreement.¹

On February 8, 2006, the Board solicited a recommendation from the Vermont Department of Public Service ("Department"). The Department, by letter dated March 1, 2006, recommended that the Board approve the Agreement and Amendments in whole, finding that the amended Interconnection Agreement did not violate Section 252 of the federal Telecommunications Act of 1996 and that the Amendments did 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

¹The original Interconnection Agreement between Verizon and Covista became effective on November 22, 2004, Docket No. 7005.

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 for these Amendments ends on May 5, 2006.

The Interconnection Agreement negotiated by Verizon and Covista sets out the terms and conditions under which Verizon will make certain services available to Covista, consistent with recent orders of the Federal Communications Commission ("FCC"). Amendment Nos. 1 and 2 to the Interconnection Agreement govern pricing, provisioned and discontinued facilities and network elements, and modify miscellaneous provisions and definitions.⁴

The Agreement and Amendments are 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 Amendments, 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 Amendments 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

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

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).

⁴We note that there appear to be inconsistencies in the numbering of miscellaneous provisions between Amendment No. 1 and No. 2.

⁵Docket 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 Interconnection Agreement, as amended, does not contain terms that will harm consumers or competitors. It thus promotes the public interest.

The Amendments also do not discriminate against telecommunications carriers who are not a party to them. 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 Amendments applies only to those terms and conditions set out therein. To the extent parties negotiate modifications or clarifications to the Amendments, they are not subsumed in our approval of the current Amendments. 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 Nos. 1 and 2 to the Interconnection Agreement between Verizon New England Inc., d/b/a Verizon Vermont, and Covista, Inc., are hereby approved.

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

Dated at Montpelier, Vermont, this 26th day of April, 2006.

<u>s/James Volz</u>)	PUBLIC SERVICE
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)	
<u>s/David C. Coen</u>)	BOARD
)	
)	OF VERMONT
<u>s/John D. Burke</u>)	
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OFFICE OF THE CLERK

FILED: April 26, 2006

ATTEST: s/Judith C. Whitney
Deputy 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.