

STATE OF VERMONT
PUBLIC SERVICE BOARD

Docket No. 7207

Interconnection Agreement and Amendment No. 1)
between Verizon New England, Inc. d/b/a Verizon)
Vermont, and KMC Data, LLC)

Order entered: 10/26/2006

ORDER APPROVING INTERCONNECTION AGREEMENT and AMENDMENT NO. 1

I. BACKGROUND

On August 14, 2006, KMC Data, LLC ("KMC") 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 Interconnection Agreement ("Agreement") between them, along with Amendment No. 1 to that agreement.

On August 23, 2006, the Board requested a recommendation from the Vermont Department of Public Service ("Department"). The Department, by letter dated September 13, 2006, recommended that the Board approve the Agreement and Amendment No. 1 in whole, finding that the Interconnection Agreement, as amended, did not violate Section 252 of the federal Telecommunications Act of 1996 and 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 Section 252(e).¹ 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

¹Under the Act, the Board is the "State Commission" in Vermont. 47 U.S.C.A. § 3(41).

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 agreement within 90 days of its submission, or the agreement is deemed approved.² The 90-day review period mandated by that section for this Agreement ends on November 13, 2006.

The Interconnection Agreement negotiated by Verizon and KMC sets out the terms and conditions under which Verizon will make certain services available to KMC, consistent with orders of the Federal Communications Commission ("FCC"). Amendment No. 1 to the Interconnection Agreement provides for rates and terms of service that are consistent with FCC's Triennial Review Order. The Agreement shall be effective until June 13, 2008, and will continue in force and effect thereafter unless terminated by either party upon ninety days' notice.³

The Agreement, including Amendment No. 1, 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 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 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.

²47 U.S.C. § 252(e)(4).

³Agreement at 2.

⁴Docket 5905, Order of 11/4/96 at 12.

The Agreement, as amended, 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, including Amendment No. 1, between Verizon New England Inc., d/b/a Verizon Vermont, and KMC Data, LLC, is hereby approved.
2. Verizon and KMC shall be bound to comply with any lawful requirement imposed by the Board in Docket 5713, Docket 5903, Board Rules 7.500 and 7.600, 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 KMC 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 KMC shall seek Board approval for the new or changed terms and conditions.

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

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

OFFICE OF THE CLERK

FILED: October 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: psb.clerk@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.