

STATE OF VERMONT  
PUBLIC SERVICE BOARD

Docket No. 7473

Amendment No. 2 to an Interconnection Agreement )  
between Verizon New England Inc., d/b/a Verizon )  
Vermont, and United States Cellular Corporation for )  
Vermont )

Order entered: 12/4/2008

**ORDER APPROVING AMENDMENT TO INTERCONNECTION AGREEMENT**

**I. BACKGROUND**

On September 9, 2008, Telephone Operating Company of Vermont, LLC, d/b/a Fairpoint Communications<sup>1</sup> ("FairPoint"), and United States Cellular Corporation for Vermont ("US Cellular") requested that, pursuant to Section 252(e) of the Telecommunications Act of 1996 (the "Act"), the Public Service Board ("Board") approve Amendment No. 2 to an Interconnection Agreement ("Amendment") between them.

On September 24, 2008, the Board solicited a recommendation from the Vermont Department of Public Service ("Department"). The Department, by letter dated October 15, 2008, recommended that the Board approve the Amendment, stating that it found no provisions in the Amendment that appear to discriminate against a telecommunications carrier that is not a party to the Amendment, that the amended Interconnection Agreement did not appear to 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.

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1. On February 15, 2008, the Board approved the acquisition of Verizon New England Inc., d/b/a Verizon Vermont ("Verizon"), by FairPoint Communications, Inc. ("FairPoint"), effective on April 1, 2008. Docket 7270, Order entered 2/15/08, Attachment 1. Condition 15 to that approval required FairPoint to adopt all of Verizon's interconnection agreements. In compliance with that condition, on April 1, 2008, FairPoint submitted a list of all the adopted interconnection agreements. This Amendment is included in that list.

## 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<sup>2</sup> for review under Section 252(e).<sup>3</sup> 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. The 90-day review period mandated by that section for this Amendment ends on December 10, 2008.

The Interconnection Agreement negotiated by FairPoint and US Cellular sets out the terms and conditions under which FairPoint will make certain services available to US Cellular, consistent with orders of the Federal Communications Commission ("FCC").

The Board's focus, as the Act provides, is 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).<sup>4</sup>

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

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

The Amendment does not discriminate against telecommunications carriers who are not a party to 2008. 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 Amendment applies only to those terms and conditions set out therein. To the extent parties negotiate modifications or clarifications to the Amendment, they are not subsumed in our approval of the current Amendment. 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. 2 to the Interconnection Agreement between Telephone Operating Company of Vermont, LLC, d/b/a Fairpoint Communications ("FairPoint"), and United States Cellular Corporation ("US Cellular") for Vermont is hereby approved.

2. FairPoint and US Cellular 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. FairPoint and US Cellular shall notify the Public Service Board ("Board") and the Department of Public Service 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, FairPoint and US Cellular shall seek Board approval for the new or changed terms and conditions.

Dated at Montpelier, Vermont, this 4<sup>th</sup> day of December, 2008.

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

OFFICE OF THE CLERK

FILED: December 4, 2008

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: 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.*