STATE OF VERMONT
PUBLIC SERVICE BOARD

Docket No. 6383

In Re: Interconnection Agreement between New England Telephone and Telegraph Company d/b/a Bell Atlantic-Vermont and Arch Paging, Inc. and Mobile Communications Corporation of America, Inc.)
)
)

Order entered: 6/14/2000

BACKGROUND

On April 25, 2000, Arch Paging, Inc. and Mobile Communications Corporation of America, Inc. ("Arch/MCCA") and New England Telephone & Telegraph Company d/b/a Bell Atlantic-Vermont ("Bell Atlantic") requested that, pursuant to Section 252(e) of the Telecommunications Act of 1996 (the "Act"), the Public Service Board ("Board") approve an Interconnection Agreement between them dated May 1, 1999, and the First Amendment to that Agreement dated November 1, 1999.

A prehearing conference took place on May 24, 2000.[1] At that time, the parties agreed to a procedure by which the Hearing Officer would make recommendations based upon the Interconnection Agreement, the First Amendment to the Interconnection Agreement, and any other written filings. Any parties wishing to submit further information could comment upon the Hearing Officer's Proposal for Decision.

DISCUSSION

The Board's review of the Interconnection Agreement and the First Amendment to 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 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

1. The parties waived preparation of a Prehearing Conference Memorandum.
2. Under the Act, the Board is the "State Commission" in Vermont. 47 U.S.C.A. § 3(41).

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.[3] The parties have agreed that the 90-day review period mandated by that section ends on July 24, 2000.

The Interconnection Agreement negotiated by Bell Atlantic and Arch/MCCA essentially incorporates by reference the Interconnection Agreement between Bell Atlantic and Paging Network of Massachusetts, Inc., which the Board previously approved.[4] The parties have agreed that the term of the Interconnection Agreement shall be until the expiration of the Bell Atlantic/PageNet Interconnection Agreement (i.e., December 1, 2000), unless the parties agree to terminate the Agreement earlier.[5] The First Amendment to the Interconnection Agreement establishes the rates that apply to the transport and termination of local traffic originated on one network and terminated on the other.[6]

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 Agreement (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 in its review of the first Interconnection Agreement between Bell Atlantic and Hyperion Telecommunications of Vermont, 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).[7]

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

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3. 47 U.S.C. § 252(e)(4).
4. Docket 6197, Order of 4/12/99. The Interconnection Agreement does not incorporate the Amendment to the Bell Atlantic/PageNet Interconnection Agreement.
5. Interconnection Agreement at 2.
6. First Amendment to Interconnection Agreement at 1.
7. Docket 5905, Order of 11/4/96 at 12.

same time, the Agreement does not contain terms that will harm consumers or competitors. It thus promotes the public interest.

The Agreement and the First Amendment to the Agreement also do 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.

The findings and recommendations set out in this Proposal for Decision relate solely to the terms and conditions that the parties have negotiated. Certain provisions of the Pricing Schedule do not specify prices, but leave those arrangements to future determination. Similarly, the Interconnection Points under Section 4.0 and Schedule 4.1 are not set out. Approval of the present Agreement and the First Amendment thereto do not constitute approval of these prospective future arrangements that are not now specifically identified as agreements between the parties. Therefore, I recommend that the parties be required to notify the Board at the time they negotiate any changes to the Agreement, the First Amendment, or specific terms, such as Individual Case Basis Pricing. This will allow the Board and other parties to examine the subsequent arrangements and determine whether additional proceedings are necessary. In addition, it will ensure that entities that are not party to the Agreement have the ability to examine those commitments and take advantage of them under Section 252(i) of the Act. To the extent that the modifications affect the Agreement itself, it is also likely that the parties will need to seek approval again under Section 252(a) of the Act.

CONCLUSION

The Bell Atlantic-Arch/MCCA Interconnection Agreement and the First Amendment to the Agreement meet the requirements of Section 252(e) of the Act. They do not discriminate against other carriers and is consistent with the public interest, convenience, and necessity. Accordingly, I recommend that the Board approve the Agreement and the First Amendment thereto.

The foregoing is hereby reported to the Public Service Board in accordance with the provisions of 30 V.S.A. § 8.

The Proposal for Decision has been served on all parties to this proceeding in accordance with 3 V.S.A. § 811.

DATED at Montpelier, Vermont, this 13th day of June, 2000.

s/George E. Young
George E. Young
Hearing Officer

ORDER

IT IS HEREBY ORDERED, ADJUDGED AND DECREED by the Public Service Board of the State of Vermont that:

1. The findings and recommendations of the Hearing Officer are adopted.

2. Pursuant to Section 252(e)(1) of the Telecommunications Act of 1996, the Interconnection Agreement between New England Telephone and Telegraph Company d/b/a Bell Atlantic-Vermont and Arch Paging, Inc. and Mobile Communications Corporation of America, Inc. ("Arch/MCCA") and the First Amendment to the Interconnection Agreement are hereby approved.

3. Bell Atlantic and Arch/MCCA 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.

4. Bell Atlantic and Arch/MCCA shall notify the Board and Department of any modifications to the Interconnection Agreement or the First Amendment to the Interconnection Agreement or the establishment of any terms and conditions that the Interconnection Agreement, as amended and as filed, leaves to further negotiations. If necessary, Bell Atlantic and Arch/MCCA shall seek Board approval for the new or changed terms and conditions.

Dated at Montpelier, Vermont, this 14th day of June, 2000.

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

OFFICE OF THE CLERK

FILED: June 14, 2000

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 of any technical errors, in order that any necessary corrections may be made.

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.