STATE OF VERMONT
PUBLIC SERVICE BOARD

Docket No. 6398

In Re: Amendment Nos. 1 and 2 to)
Interconnection Agreement between New England)
Telephone and Telegraph Company d/b/a Bell)
Atlantic-Vermont and Log On America, Inc.)

Order entered: 8/23/2000

BACKGROUND

On July 7, 2000, Log On America, Inc. ("LOA") 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 two amendments to an Interconnection Agreement ("Agreement") between them.[1] The parties entered into Amendment No. 1 on May 24, 2000, and Amendment No. 2 on May 25, 2000.

A prehearing conference took place on July 25, 2000. At that time, the parties agreed to a procedure by which the Hearing Officer would make recommendations based upon the amended Interconnection Agreement and any other written filings.[2] Any parties wishing to submit further information could comment upon the Hearing Officer's Proposal for Decision.

Gregory M. Kennan, Esq., on behalf of Bell Atlantic, filed a Motion to waive Board Rule 2.201(C). That Motion is granted.

DISCUSSION

The Board's review of the two amendments 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).[3] The State commission has the authority to "approve or reject the agreement, with written findings as to any deficiencies." The Board may

---

1. The Board approved the original Interconnection Agreement earlier this year. Docket 6345, Order of 3/15/00.
2. The parties also agreed that preparation of a Prehearing Conference Memorandum was unnecessary.
3. Under the Act, the Board is the "State Commission" in Vermont. 47 U.S.C.A. § 3(41).

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 agreement within 90 days of its submission, or the agreement is deemed approved.[4] The parties have agreed that the 90-day review period mandated by that section ends on October 5, 2000.

Both amendments arise from recent orders of the Federal Communications Commission expanding or clarifying the interconnection obligations of local exchange carriers. Amendment No. 1 to the Interconnection Agreement provides that Bell Atlantic will offer access to certain additional network elements and combinations of network elements to the extent required by recent FCC Orders. Amendment No. 2 to the Interconnection Agreement provides for access to sub-loops, dark fiber, house and riser cable and collocation in remote terminals.

The amendments to the Interconnection Agreement 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 amendments (or portions thereof) discriminate against a telecommunications carrier not a party to the Agreement, and whether the amended 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 (as amended) 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 amended Agreement does not contain terms that will harm consumers or competitors. It thus promotes the public interest.

---

4. 47 U.S.C. § 252(e)(4).
5. Docket 5905, Order of 11/4/96 at 12.

The amendments 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.

Finally, I note that the parties have not yet agreed to prices for the interconnection provided under Amendments No. 1 and No. 2. As these prices are not now before the Board, my recommendation that the Board approve the amendments does not extend to them. Instead, I expect that the parties will file the prices for approval once negotiated.

CONCLUSION

Amendments No. 1 and No. 2 to the Bell Atlantic-LOA Interconnection Agreement meet the requirements of Section 252(e) of the Act. They do not discriminate against other carriers and are consistent with the public interest, convenience, and necessity. Accordingly, I recommend that the Board approve the amendments.

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 15th day of August, 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, Amendments 1 and 2 to the Interconnection Agreement between New England Telephone and Telegraph Company d/b/a Bell Atlantic-Vermont and Log On America, Inc. are hereby approved.

3. Bell Atlantic and LOA 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 LOA 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, Bell Atlantic and LOA shall seek Board approval for the new or changed terms and conditions, including the pricing provisions of Exhibit A to Amendments No. 1 and No. 2.

Dated at Montpelier, Vermont, this 23rd day of August, 2000.

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

OFFICE OF THE CLERK

FILED: August 23, 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 (by e-mail, telephone, or mail) of any technical 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.