STATE OF VERMONT
PUBLIC SERVICE BOARD

Docket No. 6404

Interconnection Agreement between New England Telephone and Telegraph Company d/b/a Bell Atlantic-Vermont and Bell Atlantic Network Data, Inc.	))))

Order entered: 8/31/2000

ORDER APPROVING INTERCONNECTION AGREEMENT

BACKGROUND

On June 29, 2000, Bell Atlantic Network Data, Inc. ("BAND") and New England Telephone & Telegraph Company d/b/a Bell Atlantic-Vermont ("Bell Atlantic")[1] 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 dated May 9, 2000.

On July 28, 2000, the Board solicited a recommendation from the Vermont Department of Public Service ("Department"). The Department, by letter dated August 9, 2000, recommended that the Board approve the Agreement in whole, finding that the Interconnection Agreement did not violate Section 252 of the federal Telecommunications Act of 1996 and that the Agreement did not contain terms that will harm Vermont consumers or competitors. The Department noted that the Agreement specifies that Internet traffic does not qualify for reciprocal compensation payments, while also observing that this issue had not yet been decided by the Board or the Federal Communications Commission. In addition, the Department sought to clarify that the prices set out in the recently filed Statement of Generally Available Terms ("SGAT") would take precedence over those specified in the Interconnection Agreement.

DISCUSSION

[1]On August 1, 2000, Bell Atlantic changed its corporate name to Verizon New England, Inc.

The Board's review of 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 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 September 27, 2000.

The Interconnection Agreement negotiated by Bell Atlantic and BAND sets out the terms and conditions under which the parties will interconnect their networks. With limited exceptions, the Agreement incorporates by reference an Interconnection Agreement between Bell Atlantic and Network Access Solutions, Inc. dated October 16, 1998, which the Board approved in Docket 6172.[4] The initial term of the Agreement ends January 1, 2001, although the Agreement then continues in effect unless terminated by either party.[5]

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 interconnection agreement between Bell Atlantic and Hyperion Telecommunications of Vermont, Inc., 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

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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 6172, Order of 2/3/99.
[5]Agreement at 2.

the Agreement raises the risk of harm to consumers (and thus is not consistent with the public interest). Docket 5905, Order of 11/4/96 at 12.

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

The Agreement 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.

The two issues raised by the Department do not compel us to reach a different conclusion. Bell Atlantic and BAND have negotiated specific language excluding Internet traffic from Reciprocal Compensation Traffic. As the Department points out, the Board has not yet been asked to decide whether such traffic should be subject to Reciprocal Compensation in other Interconnection Agreements or as a matter of principle. The parties' resolution of the issue in this Interconnection Agreement, however, relates only to themselves and does not affect the Board's ability to address the broader question later.

The Department also highlights the relationship of the prices set out in the Pricing Schedules of the underlying agreement and the prices contained in the SGAT. Specifically, the Pricing Schedules state that the SGAT prices take precedence when the Board approves actual rates in the SGAT. At this juncture, the Board has allowed those rates to take effect under Section 252(f)(3) and (f)(4). Thus, the SGAT rates would supercede the Pricing Schedule rates.

Finally, our approval of the Interconnection Agreement applies only to those terms and conditions set out therein. To the extent parties negotiate modifications or clarifications to the Agreement, such as the Interconnection Schedule in Schedule 4.0, 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.

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 between New England Telephone and Telegraph Company d/b/a Bell Atlantic-Vermont and Bell Atlantic Network Data, Inc. is hereby approved.
2. Bell Atlantic and BAND 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. Bell Atlantic and BAND 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 BAND shall seek Board approval for the new or changed terms and conditions.

Dated at Montpelier, Vermont, this 31st day of August, 2000.

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

FILED: August 31, 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.