

DT 02-023

VERIZON NEW HAMPSHIRE/DARK AIR CORPORATION

Order Nisi Approving Interconnection Agreement

O R D E R N O. 23,928

March 8, 2002

On February 11, 2002, Verizon New England d/b/a Verizon New Hampshire and Dark Air Corporation (Dark Air), (collectively, the Parties), jointly filed with the New Hampshire Public Utilities Commission (Commission) an Interconnection Agreement (Agreement) which had been previously adopted. This Agreement was originally negotiated between Level 3 Communications, LLC and Verizon NH and was dated April 26, 2001. Dark Air and Verizon adopt the Level 3 Agreement pursuant to section 252(i) and file the Agreement pursuant to section 252(e)(2) of the Telecommunications Act of 1996 (TAct), 47 U.S.C § 252 (i) & (e)(2).

Dark Air is a Competitive Local Exchange Carrier (CLEC) pursuant to Order No. 23,805 dated November 14, 2001, in Docket No. DT 01-129.

The Agreement is a comprehensive set of terms and conditions that will facilitate the provisioning of telecommunications service by Dark Air as a CLEC in New Hampshire. The initial term of the Agreement expires on September 30, 2002.

The Agreement provides, inter alia, for transmission/routing of exchange service traffic and exchange access traffic, transmission/termination of other types of traffic and joint network configuration. It further provides for unbundled access, resale, co-location, number portability, dialing parity, access to rights-of-way, access to data bases, and directory assistance service. The Parties will exchange technical and traffic information which will be kept proprietary; each Party will maintain facilities within its own network and will not interfere with the other Party's systems.

The Parties agree to jointly engineer, plan and operate a diverse transmission system with which they will interconnect their respective networks. The Agreement specifies the designation of interconnection points, provides for a joint grooming plan, and provides for the physical interface of facilities. Interoffice facilities are priced on an unbundled basis to allow for use with other unbundled network elements, thus creating numerous facilities-based and/or resale options to Dark Air in the provisioning of exchange and exchange access services. The Agreement also includes detailed unbundling of local outside plant and central office facilities that would allow Dark Air to provide

digital and other high-tech services without extensive revisions to the Agreement.

Prices in this filing are virtually the same as those in previously approved non-cellular interconnection agreements adopted in New Hampshire for the services/elements that are common. Staff points out that the TAct does not require that a telecommunications company sell each service/element for the same price or terms to each requesting party.

The Commission Staff recommends approval of the Agreement between Dark Air and Verizon based upon a review of the petition and the Agreement.

Section 252(e)(2)(A) of the TAct requires us to approve an adopted interconnection agreement unless we determine that the Agreement or some portion of it "discriminates against a telecommunications carrier not a party to the agreement" or that the implementation of the Agreement would not be consistent with "the public interest, convenience, and necessity". We have reviewed the filing and find that approval is warranted according to this standard. The Agreement does not appear to be discriminatory to any carrier not a party to the negotiations and is consistent with the public interest, convenience, and necessity. We will

approve it on a nisi basis in order to provide any interested party an opportunity to submit comments or request a hearing.

We note that Dark Air may purchase services or unbundled elements that may not be covered in this interconnection agreement from Verizon's Statement of Generally Available Terms (SGAT) and its subsequent revisions that is in effect per Order No. 22,692, subject to continued review pursuant to Section 252(f)(4) of the TAct.

In order to promote the continued growth of competitive telecommunications services in New Hampshire, we will require Dark Air to comply with our notice requirements regarding "Fresh Look" opportunities. The recommended method for giving notice is to provide the Commission with a contemporaneous copy of the Confirmation of Code Activation form which is used to notify the North American Numbering Code Administrator.

As new competitors enter the telecommunications market, we recognize that New Hampshire's 603 area code encounters constantly increasing demand. Accordingly, we will require that Dark Air request and use numbers responsibly and conservatively, and invite Dark Air to explore alternative mechanisms to use existing numbers as efficiently as possible. In approving this Agreement, we require Dark Air to comply with our orders on number conservation including Order No. 23,385 issued January 7, 2000, and Order No. 23,392 issued

January 27, 2000, as well as further orders issued by the Commission concerning this matter.

Based upon the foregoing, it is hereby

ORDERED NISI, that the Interconnection Agreement between Dark Air Corporation and Verizon New Hampshire is APPROVED; and it is

FURTHER ORDERED, that Dark Air is required to comply with our Order No. 23,385 issued January 7, 2000, Order No. 23,392 issued January 27, 2000, and further orders issued by the Commission concerning number conservation; and it is

FURTHER ORDERED, that Dark Air is prohibited from placing any orders under the Agreement and from otherwise doing business in New Hampshire until such time as Dark Air has complied with all requirements of applicable federal and state law or regulation; and it is

FURTHER ORDERED, that Dark Air shall notify the Commission within ten days of completing its first facilities-based commercial call in any exchange that has not already been opened to a "Fresh Look" opportunity as ordered in Docket DE 96-420; and it is

FURTHER ORDERED, that the Petitioner shall cause a copy of this Order Nisi to be published once in a statewide newspaper of general circulation, such publication to be no

later than March 18, 2002 and to be documented by affidavit filed with this office on or before March 22, 2002; and it is

FURTHER ORDERED, that all persons interested in responding to this petition be notified that they may submit their comments or file a written request for a hearing on this matter before the Commission no later than March 25, 2002; and it is

FURTHER ORDERED, that this Order Nisi shall be effective April 4, 2002, unless the Commission provides otherwise in a supplemental order issued prior to the effective date.

By order of the Public Utilities Commission of New Hampshire this eighth day of March, 2002.

Thomas B. Getz
Chairman

Susan S. Geiger
Commissioner

Nancy Brockway
Commissioner

Attested by:

Debra A. Howland
Executive Director and Secretary