

DT 02-036

VERIZON NEW HAMPSHIRE/ONESTAR COMMUNICATIONS, LLC

Order Nisi Approving Interconnection Agreement

O R D E R N O. 23,985

May 31, 2002

On March 1, 2002, Verizon New England d/b/a Verizon New Hampshire and OneStar Communications, LLC (OneStar) (collectively, the parties) jointly filed with the New Hampshire Public Utilities Commission (Commission) a negotiated Interconnection Agreement (Agreement). The Agreement was filed for approval pursuant to section 252(e) of the Telecommunications Act of 1996 (TAct), 47 U.S.C. § 252(e).

OneStar was granted Competitive Toll Provider certification under IXC No. 08-003-01 dated August 8, 2001. OneStar also holds Competitive Local Exchange Carrier (CLEC) certification in New Hampshire which was originally granted to OneStar Long Distance, Inc. in Docket No. DT 99-155 by Order No. 23,397 dated February 3, 2000. That authority was subsequently transferred under Docket No. DT 01-134 by Order No. 23,843 dated November 16, 2001, when OneStar consolidated. The instant Agreement was written between Verizon and OneStar Long Distance, Inc. but the parties have agreed that the Agreement need not be amended to incorporate the name change. This interconnection agreement is the second between the

parties: on April 20, 2001, we approved an interconnection agreement with Order No. 23,688 in Docket No. DT 01-031.

The Agreement is a comprehensive set of terms and conditions that will facilitate the provisioning of telecommunications service by OneStar as a CLEC in New Hampshire. The initial term of the Agreement expires on January 27, 2004. The Agreement will remain in effect beyond the expiration of the initial term unless either party provides 90 days written notice of their intent to terminate the Agreement.

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.

The 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 OneStar 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 OneStar 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.

Despite concern raised by Section 8.2.14 in the Agreement, based upon its review, the Commission Staff recommends approval of the Agreement between OneStar and

Verizon. Section 8.2.14 limits OneStar to obtaining a maximum of 25% of the dark fiber available in any given segment of Verizon's network. Staff's concern relates to the fact that two fibers are necessary to carry traffic. Thus, when fewer than eight fibers are available, two fibers will amount to more than the 25% permitted and OneStar will be unable to obtain fiber. However, Staff reports that OneStar is not concerned about the limitation and has more than one source of fiber. Staff considers the inclusion of this provision in this Agreement acceptable but points out that the same or similar provisions, incorporated in many interconnection agreements, could result in excluding CLECs from access to Verizon dark fiber altogether. Therefore, while recommending approval of the Agreement, Staff recommends that future interconnection agreements that include this or a similar provision should be scrutinized carefully and perhaps denied or revised so as to protect the public interest by inserting the phrase "where 8 or more dark fibers exist" at end of the first sentence.

Section 252(e)(2)(A) of the TAct requires us to approve a negotiated 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". 47 U.S.C. § 252(e)(2)(A). The concern Staff raises regarding section 8.2.14 does not, in this instance, require denial or revision. If the provision appears in future interconnection agreements we will consider its effect on the public interest at that time. 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 OneStar 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 OneStar 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 OneStar request and use numbers responsibly and conservatively, and invite OneStar to explore alternative mechanisms to use existing numbers as efficiently as possible. In approving this Agreement, we require OneStar 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 OneStar Communications, LLC and Verizon New Hampshire is APPROVED; and it is

FURTHER ORDERED, that OneStar 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 OneStar is prohibited from

placing any orders under this Agreement and from otherwise doing business in New Hampshire until such time as OneStar has complied with all requirements of applicable federal and state law or regulation; and it is

FURTHER ORDERED, that OneStar will notify the Commission within ten days of making their first facility-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 June 10, 2002 and to be documented by affidavit filed with this office on or before June 28, 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 June 17, 2002; and it is

FURTHER ORDERED, that this Order Nisi shall be effective July 1, 2002, unless the Petitioner fails to satisfy the publication obligation set forth above or 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 thirty-first day of May, 2002.

Thomas B. Getz
Chairman

Susan S. Geiger
Commissioner

Nancy Brockway
Commissioner

Attested by:

Claire D. DiCicco
Assistant Secretary