

STATE OF NEW YORK  
PUBLIC SERVICE COMMISSION

At a session of the Public Service  
Commission held in the City of  
Albany on January 13, 1999

COMMISSIONERS PRESENT:

Maureen O. Helmer, Chairman  
Thomas J. Dunleavy  
James D. Bennett

CASE 98-C-1673 - Petition of New York Telephone Company d/b/a Bell Atlantic-New York, for Approval of an Interconnection Agreement with MJD Telechoice Corp. d/b/a Taconic Telechoice, Northland Calling Choice and C&E Teladvantage, executed August 31, 1998.

ORDER APPROVING INTERCONNECTION AGREEMENT

(Issued and Effective January 20, 1999)

BY THE COMMISSION:

BACKGROUND

On October 23, 1998, New York Telephone Company d/b/a Bell Atlantic-New York (Bell Atlantic-New York) submitted an interconnection agreement (the Agreement) between it and MJD Telechoice Corp. d/b/a Taconic Telechoice, Northland Calling Choice, and C&E Teladvantage (MJD Telechoice) pursuant to §252 of the Telecommunications Act of 1996 (the Act).<sup>1</sup> The Act authorizes us to reject all or portions of the Agreement if we find that it discriminates against a telecommunications carrier not a party to the Agreement; that it is not consistent with the public interest, convenience and necessity;<sup>2</sup> or that it conflicts with state requirements.<sup>3</sup> Under the Act, we must act to approve or reject the Agreement within 90 days of its

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<sup>1</sup> 47 U.S.C. §252(e)(1).

<sup>2</sup> 47 U.S.C. §252(e)(2).

<sup>3</sup> 47 U.S.C. §252(e)(3).

submission, that is, through January 21, 1999, or the Agreement is deemed to have been approved.<sup>1</sup>

The Agreement incorporates in its entirety the terms and conditions under which Telergy Central LLC will interconnect with, purchase unbundled network elements from, and resell certain services of, Bell Atlantic-New York.<sup>2</sup> MJD Telechoice has been granted a Certificate of Public Convenience and Necessity and currently has a tariff in effect to provide local telephone service in New York.

#### FINDINGS

We previously reviewed the terms of the interconnection agreement between Bell Atlantic New-York and Telergy Central LLC in accordance with federal and state standards and found that subject to one clarification, that agreement is non-discriminatory and consistent with the public interest, convenience, and necessity, and not in conflict with state law or our rules or policies.

#### Clarification

Section 29.24 of the Telergy agreement purported to allow changes in the existing agreement without any further Commission action. We have interpreted the Act as requiring that state commissions must review all negotiated agreements, including those merely seeking modifications.<sup>3</sup> Accordingly, we concluded subsequent modifications or amendments to the Telergy agreement, of any kind, must be presented for review and action

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<sup>1</sup> 47 U.S.C. §252(e)(4).

<sup>2</sup> That agreement was previously approved, Case 98-C-0536, Telergy and Bell Atlantic-New York, Order Approving Interconnection Agreement (issued August 26, 1998).

<sup>3</sup> 47 U.S.C. §252(e)(1).

by the Commission.<sup>1</sup> The same clarification applies to the instant Agreement.

CONCLUSION

Based upon our review of the petition, which incorporates the terms of the previously approved Telergy agreement, we approve this interconnection agreement as consistent with §252 of the Act, state law, and the rules of this Commission, and subject to compliance with our own service quality standards for all end users. This approval should not be construed as preapproval of any future petitions for rate recovery of costs incurred pursuant to the Agreement. Our approval does not constitute a determination concerning Bell Atlantic-New York's obligation pursuant to §§251 and 271 of the Act. This agreement is subject to change as may be required by a regulatory authority or court in the exercise of its lawful jurisdiction.

Pursuant to §252(b) of the Act, a copy of the Agreement will be made available for public inspection and copying within ten days of the issuance of this order. Subsequent amendments or modifications of the Agreement shall be submitted for review and action by the Commission.

The Commission orders:

1. The petition of New York Telephone Company d/b/a Bell Atlantic-New York for approval of an interconnection agreement with MJD Telechoice Corp. d/b/a Taconic Telechoice, Northland Calling Choice, and C&E Teladvantage is hereby granted, subject to the clarification discussed above, and subject to our requirements for the provision of service to all end users, including our service quality standards for end users.

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<sup>1</sup> 47 U.S.C. §§252(e) and (h).

2. This proceeding is continued.

By the Commission,

(SIGNED)

DEBRA RENNER  
Acting Secretary