

STATE OF NEW YORK
PUBLIC SERVICE COMMISSION

At a session of the Public Service
Commission held in the City of
New York on September 16, 1999

COMMISSIONERS PRESENT:

Maureen O. Helmer, Chairman
Thomas J. Dunleavy
James D. Bennett
Leonard A. Weiss
Neal N. Galvin

CASE 99-C-0870 - Petition of New York Telephone Company d/b/a
Bell Atlantic-New York for Approval of an
Interconnection Agreement with HarvardNet,
Inc. Executed May 26, 1999.

ORDER APPROVING INTERCONNECTION AGREEMENT

(Issued and Effective September 20, 1999)

BY THE COMMISSION:

BACKGROUND

On June 25, 1999, New York Telephone Company d/b/a Bell Atlantic-New York (Bell Atlantic-New York) submitted an Interconnection Agreement (Agreement) negotiated between itself and HarvardNet, Inc. (HarvardNet), pursuant to '252 of the Telecommunications Act of 1996 (the Act).¹ The Act authorizes us to reject the Agreement in whole or part should 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;² or that it conflicts with state requirements.³ Under the Act, we must decide this matter within 90 days of the Agreement's submission (i.e., by September 23, 1999), or it will be deemed to have been approved by operation of law.¹

Bell Atlantic-New York is the incumbent local exchange carrier in New York. On June 15, 1999, we authorized

¹ 47 U.S.C. '252(e)(1).

² 47 U.S.C. '252(e)(2).

³ 47 U.S.C. '252(e)(3).

HarvardNet, a Delaware corporation, to operate as a facilities-based common carrier and reseller of telephone service. Although HarvardNet has a certificate of public convenience and necessity to provide telecommunications services in New York, it has filed no tariff for provision of local telecommunications services in this state. Our decision on the Agreement therefore is conditioned upon HarvardNet's filing an acceptable tariff.

TERMS OF THE AGREEMENT

The Agreement sets forth the terms and conditions on which Bell Atlantic-New York will interconnect with HarvardNet, generally incorporating by reference the terms we previously adopted in an agreement between Bell Atlantic-New York and Covad Communications Company.² The Agreement specifies each party's rights and obligations regarding the interconnection of their networks and the availability of unbundled network elements. It addresses the routing of traffic, number portability, dialing parity, access to database information, and directory services, among other things. It also specifies the billing arrangements and rates for various services, including reciprocal compensation arrangements. The Agreement's initial term would start on the date of Commission approval and end March 15, 2001, subject to renewal or renegotiation.

FINDINGS

We have reviewed the Agreement in accordance with federal and state standards. Subject to the clarification discussed in the next paragraph, we find that the Agreement is non-discriminatory; consistent with the public interest; and

¹ 47 U.S.C. '252(e)(4).

² Case 97-C-1419, Bell Atlantic-New York and Covad Partnership, Order Approving Interconnection Agreement (issued March 19, 1998).

not in conflict with state law or our rules and policies.

The Act indicates that state commissions must review all negotiated agreements. We have interpreted the Act as requiring us to review all negotiated agreements including those that merely seek modifications.¹ Thus, we are clarifying that any subsequent modifications or amendments to the Agreement, of any kind, must be submitted for our review and action.

CONCLUSION

Based on our review, we approve this interconnection agreement. We find that it is consistent with '252 of the Act, state law, and our rules. 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 compliance with the competitive checklist.

The 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(h) 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 our review and action.

The Commission orders:

1. The June 25, 1999 petition of New York Telephone Company d/b/a Bell Atlantic-New York for approval of an interconnection agreement with HarvardNet, Inc. is granted, subject to the clarification above and our requirements for provision of service to all end users, including our service quality standards for end users.

¹ 47 U.S.C. '252(e)(1).

2. Before HarvardNet, Inc. may provide facilities-based local telecommunication services in New York, it must file an acceptable tariff with the Commission.

3. This proceeding is continued.

By the Commission,

(SIGNED)

DEBRA RENNER
Acting Secretary