

DT 00-278

VERIZON NEW ENGLAND, INC. D/B/A VERIZON NEW HAMPSHIRE,
INC./
PATHNET OPERATING, INC.

Order Nisi Approving Interconnection Agreement

O R D E R N O. 23,648

March 7, 2001

On December 7, 2000, Verizon New England, Inc. d/b/a Verizon New Hampshire (Verizon) and Pathnet Operating, Inc. (Pathnet) 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).

The Agreement is a comprehensive set of terms and conditions that will facilitate the entry of Pathnet as a competitive local exchange carrier (CLEC) in New Hampshire. The Agreement expires on November 15, 2002. However, absent nine months prior written notice from either party, the agreement remains in effect beyond the initial term. Subsequent to the initial term, the Agreement may be terminated by prior written notice, of at least a three months and not more than twelve months, from either party.

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, collocation, 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 by which Pathnet can provision exchange and exchange access services. The Agreement also includes detailed unbundling of local outside plant and central office facilities that allows Pathnet 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 cellular interconnection agreements for the same services/elements. Staff notes 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 has recommended approval of the Agreement between Pathnet and Verizon based on a review of the petition, the Agreement and verbal clarification provided by Verizon New Hampshire.

We have reviewed the filing and find it meets the standards of section 252(e)(2)(A) of the TAct for approval of a negotiated Agreement. Specifically, 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 pursuant to RSA 374:26.

We note that Pathnet may purchase services or unbundled elements, that may not be covered by their 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 Pathnet to comply with our notice requirements regarding Fresh Look opportunities. The recommended method for providing 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 greater and greater demand. Accordingly, we will require that Pathnet request and use numbers responsibly and conservatively, and invite Pathnet to explore alternative mechanisms for using existing numbers as efficiently as possible. In approving this Agreement, we require 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 any further orders regarding number resource optimization.

Based upon the foregoing, it is hereby

ORDERED NISI, that the Interconnection Agreement negotiated between Pathnet and Verizon is APPROVED; and it is

FURTHER ORDERED, that Pathnet 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 Pathnet 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 March 14, 2001 and to be documented by affidavit filed with this office on or before March 21, 2001; 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 26, 2001; and it is

FURTHER ORDERED, that this Order Nisi shall be effective April 6, 2001, 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 seventh day of March, 2001.

Douglas L. Patch
Chairman

Susan S. Geiger
Commissioner

Nancy Brockway
Commissioner

Attested by:

Thomas B. Getz
Executive Director and Secretary