



STATE OF NEW JERSEY
Board of Public Utilities
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OFFICE OF CABLE TELEVISION
AND TELECOMMUNICATONS

APPLICATION OF VERIZON NEW JERSEY INC. AND) ORDER APPROVING AMENDMENT
THE DYNALINK COMMUNICATIONS INC. FOR) TO THE INTERCONNECTION
APPROVAL OF AN AMENDMENT TO AN) AGREEMENT
INTERCONNNECTION AGREEMENT UNDER SECTION)
252 (e) OF THE TELECOMMUNICATIONS ACT OF 1996) DOCKET NO. TO22090610

Parties of Record:

Patricia Kolvitz, Senior Analyst, Verizon, New Jersey, Inc.
Mendel Birnbaum, Vice President, Dynalink Communications, Inc.
Brian O. Lipman, Esq., Director, New Jersey Division of Rate Counsel

BY THE BOARD:

On September 22, 2022, Verizon New Jersey, Inc. (“Verizon”), a New Jersey corporation, and The Dynalink Communications (“Dynalink” and together with Verizon, “Parties”), filed a joint petition with the New Jersey Board of Public Utilities (“Board”) pursuant to Sections 251 and 252 of the Telecommunications Act of 1996, P.L. 104-104, 110 Stat. 56 (codified in scattered sections of 47 U.S.C. §151 et seq.) (“Act”) seeking approval of an amendment (“Amendment”) to a negotiated interconnection agreement by and between Verizon and Dynalink (“Agreement”).¹

BACKGROUND AND PROCEDURAL HISTORY

Verizon is an incumbent local exchange carrier (“ILEC”) as defined by the Act with the duty to negotiate interconnection agreements pursuant to Section 252 of the Act.² Dynalink is a competitive local exchange carrier (“CLEC”) authorized to operate in the State of New Jersey.

Section 251(c)(3) of the Act sets forth an ILEC’s network unbundling obligations. Following Congress’s directive that the Federal Communications Commission (“FCC”) determine which

¹ The Agreement titled “Interconnection Agreement By and Between Verizon New Jersey and The Dynalink Communications, Inc., for the State of New Jersey” was approved by the Board on May 8, 2008. Docket No TO99050381.

² See 47 U.S.C. §251(c) and §251(h) (1).

network elements should be subject to the unbundling rules, the FCC created a list of unbundled network elements (“UNEs”) that CLECs can lease from ILECs in order to provide competitive local service. Upon receiving a request for interconnection, services, or network elements, an ILEC may negotiate and enter into a binding agreement with the requesting telecommunications carrier or carriers pursuant to Section 252(a)(1). The agreement shall include a detailed schedule of itemized charges for interconnection and each service or network element included in the agreement. Under Section 252(e)(1), the agreement shall be submitted to the State commission for approval. The Act provides that the Board, as the relevant state commission, may reject a negotiated agreement, as relevant here, only if it finds that: “(i) the agreement (or portion thereof) discriminates against a telecommunications carrier not a party to the agreement; or (ii) the implementation of such agreement or portion is not consistent with the public interest, convenience, and necessity...” 47 U.S.C. §252(e)(2)(A).

On October 28, 2020, the FCC released a Report and Order in WC Docket No. 19-308, *Modernizing Unbundling and Resale Requirements in an Era of Next-Generation Networks and Services* (the “2020 UNE Order”), which became effective on February 8, 2021. The 2020 UNE Order eliminates Section 251 and Section 252 unbundling requirements for certain legacy services subject to a reasonable transition period. Specifically, the 2020 UNE Order eliminates rules requiring unbundling of: 1) enterprise-grade DS1 and DS3 loops³ where there is evidence of actual and potential competition, 2) broadband-capable DS0 loops in the most densely populated areas, and 3) voice-grade narrowband loops nationwide. The 2020 UNE Order preserves unbundling requirements for DS0 loops in less densely populated areas and DS1 and DS3 loops in areas without sufficient evidence of competition. The 2020 UNE Order further eliminates requirements for unbundled dark fiber transport provisioned from wire centers within a half-mile of competitive fiber networks, but provides an eight-year transition period for existing circuits so as to avoid stranding investment and deployment by CLECs that may harm consumers.

By letter dated November 25, 2022, the New Jersey Division of Rate Counsel (“Rate Counsel”) submitted comments to the Board recommending that the Board actively monitor complaints filed under the Amendment to the Agreement, but stating it does not object to Board approval of the Amendment.

DISCUSSION

The Parties asserted that the Amendment to the Agreement outlined in the joint petition satisfies the rule changes in the 2020 UNE Order and the requirements for Board approval because it does not discriminate against any other telecommunications carrier, as required by Section 252(e)(2)(A)(i) of the Act. The Parties also asserted the Amendment is consistent with the public interest, convenience, and necessity as required by Section 252(e)(2)(A)(ii).

³ A Digital Signal level loop (DS0, DS1, DS2, DS3 etc.) means one of several transmission rates used to transmit voice and data in the time-division multiplex hierarchy of the telephone network.

Pursuant to the rule changes in the 2020 UNE Order, the Amendment to the Agreement will discontinue or no longer make available the following loops, subloops and associated devices or services on Verizon's network:

1. DS1 and DS3 UNE Loops effective February 8, 2021 subject to a 24-month and 42-month transition period for end users served by such loops in any competitive county.⁴
2. DS0 UNE Loops and Associated UNE Copper Subloops effective February 8, 2021 subject to the transition period set forth in Subsection 4.2 of the Amendment.
3. Hybrid Loops and Grandfathered 64 Kbps Voice Grade Channels effective February 8, 2021 subject to the transition period set forth in Subsection 5.2 of the Amendment.
4. Multiunit Premises Subloops effective February 8, 2021 subject to the transition period set forth in Subsection 6.2 of the Amendment.
5. Network Interface Devices effective February 8, 2021 subject to the transition period set forth in Subsection 7.2 of the Amendment.
6. Dark Fiber Transport effective February 8, 2021 subject to the transition period set forth in Subsection 8.2 of the Amendment.
7. Operations Support Systems Functions effective February 8, 2021 subject to the transition period set forth in Subsection 9.2 of the Amendment.

The Board's review of the joint petition indicates the Amendment is consistent with the public interest, convenience, and necessity, and does not discriminate against telecommunications carriers who are not parties to the Agreement. Therefore, the Board **FINDS** that the Amendment meets the standards set forth in the Act. Accordingly, the Board **HEREBY APPROVES** the Amendment to the Agreement submitted by the Parties. The Parties should note this approval is not to be construed as preapproval of any future petitions for rate recovery of costs incurred pursuant to the Agreement. Additionally, this approval does not constitute a determination concerning, nor shall the Board be bound by, any provisions within the Agreement regarding the confidentiality of information. Pursuant to 47 U.S.C. §252(h), a copy of the amended Agreement shall be made available for public inspection and copying within ten days of the issuance of this Order.

⁴ A county is deemed competitive when either: 1) at least 50% of the locations with business data service demand within the county are within a half mile of a competitive provider's network; or 2) a cable competitor's network serves at least 75% of the census blocks with business data services demand within the county. 47 CFR § 69.803.

This Order shall be effective on December 28, 2022.

DATED: December 21, 2022

BOARD OF PUBLIC UTILITIES
BY:



JOSEPH L. FIORDALISO
PRESIDENT



MARYANNA HOLDEN
COMMISSIONER



DIANNE SOLOMON
COMMISSIONER



ROBERT M. GORDON
COMMISSIONER



DR. ZENON CHRISTODOULOU
COMMISSIONER

ATTEST: 

CARMEN D. DIAZ
ACTING SECRETARY

! HEREBY CERTIFY that the within
document is a true copy of the original
in the files of the Board of Public Utilities.

APPLICATION OF VERIZON NEW JERSEY INC AND THE DYNALINK COMMUNICATIONS
INC FOR APPROVAL OF AN AMENDMENT TO AN INTERCONNECTION AGREEMENT
UNDER SECTION 252 (e) OF THE TELECOMMUNICATIONS ACT OF 1996

DOCKET NO. TO22090610

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