Agenda Date: 08/18/04
Agenda Item: IV-A-5

STATE OF NEW JERSEY

Board of Public Utilities
Two Gateway Center
Newark, NJ 07102
www.bpu.state.nj.us

IN THE MATTER OF THE APPLICATION OF VERIZON NEW JERSEY, INC. FOR APPROVAL OF A RESALE AGREEMENT WITH SUPREME ENTERPRISES L.L.C. D/B/A STILL TALKING UNDER SECTION 252 OF THE TELECOMMUNICATIONS ACT OF 1996	)	TELECOMMUNICATIONS ORDER APPROVING RESALE AGREEMENT DOCKET NO. TM03090724

(SERVICE LIST ATTACHED)

BY THE BOARD:

BACKGROUND

Pursuant to Section 252(e) 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. ("the Act"), and by letter dated September 23, 2003, Verizon New Jersey, Inc. ("Verizon") filed an application ("Application") with the Board of Public Utilities ("the Board") for approval of a negotiated Resale Agreement ("the Agreement") between Verizon and Supreme Enterprises L.L.C. d/b/a Still Talking (Supreme). Supreme authorized Verizon to file the application on its behalf.

RESALE AGREEMENT

The Agreement, dated September 19, 2003, sets forth the terms, conditions, and prices under which Verizon will offer and provide to Supreme telecommunications services available for resale and resale support. The Agreement is in effect until September 18, 2005 and thereafter as noted in the Agreement, continues in full force and effect unless terminated as provided in the Agreement.

The Division of the Ratepayer Advocate (Advocate) has raised objections to certain provisions of the Agreement. Consistent with prior Board Orders, the Board declines to make modifications to the Agreement. See Order, I/M/O the Joint Application of Verizon New Jersey, Inc. and Ernest Communications, Inc. For Approval of an Interconnection Agreement Under Section 252(e) of the Telecommunications Act of 1996, Docket No. TO02050287, dated September 18, 2002.

DISCUSSION

Pursuant to 47 U.S.C. §252(a)(1), an incumbent LEC may negotiate and enter into a binding interconnection agreement with a carrier requesting interconnection, services, or elements without regard to the standards set forth in 47 U.S.C. §251(b) and (c).

47 U.S.C. §252(e)(1) requires approval by the Board of any resale agreement adopted by negotiation or arbitration, and further requires the Board to approve or reject the Agreement, with written findings as to any deficiencies. The Act provides that the Board may reject a negotiated agreement or any portion thereof 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 thereof is not consistent with the public interest, convenience, and necessity.

[47 U.S.C. §252(e)(2)(A)].

We note that, pursuant to 47 U.S.C. §252(e)(4), which provides that an agreement shall be deemed approved it the State Commission does not act to approve or reject the agreement within 90 days after it has been submitted to the Commission, this Resale Agreement has been deemed approved. The Board's review of the Agreement in this matter indicates that the Agreement is consistent with the public interest, convenience, and necessity, and that the Agreement does not discriminate against telecommunications carriers not parties to the Agreement.

Therefore, the Board FINDS that the Agreement meets the standards set forth in the Act, and HEREBY APPROVES the Agreement as presented by the Parties. This approval should not be construed as preapproval of any future petitions for rate recovery of costs incurred pursuant to the Agreement. The Board's approval does not constitute a determination concerning Verizon's obligations pursuant to Section 271 of the Act, although this Agreement will be taken into consideration in that determination. In addition, approval does not constitute a determination concerning, nor shall the Board be bound by, any provisions within this Resale Agreement regarding the confidentiality of information.

Additionally, the Board DIRECTS the Parties to conform to all federal and state statutes and Board regulations regarding service quality standards and customer relations, as applicable, including, but not limited to, those related to the resale of telecommunications services, the solicitation of resale customers, and the submission of primary interexchange and local exchange carrier change orders to local exchange carriers.

Pursuant to 47 U.S.C. §252(h), 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 to or modifications of the Agreement are subject to review and approval by the Board.

DATED: 8/19/04

BOARD OF PUBLIC UTILITIES
BY:

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PRESIDENT

FREDERICK F. BUTLER
COMMISSIONER

CAROL J. MURPHY
COMMISSIONER

CONNIE O. HUGHES
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ATTEST:

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Docket No. TM03090724

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