



Agenda Date: 12/18/13
Agenda Item: IVB

STATE OF NEW JERSEY
Board of Public Utilities
44 South Clinton Avenue, 9th Floor
Post Office Box 350
Trenton, New Jersey 08625-0350
www.nj.gov/bpu/

TELECOMMUNICATIONS

IN THE MATTER OF THE JOINT APPLICATION OF)
MEGAPATH CORPORATION AND UNITED)
TELEPHONE COMPANY OF NEW JERSEY, INC.)
D/B/A CENTURYLINK FOR APPROVAL OF A MASTER)
RESALE AGREEMENT UNDER SECTION 252(e) OF)
THE TELECOMMUNICATIONS ACT OF 1996)

ORDER APPROVING
RESALE AGREEMENT

DOCKET NO. TO13090813

Parties of Record:

Zsuzsanna E. Benedek, for CenturyLink
Stefanie A. Brand, Esq., Director, for the Division of Rate Counsel
Katherine K. Mudge, for MegaPath Corporation

BY THE BOARD:

By letter dated August 29, 2013, United Telephone Company of New Jersey, Inc. d/b/a CenturyLink ("CenturyLink"), a New Jersey corporation, and MegaPath Corporation ("MegaPath"), (jointly, "the Parties"), 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.*) ("the Act"), submitted to the Board of Public Utilities ("Board") a joint application ("Application") for approval of a negotiated resale agreement, titled "Master Resale Agreement for the State of New Jersey" and dated August 23, 2013 ("the Agreement"). CenturyLink is an incumbent local exchange carrier as defined by the Act with the duty to negotiate interconnection agreements pursuant to Section 252 of the Act. See 47 U.S.C. § 251(c) and § 251(h)(1). The Agreement sets forth the rates, terms and conditions under which CenturyLink will offer to MegaPath telecommunications services for the purpose of resale.

CenturyLink and MegaPath assert that the Agreement satisfies the requirements for Board approval because it does not discriminate against any other telecommunications carrier, as required by Section 252(e)(2)(A)(i). The Parties aver that the terms contained in the Agreement are available to any other telecommunications carrier operating in New Jersey, and that other carriers are not bound by the Agreement, remaining free to negotiate independently with CenturyLink pursuant to Section 252 of the Act. Application at 3.

The Agreement is in effect until August 24, 2015 and thereafter, as noted in the Agreement, continues in full force and effect unless terminated as provided in the Agreement. The Agreement provides for post-termination interim services arrangements.

The Parties also assert that the Agreement is consistent with the public interest, convenience and necessity, as required by Section 252(e)(2)(A)(ii) because it will permit MegaPath to compete with CenturyLink as a local telephone service reseller for both residential and business customers, and it will promote local competition in CenturyLink's service territory, thereby fostering the goals of the Act.

The Division of Rate Counsel ("Rate Counsel") recommends that the Board approve the Agreement subject to conditions. The Board finds that Rate Counsel's objections to certain provisions of the Agreement and accompanying Letter Agreement are without merit, and accordingly, the Board declines to make modifications to the Agreement. See Order, In the Matter of 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 local exchange carrier may negotiate and enter into a binding interconnection agreement with a carrier requesting interconnection, service, or network elements without regard to the standards set forth in 47 U.S.C. § 251(b) and (c). In addition, 47 U.S.C. § 252(e)(1) requires approval by the Board of any interconnection 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 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)].

The Board's review of the Agreement and the record in this matter indicate that the Agreement is consistent with the public interest, convenience, and necessity, and 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. In addition, approval does not constitute a determination concerning, nor shall the Board be bound by, any provisions within the Agreement regarding the confidentiality of information.

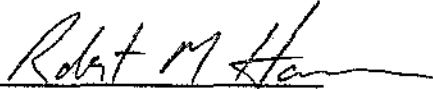
The Board notes that amendments or modifications to Board-approved interconnection agreements are subject to Board review and approval. No agreement shall be read, nor does the Board believe the Parties to the Agreement intend that it be read, to limit the authority of the Board under Section 252(e) of the Act to review interconnection agreements. Accordingly, until and unless otherwise provided by the Board, subsequent amendments or modifications to the Agreement approved herein shall be subject to review and approval by the Board. Additionally,

pursuant to 47 U.S.C. § 252(h), a copy of the Agreement will be made available for public inspection and copying.


This Order shall become effective on December 28, 2013.

DATED: 12/18/13

BOARD OF PUBLIC UTILITIES
BY:


ROBERT M. HANNA
PRESIDENT



JEANNE M. FOX
COMMISSIONER


JOSEPH L. FIORDALISO
COMMISSIONER


MARY-ANNA HOLDEN
COMMISSIONER


DIANNE SOLOMON
COMMISSIONER

ATTEST:


KRISTI IZZO
SECRETARY

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



IN THE MATTER OF THE JOINT APPLICATION OF MEGAPATH CORPORATION AND
UNITED TELEPHONE COMPANY OF NEW JERSEY, INC. D/B/A CENTURYLINK FOR
APPROVAL OF A MASTER RESALE AGREEMENT UNDER SECTION 252(e) OF THE
TELECOMMUNICATIONS ACT OF 1996 - DOCKET NO. TO13090813

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