



Agenda Date: 05/25/16
Agenda Item: IVA-2

STATE OF NEW JERSEY
Board of Public Utilities
44 South Clinton Avenue, 3rd Floor, Suite 314
Post Office Box 350
Trenton, New Jersey 08625-0350
www.nj.gov/bpu/

TELECOMMUNICATIONS

IN THE MATTER OF THE JOINT APPLICATION OF)	ORDER APPROVING
UNITED TELEPHONE COMPANY OF NEW JERSEY,)	INTERCONNECTION
INC., D/B/A CENTURYLINK, AND NEW HORIZONS)	AGREEMENT
COMMUNICATIONS CORPORATION FOR APPROVAL)	
OF AN INTERCONNECTION AGREEMENT)	DOCKET NO. TO14080933

Parties of Record:

Stefanie A. Brand, Esq., Director, New Jersey Division of Rate Counsel
Zsuzsanna E. Benedek, Esq., United Telephone Company of New Jersey, Inc. d/b/a CenturyLink
Glen E. Nelson, Vice President, New Horizons Communications Corporation

BY THE BOARD:

By letter dated August 26, 2014, United Telephone Company of New Jersey, Inc. d/b/a CenturyLink ("CenturyLink"), a New Jersey corporation, and New Horizons Communications Corporation, ("New Horizons"), (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.) ("Act"), submitted to the Board of Public Utilities ("Board") a joint application ("Application") for approval of a negotiated interconnection agreement, entitled "Interconnection Agreement By and Between United Telephone Company of New Jersey, Inc. dba CenturyLink and New Horizons Communications Corp. for the State of New Jersey" ("Agreement"). CenturyLink 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. 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 New Horizons telecommunications services for the purpose of resale.

CenturyLink and New Horizons 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 also assert that the Agreement is consistent with the public interest, convenience and necessity, as required by Section 252(e)(2)(A)(ii).

The Parties assert that the Agreement will become effective on the date of Board approval and thereafter, as noted in the Agreement, it will continue in full force and effect unless terminated as provided in the Agreement. The Agreement provides for post-termination interim services arrangements.

By letter dated September 9, 2014, the New Jersey Division of Rate Counsel ("Rate Counsel") submitted comments to the Board that indicate that it does not object to Board approval of the Agreement, subject to consideration of "specific issues, conditions and recommendations." (Letter from Rate Counsel to the Board at 2.)

Specifically, Rate Counsel takes issue with paragraph 44, subsections 44.1 through 44.8, of the Agreement, which governs the possible collection, increase, and use of a security deposit payable to CenturyLink by New Horizons. Id. at 2-3. Rate Counsel states that these terms "present the possibility of discriminatory application against CLEC carriers . . . at the sole discretion of CenturyLink." Id. at 4.

Rate Counsel also requests that the Board reject terms concerning expenses in paragraph 62 of the Agreement, which provide that New Horizons will reimburse CenturyLink for expenditures or costs not otherwise covered under the Agreement. Id. at 4-5.

In response, CenturyLink submitted a letter to the Board dated September 15, 2014. In its response, CenturyLink requested the Board approve the Agreement without modification or revision, claiming Rate Counsel failed to demonstrate that modification of the Agreement as it requested is lawful, just, or appropriate. (Letter from CenturyLink to the Board at 1.)

DISCUSSION

Pursuant to 47 U.S.C. §252(a)(1), an ILEC 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 finds that Rate Counsel's objections to certain provisions of the Agreement are without merit, and accordingly, the Board declines to make modifications to the Agreement. The Board notes that the Agreement has been independently and voluntarily negotiated between two business entities, and is "an integrated package that reflects a negotiated balance of many interests and concerns critical to both parties." (Application at 2.)

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.

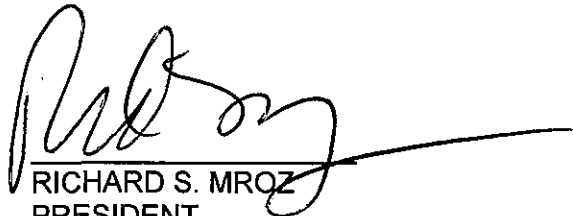
The Board notes that amendments or modifications to Board-approved interconnection agreements are subject to Board review and approval. No agreement shall be read, nor does

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 within ten days of the issuance of this Order.


This Order shall be effective on June 4, 2016.

DATED: 5/26/16

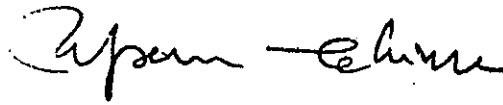
BOARD OF PUBLIC UTILITIES
BY:



RICHARD S. MROZ
PRESIDENT


JOSEPH L. FIORDALISO
COMMISSIONER

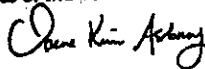

MARY-ANNA HOLDEN
COMMISSIONER


DIANNE SOLOMON
COMMISSIONER


UPENDRA J. CHIVUKULA
COMMISSIONER

ATTEST: 
IRENE KIM ASBURY
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 UNITED TELEPHONE COMPANY OF
NEW JERSEY, INC., D/B/A CENTURYLINK, AND NEW HORIZONS COMMUNICATIONS
CORPORATION FOR APPROVAL OF AN INTERCONNECTION AGREEMENT

DOCKET NO. TO14080933

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