

REQUEST FOR PROPOSAL
FOR
ARBITRATION SERVICES RELATED TO THE
INTERCONNECTION AGREEMENT BETWEEN COMCAST BUSINESS
COMMUNICATIONS, LLC AND UNITED TELEPHONE
COMPANY OF NEW JERSEY D/B/A EMBARQ,

DOCKET NO. TO08080568

Issued by the
State of New Jersey
Board of Public Utilities

Date Issued: 10/03/08

Responses Due by 2:00 p.m. Eastern Daylight Time on 10/20/08

State of New Jersey
Board of Public Utilities



State of New Jersey
BOARD OF PUBLIC UTILITIES
TWO GATEWAY CENTER
NEWARK, NJ 07102

Jeanne M. Fox
President

Anthony Centrella
Director
Tel: (973) 648-7865
Fax: (973) 624-9453

October 3, 2008

Re: Request for Proposal - Arbitration of an Interconnection Agreement between Comcast Business Communications, LLC and United Telephone Company d/b/a Embarq Docket No. TO08080568

Dear Contractor:

The New Jersey Board of Public Utilities is seeking an arbitrator to conduct an arbitration of an Interconnection Agreement between Comcast Business Communications and United Telephone Company d/b/a Embarq. The issue in dispute involves Embarq's charges for entering, maintaining and storing Comcast's directory listings in Embarq's directory listing database. You are invited to submit a proposal to perform the arbitration in accordance with the enclosed Request for Proposal (RFP). Proposals must be received at the Board's office, at the above address, by 5:00 p.m. eastern time on October 20, 2008, to be eligible for consideration. The RFP will also be available for review on the BPU website.

You are requested to inform the Board by October 14, 2008, in writing, of your intent to submit a proposal.

Letters of intent may be faxed to (973) 624-9453 or e-mailed to the attention of Chris Molner at the following e-mail address alan.molner@bpu.state.nj.us. Inquiries can be made by e-mail or by calling Chris Molner of the Telecommunications Division at (973) 648-7690.

Regards,

Anthony Centrella, Director
Division of Telecommunications

1.0 PURPOSE AND INTENT

This Request for Proposal (RFP), issued by the New Jersey Board of Public Utilities (Board or BPU), is to solicit bid proposals for arbitration services to assist the Board and Board Staff in its resolution of a Petition filed with the Board by Comcast Business Communications, LLC (Comcast), on August 5, 2008. The Petition requests that the Board initiate an arbitration proceeding to resolve a single issue between United Telephone Company of New Jersey d/b/a Embarq (Embarq) and Comcast in connection with the parties' attempts to negotiate an interconnection agreement.

The intent of this RFP is to award a contract for a term of one (1) year to that responsible and qualified bidder whose bid proposal, conforming to this RFP, is most advantageous to the State, price and other factors considered. The engagement under this RFP will be limited to a not to exceed price of \$29,000.00.¹ However, the State reserves the right to separately procure individual requirements that are the subject of the contract during the contract term, when deemed by the Board to be in the State's best interest and reserves the right to extend the contract for up to two (2) one (1) year periods.

1.1 BACKGROUND:

Comcast filed a petition for arbitration of an interconnection agreement (ICA) pursuant to 47 U.S.C. § 252(b) on August 5, 2008, and Embarq responded to the petition on August 28, 2008. The BPU must make a final determination on the terms of the interconnection agreement no later than 9 months after the date of the request for that agreement, except as extended by the parties, i.e., November 28, 2008.

47 U.S.C. § 252 provides that either party to an interconnection negotiation may petition the State commission to arbitrate any unresolved issues between the parties. The petitioner must request such arbitration between the 135 and 160 day after the Incumbent Local Exchange Carrier receives a request for negotiation. The State commission must conclude the resolution of any open issues within 9 months of the date of the original request for interconnection.

The complexity of the underlying issue, the potential regulatory impact on the state of telecommunications competition in New Jersey and the significant technical and policy issues implicated by the proposed proceeding require that the Board retain the services of a qualified arbitrator. The selected arbitrator shall review and analyze the ICA and, ultimately, arbitrate the unresolved issue with the assistance of the Board Staff.

The services sought in this RFQ are necessary because of the mandates of the federal Telecommunications Act of 1996 (Act). Should the BPU not fulfill its mandated

¹ Although the Board of Public Utilities has set the maximum expenditures under this RFP at \$29,000, each bidder must bid its best price to the Board. Price will be a consideration in the contract award decision.

arbitration role, competitive telecommunications companies have the right to have arbitrations decided by the FCC. Thus, a federal agency rather than the BPU would be making a decision that affects the extent, nature and scope of competition in the local and long distance telephone market in New Jersey.

1.2 PROPOSAL SUBMISSION

An original and ten (10) copies of its proposal (1 original, 9 copies, 1 unbound copy) must be submitted marked “**Arbitration Services Related to the Interconnection Agreement Between Comcast Business Communications, LLC and United Telephone Company Of New Jersey D/B/A Embarq**” and addressed to:

Attn: Anthony Centrella

Division of Telecommunications - 8th Floor

Board of Public Utilities

2 Gateway Center

Newark, NJ 07102

Proposals must be received by 5:00 p.m. Eastern Daylight Time on October 20, 2008.

All respondents must limit their proposals to 20 pages or less at no smaller than 12 point type.

As part of your submission, the bidder shall complete and submit all documents listed below in **ADDITIONAL INFORMATION**.

Subsequent to contract award, all information submitted by bidders in response to the bid solicitation is considered public information, except as may be exempted from public disclosure by the Open Public Records Act, N.J.S.A. 47:1A-1 et seq., and the common law.

1.3 QUESTIONS AND ANSWERS

The Division of Telecommunications shall accept questions electronically, pertaining to this RFP, until 5:00 p.m. on October 20, 2008 from all potential bidders. Questions shall be directed via email to:

Alan Molner

Division of Telecommunications

alan.molner@bpu.state.nj.us

Communications with other representatives of the State regarding this RFP are prohibited during the submission and selection processes. Failure to comply with these communications restrictions will result in rejection of a firm's proposal.

The State will not be responsible for any expenses in the preparation and/or presentation of the proposals, oral interviews or for the disclosure of any information or material received in connection with this RFP.

The State reserves the right to reject any and all proposals received in response to this RFP, when determined to be in the State's best interest, and to waive minor noncompliance in a proposal. The State further reserves the right to make such investigations as it deems necessary as to the qualifications of any and all firms submitting proposals in response to this RFP. In the event that all proposals are rejected, the State reserves the right to re-solicit proposals.

1.4 ORAL PRESENTATION AND/OR CLARIFICATION OF BID PROPOSAL

After the submission of bid proposals, unless requested by the State as noted below, bidder contact with the State is not permitted.

A bidder may be required to give an oral presentation to the Evaluation Committee concerning its bid proposal. The Evaluation Committee may also require a bidder to submit written responses to questions regarding its bid proposal.

The purpose of such communication with a bidder, either through an oral presentation or a letter of clarification, is to provide an opportunity for the bidder to clarify or elaborate on its bid proposal. Original bid proposals submitted, however, cannot be supplemented, changed, or corrected in any way. No comments regarding other bid proposals are permitted. Bidders may not attend presentations made by their competitors.

It is within the Evaluation Committee's discretion whether to require a bidder to give an oral presentation or require a bidder to submit written responses to questions regarding its bid proposal. Action by the Evaluation Committee in this regard should not be construed to imply acceptance or rejection of a bid proposal.

2.0 DEFINITIONS

2.1 GENERAL DEFINITIONS

The following definitions will be part of any contract awarded or order placed as result of this RFP.

All-Inclusive Firm Fixed Price – A price that is all-inclusive of direct cost and indirect costs, including, but not limited to, direct labor costs, overhead, fee or profit, clerical support, equipment, materials, supplies, managerial (administrative) support, all documents, reports, forms, travel, reproduction and any other costs. No additional fees or costs shall be paid by the State unless there is a change in the scope of work.

Bidder – An individual or business entity submitting a bid proposal in response to this RFP.

Contract – This RFP, any addendum to this RFP, and the bidder's proposal submitted in response to this RFP, as accepted by the State.

Contractor – The bidder awarded a contract resulting from this RFP.

Division – The Division of Telecommunications.

Evaluation Committee – A committee established by the Director to review and evaluate bid proposals submitted in response to this RFP and to recommend a contract award to the Director.

May – Denotes that which is permissible, not mandatory.

Project – The undertaking or services that are the subject of this RFP.

Request for Proposal (RFP) – This document which establishes the bidding and contract requirements and solicits bid proposals to meet the purchase needs of the using Agencies as identified herein.

Shall or Must – Denotes that which is a mandatory requirement. Failure to meet a mandatory requirement will result in the rejection of a bid proposal as materially non-responsive.

Should – Denotes that which is recommended, not mandatory.

BPU Contract Manager – The individual responsible for the approval of all deliverables, i.e., tasks, sub-tasks or other work elements in the Scope of Work.

Subtasks – Detailed activities that comprise the actual performance of a task.

State – State of New Jersey.

Task – A discrete unit of work to be performed.

2.2 CONTRACT SPECIFIC DEFINITIONS

Interconnection Agreement (ICA) - An agreement between an Incumbent Local Exchange Carrier (ILEC) and a carrier that provides for interconnection, collocation, resale, network elements and ancillary services between the parties. The ICA is entered into under the terms of Section 251 of the Telecommunications Act of 1996.

3.0 RFP SCOPE OF SERVICES

The contractor shall satisfy the requirements of the RFP by successfully meeting all the tasks listed below. The tasks associated with Sections 3.3.1 – 3.3.8 are deliverables for purposes of this RFP and are directly tied to the Price Schedule, Attachment 1. The contractor shall conduct the arbitration in accordance with the procedures described in the Board's Order in Docket No. TX96070540 dated 8/15/1996.

3.1 MINIMUM REQUIREMENTS

- A. The contractor shall demonstrate technical, policy and regulatory experience in the area of arbitrating legal, technical and policy issues for the New Jersey telecommunications industry.
- B. The arbitrator shall have a specific combination of technical, policy and state and federal public utility telecommunications regulatory experience.
- C. The arbitrator shall have a thorough knowledge of the Act.
- D. The arbitrator shall have experience conducting complex adjudicatory proceedings with multiple parties, expert witnesses, motion practice, and dispute resolution.

3.2 GENERAL REQUIREMENTS

The Board anticipates a contract term of no more than twelve (12) months. The Board reserves the right to extend the contract for an additional term in its sole discretion if necessary to complete the project.

The selected arbitrator shall meet with the Board Staff during the term of the contract. In addition, said arbitrator shall prepare and provide a status report to the Board Staff once per month throughout the term of the contract. The required reports shall document the status of the work and a detailed description of the work accomplished.

3.3 SPECIFIC ARBITRATION DUTIES

The objective of the requested evaluation, analysis and decision is to assist the Board and its Staff in determining whether the proposed Comcast language meets the federal and State criteria for approval as well as whether the proposed language is in the best interests of the State. The arbitrator shall provide the Board and Board Staff with expert legal interpretation concerning elements of the implementation of the FCC's directives. More specifically, the arbitrator shall perform the following duties:

1. Conduct a comprehensive review of the previously released BPU and FCC Orders.
2. Analyze prefiled materials, conduct a pre-hearing conference to establish a discovery, hearing(s), and decision drafting schedule.
3. Assist in settlement discussions, if requested.
4. Review and adjudicate any factual disputes arising from the petition.
5. Provide assistance as directed by Board Staff as issues develop during the course of the proceedings.
6. Conduct evidentiary hearings in development of full and fair record if necessary.
7. Render an interim decision and assess the proposed ICA submitted by the parties and insure that the language conforms with the arbitrator's interim decision.
8. Review and decide post-hearing filings and assist the Board and Board Staff, if requested, in making a final determination on the Petition.

3.4 PARTIES' COOPERATION WITH CONTRACTOR

The contractor shall report to BPU on a party's non-cooperation and non-compliance with the arbitration process.

3.5 PARTIES COMPLIANCE WITH CONTRACTOR DOCUMENTATION REQUESTS

The contractor shall request that the parties submit arbitration documentation, electronically (including fax transmissions), in accordance with the agreed upon schedule set by the contractor.

3.6 PROCESSING THE ARBITRATION DECISION

The contractor shall, at the option of the BPU Contract Manager, provide the written arbitration decision of the contractor to the BPU Contract Manager to determine if the review has met BPU's processing requirements. The BPU Contract Manager shall authorize distribution of the contractor's written decision prior to the contractor's distribution of the decision, within timeframes determined by BPU.

3.7 ARBITRATION DECISION

Once authorized by the BPU Contract Manager, the contractor's arbitration decision shall be sent, electronically and in writing, to both parties and the BPU Contract Manager, with a cover letter of transmittal signed by a responsible representative of the contractor. The written decision of the contractor shall be signed by the principal arbitrator. The written decision shall explain each and every basis of the contractor's determination, including a statement of the issue(s) in dispute; findings of fact; a statement of the amount, including interest, to be awarded to the prevailing party, if applicable; and any criteria and reference sources relied upon.

3.8 MONTHLY REPORTS

The contractor shall submit reports to the BPU Contract Manager within thirty (30) calendar days following the end of each month in a Microsoft Word formatted document. The monthly report shall provide an up to date status of the arbitration process and shall provide an estimated completion date if possible.

3.9 FINAL REPORT

Once authorized by the BPU Contract Manager, the contractor shall send the final arbitration report in a Microsoft Word formatted document to the BPU Contract Manager within thirty (30) calendar days. The BPU Contract Manager, if necessary, will request changes to the Final Report. The contractor shall make any required changes and resubmit the Final Report within five (5) business days.

Subsequent to the review and approval of the BPU Contract Manager, the final report shall be distributed to both parties within ten (10) business days of the approved revisions.

3.10 BILLING

Invoices for services performed may be submitted on a monthly basis at any time following the month's end, for each month in which work was performed. Each monthly billing shall be prorated for actual hours for arbitration services.

4.0 REQUIRED COMPONENTS OF THE RFP PROPOSAL

Proposals in response to this RFP shall respond to each of the following requests in the order indicated. Your proposal shall not exceed twenty (20) pages, plus appendices and cover letter.

(1) Document your firm's experience in providing the services contained in Section 3.0 of this RFP. Provide an Executive Summary identifying and substantiating the basis of your contention that your firm is qualified to provide the requested services.

(2) Provide a staffing plan listing those persons to be assigned to the contract if your firm is selected. This portion of the proposal must include relevant resume information for all persons to be assigned to the contract. This information should include, at a minimum, a description of the person's relevant professional experience, years and type of experience, and number of years with the firm.

(3) Describe the resources of the firm (i.e., background, locations, experience, staff resources, financial resources, other resources, etc.).

(4) Provide at least two references for arbitration services that have recently been provided by your firm. Provide the contact names, positions and phone numbers. If possible the State prefers references for clients on projects similar to the services required under this RFP.

(5) If your firm has been engaged in any litigation involving a sum of \$100,000 or more or subject to any professional disciplinary action over the last three years, you must provide a description of the litigation or disciplinary action. Also, provide a description of any ongoing investigations or litigation matters involving your firm, its directors, officers or principals or any individuals employed by the firm since January 1, 1997.

(6) Provide the name, address, telephone number, fax number, and e-mail address of the individual or individuals responsible for the preparation of your firm's proposal who may be contacted in the event of questions.

(7) Identify any existing or potential conflicts of interest as well as your firm's representation of the parties within the last three (3) years or other relationships that might be considered a conflict of interest, that may affect or involve this assignment or the State of New Jersey.

ORAL INTERVIEW

While it is possible that the State may conduct oral presentations, proposals should be complete on their face. The State reserves the right to request clarifying information subsequent to submission of the bid proposals.

COST PROPOSAL

The price schedule is attached (Attachment 1) to this RFP. Failure to submit all requested pricing information may result in the bidder's proposal being considered materially non-responsive.

The bidder shall provide an all inclusive hourly rate for one or all of the three (3) price lines represented in the Price Schedule. The bidder shall determine whether one or all of the price lines are needed for its particular situation. However, the all inclusive hourly rate(s) shall be inclusive of all direct and indirect costs, including, but not limited to, direct labor costs, overhead, fee or profit, clerical support, equipment, materials, supplies, managerial (administrative) support, all documents, reports, forms, reproduction and any other costs.

The contractor shall not start work on any task until advised in writing to do so by the BPU contract manager.

SELECTION PROCESS

All proposals shall be reviewed to determine responsiveness. Non-responsive proposals shall be rejected without evaluation. Responsive proposals shall be evaluated by an Evaluation Committee. The following evaluation criteria categories, separate or combined in some manner, and not necessarily listed in order of significance, shall be used to evaluate proposals received in response to this RFP:

- The firm's general approach and plans in meeting the requirements of this RFP.
- The firm's detailed approach and plans to perform the services required by the Scope of Services contained in this RFP.
- The firm's documented experience in successfully completing contracts of a similar size and scope to the services required by this RFP.
- The qualifications and experience of the firm's management, supervisory or other key personnel assigned to the engagement, with emphasis on documented experience in successfully completing work on contracts of similar size and scope to the services required by this RFP.
- The overall ability of the firm to mobilize, undertake and successfully perform the services required by this RFP. This judgment shall include, but not be limited to the following factors: the number and qualifications of management, supervisory and other staff proposed by the firm to perform the services required by this RFP; the availability and commitment of the firm's management, supervisory and other staff proposed; and the firm's contract management plan, including the firm's contract organizational chart.

- The firm's cost proposal.

ADDITIONAL INFORMATION

The documents listed below shall be completed and submitted with the bid proposal. Purchase Bureau forms can be downloaded from the Department of Treasury websites: <http://www.state.nj.us/treasury/forms.html#pb> and http://www.state.nj.us/treasury/purchase/forms/eo134/c51_cd.pdf

- Ownership Disclosure
- MacBride Principles and Northern Ireland Act of 1989
- Affirmative Action Employee Information Report
- Waivered Terms and Conditions for Services Contracts
- Vendor Certification under Public Law 2005, Chapter 51
- Vendor Certification under Public Law 2005, Chapter 271
- Vendor Source Disclosure Certification

NOTE: A copy of a valid New Jersey Business Registration must be submitted. If not already registered with the New Jersey Division of Revenue, registration can be completed on line at the Division of Revenue website:

<http://www.state.nj.us/treasury/revenue/index.html>

ATTACHMENT 1

PRICE SCHEDULE

**ARBITRATION SERVICES RELATED TO THE
INTERCONNECTION AGREEMENT BETWEEN COMCAST BUSINESS
COMMUNICATIONS, LLC AND UNITED TELEPHONE
COMPANY OF NEW JERSEY D/B/A EMBARQ,**

Price Line	Work to be Performed	Estimated Labor Hours (EH) *	Unit	Hourly Rate (HR)	Total (ELH x HR)
1	Principal Arbitrator Hourly Rate		Each		
2	Associate Arbitrator Hourly Rate		Each		
3	Administrative Staff Hourly Rate		Each		
TOTAL BID PRICE**					\$

For all unit price items, the Contractor shall be paid based on the actual labor hours multiplied by the unit price.

* Estimated hours are for bidding purposes only. For all unit price items, the Contractor shall be paid based on the actual quantities for each of the categories.

**** The Engagement under this RFP will be limited to a not to exceed price of \$29,000.00.**