



STATE OF NEW JERSEY
Board of Public Utilities
Two Gateway Center
Newark, NJ 07102
www.nj.gov/bpu/

TELECOMMUNICATIONS

IN THE MATTER OF THE JOINT APPLICATION)
OF MCIMETRO ACCESS TRANSMISSION)
SERVICES LLC AND UNITED TELEPHONE)
COMPANY OF NEW JERSEY, INC. D/B/A)
EMBARQ FOR APPROVAL OF A MASTER)
INTERCONNECTION, COLLOCATION AND)
RESALE AGREEMENT UNDER SECTION 252)
OF THE TELECOMMUNICATIONS ACT OF 1996)

ORDER APPROVING
INTERCONNECTION AGREEMENT

DOCKET NO. TO08090744

(SERVICE LIST ATTACHED)

BY THE BOARD:

By letter dated September 19, 2008, United Telephone Company of New Jersey, Inc. d/b/a Embarq ("Embarq"), a New Jersey corporation, and MCImetro Access Transmission Services LLC ("MCImetro") (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 Interconnection, Collocation and Resale Agreement for the State of New Jersey" and dated August 1, 2008 ("the Agreement"). Embarq 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 Embarq will offer to MCImetro telecommunications services for the purpose of resale.

Prior to making this filing, the Parties requested arbitration of certain disputed interconnection agreement issues in Docket No. TO07020140. The Board retained the services of J. Michael Harrison, Esq. who conducted the arbitration and issued his recommended decision on May 20, 2008. The Parties subsequently resolved the arbitrated issues as part of a nationwide settlement and by letter dated September 19, 2008 withdrew the arbitration.

Embarq and MCImetro 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 Embarq pursuant to Section 252 of the Act. Application at 3.

The Agreement is in effect until August 1, 2010 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 service 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 MCImetro to compete with Embarq as a local telephone service reseller for both residential and business customers, and it will promote local competition in Embarq's service territory, thereby fostering the goals of the Act.

In a letter dated November 21, 2008, the Department of the Public Advocate, Division of Rate Counsel ("Rate Counsel") recommends that the Board approve the Agreement subject to conditions. The Board finds that Rate Counsel's objection to a certain provision of the Agreement is without merit, and accordingly, the Board declines to make modifications to the Agreement.

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, 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)].

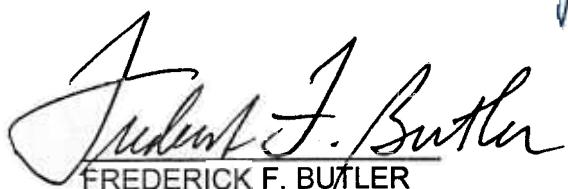
The Board's review of the Agreement and the record in this matter indicate that the Agreement is consistent with the public interest, convenience, and necessity and does not discriminate against telecommunications carriers not parties to the Agreement. Therefore, the Board FINDS that the Agreement meets 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.

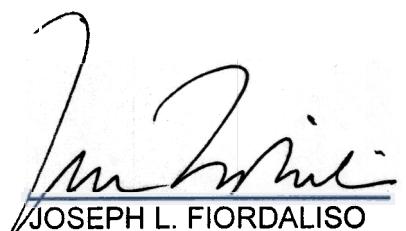
The Board notes that amendments or modifications to Board-approved interconnection agreements are subject to Board review and approval. No agreement shall be read, nor does the Board believe the Parties to the Agreement intend that it be read, to limit the authority of the Board under Section 252(e) 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 within ten days of the issuance of this Order.

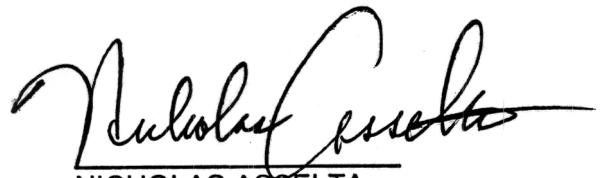
DATED: 1/28/09

BOARD OF PUBLIC UTILITIES
BY:


JEANNE M. FOX
PRESIDENT


FREDERICK F. BUTLER
COMMISSIONER


JOSEPH L. FIORDALISO
COMMISSIONER

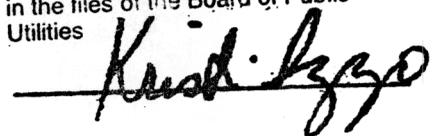

NICHOLAS ASSELTA
COMMISSIONER


ELIZABETH RANDALL
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



Service List

Docket No. TO08090744

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