



Agenda Date: 08/24/16  
Agenda Item: IVB

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

CABLE TELEVISION AND  
TELECOMMUNICATIONS

IN THE MATTER OF THE JOINT PETITION OF UNITED )  
TELEPHONE COMPANY OF NEW JERSEY, INC., D/B/A )  
CENTURYLINK AND DISHNET WIRELINE, LLC. FOR )  
APPROVAL OF A RESALE AGREEMENT )  
)  
) DOCKET NO. TO16050394

**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**  
**Brian McIntyre, dishNET Wireline**

**BY THE BOARD:**

By letter dated May 3, 2016, United Telephone Company of New Jersey, Inc. d/b/a CenturyLink ("CenturyLink"), a New Jersey corporation, and dishNET Wireline, LLC, ("dishNET"), (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 Resale agreement, entitled "Resale Agreement By and Between United Telephone Company of New Jersey, Inc. d/b/a CenturyLink and dishNET 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 Resale 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 dishNET telecommunications services for the purpose of resale.

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

The Agreement shall become effective on the date of Board approval, and continue for a period of 3 years after execution. The Agreement provides for post-termination interim services arrangements.

The New Jersey Division of Rate Counsel ("Rate Counsel") submitted comments to the Board by letter dated May 11, 2016, stating it did not object to Board approval of the Agreement, subject to consideration of specific issues, conditions and recommendations. Specifically, Rate Counsel takes issue with paragraph 44, subsection 44.7.1 through 44.7.4 and 44.8, of the Agreement, governing the possible collection, increase, and use of a security deposit payable to CenturyLink by dishNET. Rate Counsel states that these terms present the possibility of discriminatory application against CLEC carriers at the sole discretion of CenturyLink.

CenturyLink responded by letter to the Board dated May 18, 2016, requesting approval of the Agreement without modification or revision, and claiming Rate Counsel failed to demonstrate that modification of the Agreement as it requested is lawful, just, or appropriate. CenturyLink contends none of the security deposit provisions of the underlying Agreement permit CenturyLink to require or increase deposits based upon the CLEC's investment grade or credit worthiness, as all carriers are treated alike with the opportunity to opt-in to an existing agreement or negotiate a new agreement. To require inclusion of language regarding security deposit provisions in this Agreement, CenturyLink argues, would be discriminatory against all current carriers having interconnection agreements with CenturyLink.

## **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 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 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.

The Board's review of the Agreement and the record in this matter reflect that the Agreement is consistent with the public interest, convenience, and necessity and does not discriminate against telecommunications carriers that are non-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.

No agreement shall be read to limit the authority of the Board to review resale agreements or to require compliance with intrastate telecommunications service quality standards under Section 252(e) of the Act. Subsequent amendments or modifications to the Agreement approved herein shall be subject to review and approval by the Board. 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 September 3, 2016.

DATED:

8/24/16

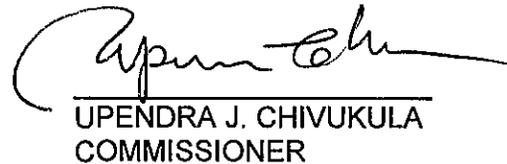
BOARD OF PUBLIC UTILITIES  
BY:

  
RICHARD S. MROZ  
PRESIDENT

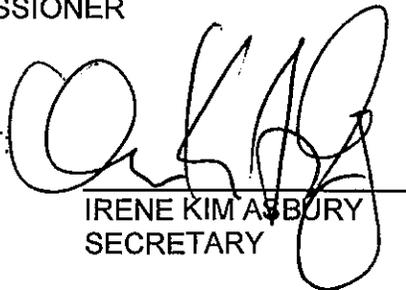
  
JOSEPH L. FIORDALISO  
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MARY-ANNA HOLDEN  
COMMISSIONER

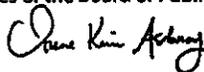
  
DIANNE SOLOMON  
COMMISSIONER

  
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 DISHNET WIRELINE, LLC FOR APPROVAL  
OF AN INTERCONNECTION AGREEMENT

DOCKET NO. TO16050394

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