



Agenda Date: 12/18/18  
Agenda Item: IVA

**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/](http://www.nj.gov/bpu/)

OFFICE OF CABLE TELEVISION  
AND TELECOMMUNICATIONS

IN THE MATTER OF THE JOINT PETITION OF UNITED )  
TELEPHONE COMPANY OF NEW JERSEY INC., D/B/A )  
CENTURYLINK AND BLOCK LINE SYSTEMS, LLC FOR )  
APPROVAL OF A RESALE AGREEMENT ) ORDER APPROVING  
RESALE AGREEMENT  
DOCKET NO. TO18060636

**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 Rex, CFO**, Block Line Systems, LLC

BY THE BOARD:

By letter dated June 12, 2018, United Telephone Company of New Jersey, Inc. d/b/a CenturyLink (“CenturyLink”), a New Jersey corporation and Block Line Systems, LLC (“Block Line”), (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 Block Line Systems, LLC 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 for the establishment of rates, terms and conditions for local resale as defined and set forth in the Act.

CenturyLink and Block Line 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). This Agreement shall become effective on the date of Commission approval. This Agreement shall continue for a period of (3) years after execution by both Parties.

By letter dated August 30, 2018, the New Jersey Division of Rate Counsel (“Rate Counsel”) submitted comments to the Board stating that it does not object to Board approval of the Agreement subject to conditions, and recommends that the Board assert its continuing authority over this Agreement.

However, Rate Counsel requests that the Board modify or reject the terms contained in Subsections 41.4 through and including 41.4.4 of the Agreement, as the provisions allow for the reservation of rights on the part of CenturyLink to secure a deposit at any time under the circumstances described therein which may discriminate against CLECs and retail services competitive telecommunications providers, and be inconsistent with the public interest.

In response, CenturyLink submitted a letter to the Board dated September 25, 2018. In its response, CenturyLink states Rate Counsel relies upon proposed tariffs filed at the FCC as reason to reject provisions which have been fully agreed by negotiating parties and which are common in the industry.

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.

## **DISCUSSION**

Pursuant to 47 U.S.C. §252(a)(1), an ILEC may negotiate and enter into a binding agreement with a carrier requesting resale, 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 request that the Board reject certain provisions of the Agreement is without merit and notes this is a negotiated agreement by the Parties and accordingly, the Board declines to make modifications to the Agreement. The Board acknowledges 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.

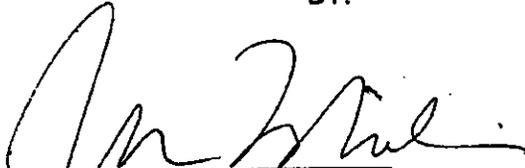
Amendments or modifications to Board-approved resale agreements are subject to Board review and approval. No agreement shall be read, nor does the Board believe the Parties to the Agreement intend that it be read, to limit the authority of the Board under Section 252(e) of the

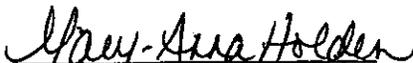
Act to review resale agreements. Accordingly, until and unless otherwise provided by the Board, subsequent amendments or modifications to the Agreement approved herein shall be subject to review and approval by the Board. Additionally, pursuant to 47 U.S.C. §252(h), a copy of the Agreement will be made available for public inspection and copying within ten days of the issuance of this Order.

This Order shall be effective on December 28, 2018.

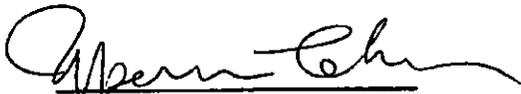
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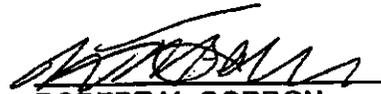
BOARD OF PUBLIC UTILITIES  
BY:

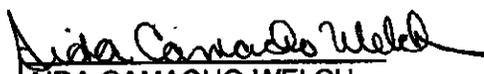
  
JOSEPH L. FIORDALISO  
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UPENDRA J. CHIVUKULA  
COMMISSIONER

  
ROBERT M. GORDON  
COMMISSIONER

ATTEST:   
AIDA CAMACHO-WELCH  
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 BLOCK LINE SYSTEMS, LLC FOR  
APPROVAL OF A RESALE AGREEMENT

DOCKET NO. TO180060636

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