



STATE OF NEW JERSEY
Board of Public Utilities
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Trenton, New Jersey 08625-0350
www.nj.gov/bpu/

TELECOMMUNICATIONS

IN THE MATTER OF THE PETITION OF WARWICK VALLEY TELEPHONE COMPANY FOR AUTHORIZATION TO TRANSFER ASSETS TO WARWICK VALLEY TELEPHONE RESTRUCTURING COMPANY, LLC AND TO SURRENDER ITS CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY AND; PETITION OF WARWICK VALLEY TELEPHONE RESTRUCTURING COMPANY, LLC FOR (I) ISSUANCE OF A CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY (II) APPROVAL OF ITS ADOPTION OF WARWICK VALLEY TELEPHONE COMPANY'S PLAN FOR ALTERNATIVE REGULATION AND INTRASTATE TARIFFS AND (III) RELATED RELIEF)	ORDER
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)	DOCKET NO. TM12090812

Parties of Record:

William K. Mosca, Jr., Esq., Bevan, Mosca, Giuditta & Zarillo, P.C., on behalf of Petitioners
Stefanie A. Brand, Esq., Director, New Jersey Division of Rate Counsel

BY THE BOARD¹:

This Joint Petition was brought before the Board of Public Utilities ("Board") pursuant to N.J.S.A. 48:2-21.16 et seq., N.J.S.A. 48:3-7 and N.J.A.C. 14:1-5.14(b) on September 6, 2012. It was filed by Warwick Valley Telephone Company ("Warwick") and Warwick Valley Telephone Restructuring Company, LLC ("WVT Restructuring") (collectively, "Petitioners") to enable Warwick to implement the corporate restructuring the Board approved in its recent Order in Docket No. TO12010069.²

¹ Commissioner Mary-Anna Holden did not participate.

² Petition of Warwick Valley Telephone Company for Approval of a Proposed Restructuring Plan, dated August 15, 2012 ("Restructuring Order").

Pursuant to the requirements of the Restructuring Order (page 8), Warwick seeks permission to (i) transfer to WVT Restructuring operating assets and personnel that will enable WVT Restructuring to succeed Warwick as the provider of local telephone services in New Jersey and (ii) surrender its Certificate of Public Convenience and Necessity ("CPCN"). WVT Restructuring requests that the Board (i) issue it a CPCN to offer telecommunications services in the State of New Jersey as a facilities-based common carrier and reseller of local exchange, access, intraLATA interexchange and private line services; (ii) approve WVT Restructuring's assumption of Warwick's rights and obligations under the latter's Plan for Alternative Regulation ("PAR") and intrastate tariffs and (iii) authorize WVT Restructuring to assume Warwick's carrier of last resort ("COLR") obligations and its Eligible Telecommunications Carrier ("ETC") designation, rights and obligations.

DISCUSSION

The Joint Petition is the next step required to implement the Restructuring Order. Warwick has formed WVT Restructuring, which is the entity identified as "Newco" in the Restructuring Order,³ and WVT Restructuring's Articles of Organization have been filed with the New Jersey Department of State. Warwick must now obtain the Board's approval (i) to transfer assets to the new company so that it can provide service in New Jersey as Warwick's successor and (ii) to surrender its CPCN. (Restructuring Order, p. 8) In addition, WVT Restructuring must obtain a CPCN and the Board's approval to assume the rights and obligations under Warwick's PAR, intrastate tariffs and other legal, contractual and regulatory obligations. Upon review of the Joint Petition we grant Petitioners' requests.

Warwick is the incumbent local exchange carrier ("ILEC") in its franchised operating territory of the towns of Vernon and West Milford. It owns the telecommunications equipment and other assets that are used to provide services to those towns, including some equipment that is located across the state border in Warwick, New York. Warwick seeks Board approval to transfer to WVT Restructuring the assets and personnel the latter will require to provide wireline telecommunications services as Warwick's successor.

Petitioners performed an initial operational review of all of Warwick's telecommunications equipment and assets, including but not limited to its central office and outside plant network, land, rights-of-way, buildings, engineering and operations, customer and facility records, and billing and order processing capabilities. Collectively, the companies determined that Warwick should transfer to WVT Restructuring substantially all of the telecommunications plant that is exclusively used in Warwick's ILEC operations.⁴ Subsequently, Warwick proposed to transfer additional assets to WVT Restructuring at the outset, including its headquarters building, subject to the right to make future requests to transfer some of them back from WVT

³ Warwick initially stated that, after becoming established as a holding company, it would change its name to WVT Telecommunications Group ("WVTTCG") (see Restructuring Order, page 1). Warwick now indicates that it plans to make this change at its 2013 annual meeting. (Joint Petition n.2) After this change is adopted, WVT Restructuring will change its name to Warwick Valley Telephone Company LLC.

⁴ An attachment to the Joint Petition included all of Warwick's telecommunications plant used in both New York and New Jersey, including two outside plant modules used to serve New Jersey CLEC customers and five digital loop carrier systems used to serve New York CLEC customers.

Restructuring to Warwick. Warwick also proposed to transfer to WVT Restructuring the employees currently engaged in providing wireline services.

Petitioners also provided a proposed Shared Services Agreement ("Services Agreement"), which they state is consistent with the manner in which such shared assets are currently provided to Warwick's ILEC business, as well as a proposed Contribution Agreement under which Warwick will transfer assets to WVT Restructuring. Pursuant to these agreements, Warwick will transfer to WVT Restructuring a cash balance of over \$700,000 and will guarantee that the latter's cash balance will continue at that level through the end of 2016. In addition, Warwick provided statements of its operating revenues, expenses (including depreciation) and taxes for fiscal years 2009-2011 and a balance sheet (including an analysis of Telecommunications Plant Accounts, including depreciation) for the period ending December 31, 2011. WVT Restructuring, which is a newly created entity and has no current balance sheet, submitted a pro forma balance sheet.

In addition, Petitioners have reviewed the staffing of Warwick's ILEC operations and determined that the personnel who currently provide ILEC services should continue to be employed in this capacity. Thus, they propose to transfer these Warwick employees to WVT Restructuring's payroll effective January 1, 2013.⁵ They state that this staffing will enable WVT Restructuring to have the managerial and technical skills it needs to maintain services at the same high quality level as Warwick now performs them. In the brief interim, all employees who perform services for Warwick and its subsidiaries will continue to be Warwick employees, and WVT Restructuring will reimburse Warwick for these employee costs.

In order to complete all of the activities necessary to enable WVT Restructuring to begin operations as soon as possible, it requests permission to assume Warwick's PAR and intrastate tariffs and certain other of Warwick's other regulatory rights and obligations. In particular, WVT Restructuring seeks to be able to offer Warwick's customers a seamless transition to the new corporate structure, so that customers will, at most, see a name change on their bills. In order to facilitate the transition most efficiently (and with the least amount of business and administrative cost), WVT Restructuring has requested that the Board approve its immediate assumption of all Warwick's obligations and rights under its existing PAR and intrastate tariffs.⁶ Finally, WVT Restructuring requests permission to assume responsibility for all rights, liabilities or responsibilities Warwick may have to its customers, suppliers or contractors under Warwick tariffs and contracts relating to the provision of the telecommunications services WVT Restructuring will assume. In addition, WVT Restructuring seeks Board approval to assume all of Warwick's rights and obligations relating to Warwick's COLR and ETC status, for which it seeks to take responsibility.

The Division of Rate Counsel has reviewed this matter and, by letter dated October 12, 2012, recommends approval of the implementation of the restructure.

⁵ The payroll transfer date is selected to reduce the corporate and individual administrative and tax consequences of having these employees on the books of two companies during 2012.

⁶ Warwick's current New Jersey tariffs are: PUC – N.J. – No. 5 (Local Exchange Services); BPU – N.J. No. 6 (Access Service); PUC – N.J. No. 7 (CLEC Services).

Upon review of the Petition and other information provided by Petitioner to Board Staff, we find that the Petition is consistent with the applicable statutory and regulatory requirements and will serve the public interest. The analysis supporting our conclusions is set forth below.

FINDINGS AND CONCLUSION

Based on the above and pursuant to N.J.S.A. 48:2-51.1, the Board hereby **FINDS** that approval of the Joint Petition is in the public interest and:

- Will have no negative effect on competition; rather, it will establish WVT Restructuring as a viable successor to Warwick.
- Will have no negative effect on the rates paid by ratepayers, because they will be paying the same rates currently assessed by Warwick, and WVT Restructuring will be subject to the Warwick PAR, which was previously found to be in the public interest.
- Will have no negative effect on the affected employees, all of whom will continue to be employed by the successor LEC.
- Will have no effect on the provision of safe and adequate service at just and reasonable rates.

In addition, the Board **FINDS** that:

- All of the Petitioners' requests in the Joint Petition are reasonable, necessary and appropriate to enable WVT Restructuring to enter the market seamlessly for customers and to operate as closely as possible to the manner in which Warwick operates today.
- WVT Restructuring will have the financing, assets and qualified personnel it requires to provide current Warwick customers with service that meets our quality standards and requirements.

The Board further **ORDERS** as follows:

- WVT Restructuring's request for a CPCN is granted effective October 31, 2012.
- Warwick is authorized to transfer, and WVT Restructuring is authorized to receive, the identified assets and Warwick's then-current customers effective November 1, 2012.
- WVT Restructuring is authorized to adopt Warwick's PAR and current tariffs with immediate effect.
- WVT Restructuring is authorized to assume Warwick's COLR and ETC obligations and rights as of November 1, 2012.
- Warwick shall transfer its current ILEC employees to WVT Restructuring as of January 1, 2013. In the interim WVT Restructuring shall reimburse Warwick for all costs it incurs with respect to such employees.
- WVT Restructuring shall assume responsibility for all rights, liabilities or responsibilities Warwick may have to its customers, suppliers or contractors under Warwick tariffs and

contracts relating to the provision of the telecommunications services WVT Restructuring will assume, effective as of November 1, 2012.

- Upon completion of the above actions, Warwick may surrender its CPCN and will be released from any further obligations as a regulated intrastate telecommunications carrier.
- This approval will expire if the transaction is not fully consummated on or before September 30, 2013.

DATED: 10/23/12

BOARD OF PUBLIC UTILITIES
BY:



ROBERT M. HANNA
PRESIDENT



JEANNE M. FOX
COMMISSIONER

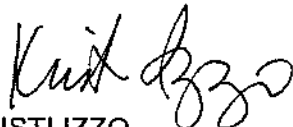


JOSEPH L. FIORDALISO
COMMISSIONER



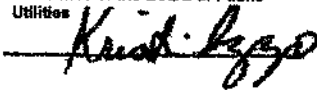
NICHOLAS ASSELTA
COMMISSIONER

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



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