



Agenda Date: 11/20/12
Agenda Item: IVB

STATE OF NEW JERSEY
Board of Public Utilities
44 South Clinton Avenue, 9th Floor
Post Office Box 350
Trenton, New Jersey 08625-0350
www.nj.gov/bpu/

TELECOMMUNICATIONS

IN THE MATTER OF THE VERIFIED JOINT PETITION)
OF INFOTELECOM, LLC AND BROADVOX-CLEC, LLC) ORDER OF APPROVAL
FOR APPROVAL OF A SALE OF ASSETS AND MASS)
MIGRATION OF CUSTOMERS) DOCKET NO. TM12090852

Parties of Record:

James H. Laskey, Esq., Norris, McLaughlin & Marcus, P.A. for Petitioners
Stefanie A. Brand, Esq., Director, New Jersey Division of Rate Counsel

BY THE BOARD:

On September 20, 2012, Broadvox-CLEC, LLC and Infotelecom, LLC ("Petitioners") filed a verified petition with the New Jersey Board of Public Utilities ("Board") for approval of a proposed sale of assets and Mass Migration of customers through which Broadvox-CLEC will acquire the assets and customers of Infotelecom, LLC. Upon consummation of the proposed transaction, Broadvox-CLEC will replace the Infotelecom tariff with a mirrored tariff under the Broadvox-CLEC name so that the Infotelecom customer will continue to receive services under the same terms, rates, and conditions that they currently receive.

BACKGROUND

Infotelecom is a Delaware Limited liability company located at 75 Erieview Plaza, Suite 400, Cleveland, Ohio 44114. In New Jersey, Infotelecom, LLC was authorized to provide local exchange services on February 1, 2005 in Docket No. TE04121564. Petitioners state that a Chapter 11 reorganization plan proposed by Infotelecom resulted in an Asset Purchase Agreement ("APA") dated April 20, 2012. The APA was subsequently assigned to Broadvox-CLEC pursuant to an Assignment and Assumption Agreement dated July 2, 2012.

Broadvox-CLEC is a Delaware Limited Liability company located at 75 Erieview Plaza Suite 400, Cleveland, Ohio 44114. Broadvox-CLEC is authorized by the Board to provide local exchange services in New Jersey. See, I/M/O the Petition of Broadvox-CLEC for Authority to Provide Local Exchange Services in New Jersey, Docket No. TE09020172 Order dated April 27, 2009. Broadvox has one employee in New Jersey.

DISCUSSION

According to the petition, Infotelecom filed for bankruptcy on October 18, 2011. On June 6, 2012, the Second Amended Chapter 11 Reorganization Plan proposed by Infotelecom was approved by the United States Bankruptcy Court, Northern District of Ohio. A main component of the resolution of the case was the execution of an APA dated April 20, 2012 where by Broadvox Holding agreed to purchase Infotelecom's assets and customer contracts on July 2, 2012. The APA was subsequently assigned to Broadvox-CLEC pursuant to an Assignment and Assumption Agreement whereby Broadvox-CLEC assumed all of Broadvox Holdings right, title and interest in the APA. According to Petitioners, upon regulatory approvals, Infotelecom's assets and customer base will be transferred to Broadvox-CLEC and Infotelecom will be dissolved.

Petitioners have also complied with Mass Migration guidelines at N.J.A.C. 14:10-12 and have requested a timeline modification to the guidelines. Instead of the 60 day and 30 day customer notification requirements, Petitioners request a 45 day and a 30 day customer notification. Staff has determined that a modification of this requirement be granted since there are no priority end users and only one business customer. Besides this one request for modification, Petitioners have complied with all other requirements of Mass Migration requirements at N.J.A.C. 14:10-12.

According to the petition, following consummation of the transaction, Broadvox-CLEC will continue to serve Infotelecom's existing customers without interruption and on the same terms and conditions. In addition, Broadvox-CLEC will infuse additional capital to Infotelecom's existing assets and customer and will strengthen Infotelecom's customer base. Broadvox-CLEC will file a replacement tariff under Broadvox-CLEC so that the affected customers will continue to receive the same services that they currently receive without any changes to the service offerings, rates or terms and conditions.

As a result, the proposed transaction will be transparent to Infotelecom's customers and will not have a negative impact on the public interest, services to New Jersey customers, or competition.

FINDINGS AND CONCLUSION

Under N.J.S.A. 48:3-7, the Board is required to determine whether the public utility or a wholly owned subsidiary thereof may be unable to fulfill its pension obligations to any of its employees. However, those obligations do not apply here.

After a thorough review of the petition and all related documents, the Board concludes that there will be no negative impact on service quality to New Jersey customers or the rates they pay. Nor will there be a negative impact on competition. The Board also concludes that a modification of mass migration N.J.A.C. 14:10-12 as proposed by Petitioners is in the best interest of the parties.

Accordingly, after careful review of this matter, the Board FINDS that the transaction will have no negative impact on competition, employees, or the rates to customers. The Board also FINDS that the asset and customer transfer will have no negative impact on the provision of safe, adequate, and proper service and will positively benefit competition. Furthermore, the

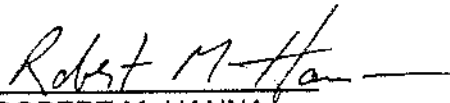
Board FINDS that the transfer will likely have a net positive benefit to the customers in the State.

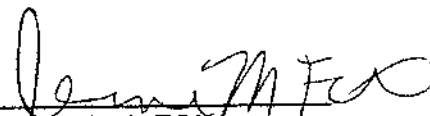
Therefore, the Board, after investigation, having considered the record and exhibits submitted in this proceeding, FINDS that the asset and customer transfer is in accordance with the law and in the public interest. The Board HEREBY APPROVES the request by Petitioners for this transaction. Finally, the Board FURTHER ORDERS that the approval in this Order shall become null and void and of no effect to the extent that the approved transaction has not been effected prior to May 31, 2013.


The Board HEREBY ORDERS that Petitioners shall notify the Board of the closing of the proposed transaction within ten (10) days of consummation of the transfer.

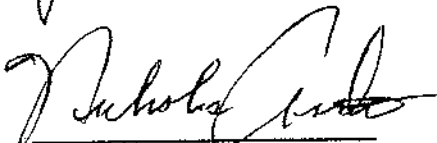
DATED: 11/20/12

BOARD OF PUBLIC UTILITIES
BY:


ROBERT M. HANNA
PRESIDENT


JEANNE M. FOX
COMMISSIONER


JOSEPH L. FIORDALISO
COMMISSIONER

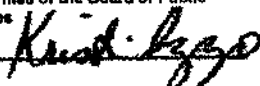

NICHOLAS ASSELTA
COMMISSIONER


MARY-ANNA HOLDEN
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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