



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 PETITION OF SPECTROTEL)
OF NEW JERSEY, LLC FOR AUTHORITY TO)
PROVIDE LOCAL EXCHANGE AND EXCHANGE)
ACCESS TELECOMMUNICATIONS SERVICES)
IN THE STATE OF NEW JERSEY)

ORDER

DOCKET NO. TE12100948

Parties of Record:

James H. Laskey, Esq., Norris, McLaughlin & Marcus, P.A., Bridgewater, NJ, for Petitioner
Stefanie A. Brand, Esq., Director, Division of Rate Counsel

BY THE BOARD:

Pursuant to N.J.S.A. 48:2-1 et seq. and Section 253 of the Federal Telecommunications Act of 1996, 47 U.S.C. § 151 et seq., and by letter dated October 22, 2012, Spectrotel of New Jersey, LLC ("Petitioner" or "Spectrotel NJ") filed a Verified Petition with the New Jersey Board of Public Utilities ("Board") requesting authority to provide facilities-based competitive local exchange and exchange access telecommunications services within the State of New Jersey. Petitioner has submitted its financial information under seal and sworn affidavit with substantiation for confidential treatment in accordance with the Board's rules for determining confidentiality, N.J.A.C. 14:1-12.1 et seq. and in compliance with the Open Public Records Act, N.J.S.A. 47:1A-1 et seq.

Spectrotel NJ is a limited liability company organized under the laws of the State of Delaware and is a wholly owned subsidiary of Spectrotel Holding Company, LLC. Petitioner's principal offices are located at 3535 State Highway 66, Suite 7, Neptune, New Jersey 07753.

Spectrotel, Inc. f/k/a Advantel, LLC d/b/a Plan B Communications is currently authorized to provide the above referenced telecommunications services in the State of New Jersey pursuant to the Order of Approval issued under Docket No. TE00020117 on December 19, 2000. Concurrently with this petition, Spectrotel, Inc., and Petitioner have filed a joint Petition seeking approval for a transaction whereby the Petitioner will acquire assets, including customers, account information, customer contracts and customer deposits, from Spectrotel, Inc. In conjunction with Spectrotel's corporate reorganization, existing customers will be transferred to Spectrotel NJ and Spectrotel, Inc. will become the ultimate parent company. Upon approval of

this transaction, Spectrotel, Inc. will discontinue its operations as a telecommunications provider in New Jersey and surrender its authority. Currently, Spectrotel, Inc. operates under the d/b/a's of One Touch Communications, Surfstone and Touch Base Communications, which will be transferred to the Petitioner.

Petitioner has submitted copies of its Certificates of Formation and Good Standing from the State of Delaware and its New Jersey Certificate of Authority to operate as a foreign limited liability company. Petitioner will operate exclusively in New Jersey. Spectrotel, Inc. currently has authority to provide local and interexchange services in forty-five (45) other states and has applications pending in two states. Petitioner states that it has not been denied authority to provide telecommunications services, its authority has not been revoked in any jurisdiction, and it has not been the subject of any civil or criminal proceedings. Spectrotel, Inc. has an interconnection agreement with Verizon New Jersey, Inc. ("VNJ") which will be assigned to Petitioner upon approval of its petition. Petitioner has notified VNJ of its reorganization and assignment request.

Petitioner seeks the authority to provide facilities-based competitive local exchange and exchange access telecommunications services to business customers throughout the State of New Jersey. Petitioner initially proposes to offer services in Verizon New Jersey, Inc.'s territory and in the future, it may extend its services to other territories. Petitioner will provide facilities-based local exchange services by purchasing network elements from underlying local carriers via interconnection/commercial agreements. Petitioner will ensure that its retail customers have access to 911, directory assistance and telecommunications relay services. At this time, Petitioner does not propose to construct its own facilities. Petitioner maintains a toll-free number for customer service inquiries. Petitioner will file a proposed tariff with the Board upon approval of its petition which will be identical to the tariffs currently on file for Spectrotel, Inc.

Petitioner does not request a waiver of N.J.S.A. 48:3-7.8, which requires that books and records be kept within the State of New Jersey because Petitioner is a New Jersey based Limited Liability Company. However, upon written notice from the Board and/or Board Staff, Petitioner will provide its books and records at such time and place within New Jersey as the Board may designate and will pay any reasonable expenses for examination of records.

Petitioner does not request a waiver of N.J.A.C. 14:1-4.3, which requires that books and records be maintained in accordance with the Uniform System of Accounts ("USOA") because pursuant to N.J.A.C. 14:10-1A.16 and title 47 CFR Part 32.11(a) of the Federal Communication Commission, Petitioner is considered a successor or assign company of the Incumbent Local Exchange Carrier as defined in section 251(h)(1)(B)(ii) of the Communications Act, that are found to be non-dominant by the Commission, hence will not be subject to USOA.

Petitioner asserts that approval of its Petition will further the public interest by expanding the availability of competitive telecommunications services in the State of New Jersey. Petitioner also asserts that approval of this Petition will provide New Jersey customers with access to new technologies and service choices and will permit customers to achieve increased efficiencies and cost savings.

With regard to its technical and managerial qualifications, Spectrotel NJ states that it possesses the technical capability and managerial qualifications to operate and manage its telecommunications operations in the State of New Jersey. Petitioner has submitted the professional biographies of its key personnel, who, according to Spectrotel NJ, are well qualified

to execute its business plans and have extensive managerial and technical experience in the telecommunications industry.

By letter dated November 8, 2012, the Division of Rate Counsel submitted comments with the Board recommending that the Board approve the Verified Petition.

DISCUSSION

On February 8, 1996, the Federal Telecommunications Act of 1996, P.L. 104-104, 110 Stat. 56, codified in scattered sections of 47 U.S.C. § 151 et seq., was signed into law, removing barriers to competition by providing that "[n]o State or local statute or regulation, or other State or local legal requirement, may prohibit or have the effect of prohibiting the ability of any entity to provide any interstate or intrastate telecommunications service." 47 U.S.C. § 253(a)

Any grant of authority is subject to the right of the Board as the state regulatory authority to impose requirements necessary to protect the public safety and welfare, ensure the continued quality of telecommunications services, and safeguard the rights of consumers. 47 U.S.C. § 253(c).

In considering this Petition, the Board recognizes its obligation not to prohibit entry into intrastate telecommunications markets of qualified applicants. 47 U.S.C. § 253(a). The Board also considers the New Jersey State Legislature's declaration that it is the policy of the State to provide diversity in the supply of telecommunications services and the Legislature's findings that "competition will promote efficiency, reduce regulatory delay, and foster productivity and innovation" and "produce a wider selection of services at competitive market-based prices." N.J.S.A. 48:2-21.16(a)(4); N.J.S.A. 48:2-21.16(b)(1) and (3).

Therefore, having reviewed Spectrotel NJ's Petition and the information supplied in support thereof, as well as Rate Counsel's comments, the Board **FINDS** that the Petitioner is in compliance with the Board's filing requirements to provide telecommunications services in New Jersey. Accordingly, the Board **HEREBY AUTHORIZES** the Petitioner to provide local exchange and exchange access telecommunications services throughout the State of New Jersey.

The Board also **FINDS** that in accordance with N.J.S.A. 48:2-59 and 48:2-60 and N.J.S.A. 52:27EE-52, the Petitioner is subject to an annual assessment by both the Board and the Division of Rate Counsel, respectively. The Board notes that the Petitioner will not be permitted to offer aforementioned services until a tariff is filed with the Board. Further, the Petitioner will not be relieved from its responsibility to file an Annual Report and a Statement of Gross Intrastate Revenues from Operations form for the preceding calendar year and payment of annual assessment to both the Board and the New Jersey Division of Rate Counsel.

The Board **HEREBY ORDERS** that:

- 1) Petitioner shall file its tariff with the Board.
- 2) Pursuant to N.J.S.A. 48:2-16(2)(b) and N.J.A.C. 14:3-6.3, Petitioner shall file an annual report as of December 31st of each year, which is due on or before March 31st of the following year. Pursuant to N.J.S.A. 48:2-16.3, if Petitioner fails to file an annual report by the due date, Petitioner shall be subject to a penalty of \$5.00 for each day thereafter until such report is filed.

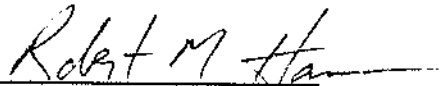
- 3) Pursuant to N.J.S.A. 48:2-62, Petitioner shall file a statement of gross intrastate revenues from operations form (AR3-1) as of December 31st of each year, which is due on or before June 1st of the following year.

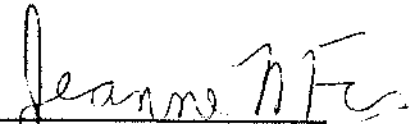
On or before February 1st of each year, the Petitioner will receive from the Division of Audits an annual report package and a statement of gross intrastate revenues from operations form for the preceding calendar year.

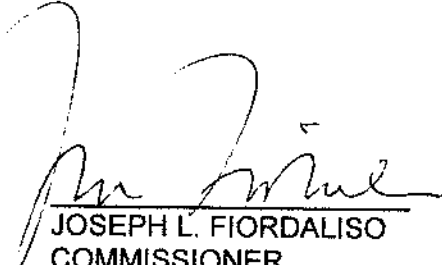
The purpose of these documents is to report the Petitioner's financial information and gross intrastate revenues from operations as of December 31st of each year. The annual report and a statement of gross intrastate revenues from operations form are due on or before March 31st and June 1st of the following year, respectively. If Petitioner does not receive these documents, it is Petitioner's responsibility to obtain them from the Board. It is also the Petitioner's responsibility to ensure timely filing of these reports.

DATED: 12/19/12

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



IN THE MATTER OF THE PETITION OF SPECTROTEL OF NEW JERSEY, LLC
FOR AUTHORITY TO PROVIDE LOCAL EXCHANGE AND EXCHANGE
ACCESS TELECOMMUNICATIONS SERVICES IN THE
STATE OF NEW JERSEY

DOCKET NO. TE12100948

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