



Agenda Date: 5/28/19
Agenda Item: IVA

STATE OF NEW JERSEY
Board of Public Utilities
44 South Clinton Avenue, 3rd Floor, Suite 314
Post Office Box 350
Trenton, New Jersey 08625-0350
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 PEERLESS NETWORK OF NEW)
JERSEY, LLC FOR APPROVAL OF AN)
INTERCONNECTION AGREEMENT)
ORDER APPROVING)
INTERCONNECTION)
AGREEMENT)
DOCKET NO. TO18121350)

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
Patrick Phipps, Director of Regulatory Affairs, Peerless Network of New Jersey, LLC

BY THE BOARD:

By letter dated December 19, 2018, United Telephone Company of New Jersey, Inc. d/b/a CenturyLink ("CenturyLink"), a New Jersey corporation and Peerless Network, LLC ("Peerless Network"), (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 Petition ("Petition") seeking approval of a negotiated interconnection agreement, entitled "Interconnection Agreement By and Between United Telephone Company of New Jersey, Inc. d/b/a CenturyLink and Peerless Network of New Jersey, 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 interconnection 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 the Parties will interconnect their facilities and exchange traffic with each other for the provision of local exchange telecommunications service.

CenturyLink and Peerless Network 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 Board approval. This Agreement shall continue for a period of (3) years after execution by both Parties.

By letter dated March 6, 2019, 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.

However, Rate Counsel requests that the Board reject the terms contained in Article III, paragraph 41, subtitled "Security Deposit" 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 competitive local exchange carriers ("CLECs"), and Retail Service Competitive telecommunications providers and be inconsistent with the public interest, convenience, and necessity as required by Section 252(e)(2)(A)(ii).

In response, CenturyLink submitted a letter to the Board dated March 12, 2019. In its response, CenturyLink states Rate Counsel incorrectly relies upon proposed tariffs filed at the FCC by other carriers as reason to reject provisions which have been fully agreed upon 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 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 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 are without merit and note that it is a negotiated agreement by the Parties, 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." Petition at 2.

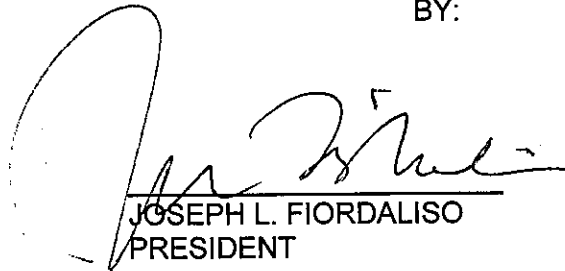
The Board's review of the Agreement and the record in this matter indicate that the Agreement is consistent with the public interest, convenience, and necessity and does not discriminate against telecommunications carriers not parties to the Agreement. Therefore, the Board **FINDS** that the Agreement 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.

The Board notes that amendments or modifications to Board-approved interconnection 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 interconnection 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.

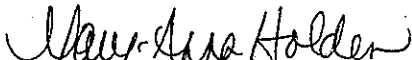
This Order shall be effective on June 7, 2019.

DATED: 5/28/19

BOARD OF PUBLIC UTILITIES
BY:



JOSEPH L. FIORDALISO
PRESIDENT



MARYANNA HOLDEN
COMMISSIONER



DIANNE SOLOMON
COMMISSIONER



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 PEERLESS NETWORK OF NEW JERSEY,
LLC FOR APPROVAL OF AN INTERCONNECTION AGREEMENT

DOCKET NO. TO18121350

SERVICE LIST

Zsuzsanna E. Benedek, Esq.
United Telephone Company of New
Jersey, Inc. d/b/a CenturyLink
240 North Third Street, Suite 300
Harrisburg, PA 17101
Sue.benedek@centurylink.com

Stefanie A. Brand, Esq., Director
Division of Rate Counsel
Post Office Box 003
Trenton, NJ 08625-0003
sbrand@rpa.state.nj.us

Maria Novas-Ruiz, Esq.
Division of Rate Counsel
Post Office Box 003
Trenton, NJ 08625-0003
mnovas@rpa.state.nj.us

Patricia Krogman
Deputy Attorney General
Attorney General's Office
Department of Law & Public Safety
Division of Law
Post Office Box 45029
Newark, NJ 07101-45029
patricia.krogman@law.njoag.gov

Patrick Phipps
Director of Regulatory Affairs
Peerless Networks of New Jersey, LLC
222 S. Riverside Plaza, Suite 2730
Chicago, IL 60606
regulatory@peerlessnetworks.com

Lawanda R. Gilbert, Director
Office of Cable Television and
Telecommunications
Board of Public Utilities
Post Office Box 350
Trenton, NJ 08625-0350
Lawanda.gilbert@bpu.nj.gov

Harold Bond
Office of Cable Television and
Telecommunications
Board of Public Utilities
Post Office Box 350
Trenton, NJ 08625-0350
Harold.Bond@bpu.nj.gov

Rocco Della Serra
Office of Cable Television and
Telecommunications
Board of Public Utilities
Post Office Box 350
Trenton, NJ 08625-0350
Rocco.Della-Serra@bpu.nj.gov

Jimarli Figueiredo
Office of Cable Television and
Telecommunications
Board of Public Utilities
Post Office Box 350
Trenton, NJ 08625-0350
Jimarli.figueiredo@bpu.nj.gov

Carol Artale, Esq.
Deputy Chief Counsel
Post Office Box 350
Trenton, NJ 08625-0350
Carol.artale@bpu.nj.gov