

STATE OF VERMONT  
PUBLIC SERVICE BOARD

Docket No. 6498

Joint Petition of Comm South Companies, Inc., )  
and ARBROS Communications, Inc., for )  
Approval of a Transfer of Control )

Order entered: 5/29/2001

**I. INTRODUCTION**

This case involves a petition filed on March 19, 2001, by Comm South Companies, Inc. ("Comm South") and ARBROS Communications, Inc. ("ARBROS") (referred to jointly as the "Petitioners"), seeking Vermont Public Service Board ("Board") approval, under 30 V.S.A. § 107, of a transfer of control of Comm South to ARBROS.

On April 30, 2001, the Vermont Department of Public Service ("Department") submitted a letter to the Board indicating that the Department had no objection to the transfer of control. The Department noted that the transaction would be transparent to Vermont consumers and would not involve a change in the management or services of either ARBROS or Comm South. Further, the Department also had no objection to the issuance of an order without hearing or further investigation, as provided under 30 V.S.A. § 107.

**II. FINDINGS OF FACT**

Based upon the petition and accompanying documents, the Board makes the following findings of fact.

1. ARBROS, a privately-held Delaware corporation, is authorized to operate in Vermont through its indirect subsidiary ARBROS Communications Licensing Company, N.E. ("ARBROS Licensing"). ARBROS Licensing, a Delaware corporation, is a wholly-owned subsidiary of ARBROS Communications, N.E., LLC, a Delaware limited liability company that, in turn, is a wholly-owned subsidiary of ARBROS. A Certificate of Public Good (CPG No. 536-CR) was issued to ARBROS Licensing on February 16, 2000. Petition at 2 and Exhibit A.
2. Comm South is a Texas corporation which received a CPG to provide telecommunications services in Vermont in Docket No. 6097 on December 3, 1998. CommSouth is an indirect subsidiary of Sercotel, S.A. de C.V. Petition at 1 and Exhibit A.

3. ARBROS intends to acquire the 90.1% of Comm South, not now owned by it, in exchange for stock of ARBROS. Through this share exchange and additional ARBROS shares issued in connection with the financing transaction, affiliates of Comm South will initially acquire approximately 24.9% of the ARBROS common stock outstanding after completion of the overall transaction. Following the transaction, Comm South and ARBROS will continue to operate in all respects as they currently operate, pursuant to present operating authority. Neither the name of nor the terms and conditions of service offered by Comm South or ARBROS will be affected by the transaction. Petition at 1-3.

4. Completion of the proposed transaction will serve the public interest in that it will promote competition among telecommunications providers by providing Comm South with the additional funding to strengthen its competitive positions and to pursue marketing and business plans more effectively. In addition, economies of scale through consolidated administrative functions may be realized for both entities. Petition at 4.

### **III. CONCLUSIONS OF LAW AND DISCUSSION**

The proposed transaction requires Board approval under 30 V.S.A. § 107, which applies to a direct or indirect acquisition of a controlling interest in a Vermont utility.<sup>1</sup> Under Section 107, a "controlling interest" is defined as 10% or more of the outstanding voting securities of a company. Section 107 requires a finding that the transfer of control will promote the public good. This standard is met in this case. The proposed transaction will promote the public good, because the transfer of control of Comm South will allow the Petitioners to operate in a more flexible manner. In the competitive arena of telecommunications, the overall effect of this transfer may promote more customer choice in terms of services, with stronger competitors in the Vermont telecommunications market. It should also be noted that the transfer of control will not have an adverse impact on Vermont consumers as both Comm South and ARBROS will continue to operate according to their present authority.

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1. Approval under 30 V.S.A. §§ 231 and 311 is not required because the current holders of the Certificates of Public Good will continue to be the entities providing telecommunications service in Vermont.

For all of the above reasons, the proposed transfer of control of Comm South to ARBROS should be approved.

**IV. ORDER**

IT IS HEREBY ORDERED, ADJUDGED AND DECREED by the Public Service Board of the State of Vermont that:

1. The transfer of control of Comm South Companies, Inc. to ARBROS Communications, Inc. is approved.
2. Petitioners shall notify the Board, within one week, upon completion of the transfer of control.

DATED at Montpelier, Vermont, this 29<sup>th</sup> day of May, 2001.

<u>s/Michael H. Dworkin</u>	)	
	)	PUBLIC SERVICE
	)	
<u>s/David C. Coen</u>	)	BOARD
	)	
	)	OF VERMONT
<u>s/John D. Burke</u>	)	

OFFICE OF THE CLERK

Filed: May 29, 2001

Attest: s/Susan M. Hudson

Clerk of the Board

*NOTICE TO READERS: This decision is subject to revision of technical errors. Readers are requested to notify the Clerk of the Board (by e-mail, telephone, or in writing) of any technical errors, in order that any necessary corrections may be made. (E-mail address: Clerk@psb.state.vt.us).*

*Appeal of this decision to the Supreme Court of Vermont must be filed with the Clerk of the Board within thirty days. Appeal will not stay the effect of this Order, absent further Order by this Board or appropriate action by the Supreme Court of Vermont. Motions for reconsideration or stay, if any, must be filed with the Clerk of the Board within ten days of the date of this decision and order.*

