

STATE OF VERMONT  
PUBLIC SERVICE BOARD

Docket No. 6578

Joint Petition of Only One Communications of )  
Vermont, LLC and Clearwire Holdings, Inc. for )  
Approval of a Transfer of Control )

Order entered: 11/20/2001

**I. INTRODUCTION**

This case involves a joint petition filed on September 25, 2001, by Only One Communications of Vermont, LLC ("Only One") and Clearwire Holdings, Inc. ("Clearwire") (jointly "Petitioners"). The Petitioners seek Vermont Public Service Board ("Board") approval, under 30 V.S.A. § 107, of a transaction whereby Only One's parent corporation, SpectrumLink Networks, Inc. ("Spectrum"), will be merged with Clearwire. The merger will result in an indirect transfer of control of Only One, a certificated telecommunications carrier in Vermont, to Clearwire.

On November 7, 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 of Only One to Clearwire. The Department noted that the transaction would be transparent to Vermont consumers and should not cause any changes in services or rates of Only One. 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. Clearwire is a Texas-based corporation which is not certificated to provide telecommunications services in Vermont. Petition at 2.

2. Only One is a wholly-owned subsidiary of Spectrum and is authorized by the Board to provide facilities-based and resold telecommunications service in Vermont. A Certificate of Public Good (CPG No. 554-CR) to provide telecommunication services was issued to Only One

on May 10, 2000. Spectrum is not certificated as a telecommunications carrier in Vermont. Petition at 1.

3. Clearwire and Spectrum have entered into a Merger Agreement, whereby Spectrum and its subsidiaries were merged into Clearwire such that Spectrum and its 100% right, title, and interest in Only One has been acquired by Clearwire. Petition at 1.

4. Following completion of the transaction, Only One will continue to operate in all respects as it currently operates, pursuant to present operating authority. Neither the name of, nor the terms and conditions of service offered by Only One, will be affected by the transaction. Accordingly, the transaction should not inconvenience customers within the State of Vermont. Petition at 2-3.

5. Completion of the proposed transaction will serve the public interest in that it will promote competition among long distance carriers by providing Only One with the opportunity to strengthen its competitive position and to pursue its marketing and business plans more effectively. Petition at 3.

### **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 indirect transfer of control of Only One from Spectrum to Clearwire, will allow Only One to operate in a more positive manner. In the competitive arena of telecommunications, the overall effect of this merger 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 Only One will continue to operate according to its present authority.

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

For all of the above reasons, the proposed transfer of control of Only One to Clearwire, through the above described Merger Agreement between Clearwire and Spectrum, 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 Only One Communications of Vermont, LLC from SpectrumLink Networks, Inc. to Clearwire Holdings, Inc. is approved.
2. Petitioners shall notify the Board, within one week, upon completion of the transfer of control.

DATED at Montpelier, Vermont, this 20<sup>th</sup> day of November, 2001.

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

OFFICE OF THE CLERK

Filed: November 20, 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.*