

STATE OF VERMONT
PUBLIC SERVICE BOARD

Docket No. 7050

Joint Petition of SBC Communications, Inc.,)
AT&T Corp., and AT&T Communications of)
New England, Inc., for Approval of an Indirect)
Transfer of Control)

Order entered: 4/13/2005

I. INTRODUCTION

On February 28, 2005, SBC Communications, Inc. ("SBC"), AT&T Corp. ("AT&T"), and AT&T Communications of New England, Inc. ("AT&T NE") (jointly referred to as the "Petitioners"), filed a Petition ("Petition") and Telecommunications Merger and/or Acquisition Request for Approval Form ("Application") requesting authority from the Vermont Public Service Board ("Board"), pursuant to 30 V.S.A. § 107, for approval of a indirect transfer of control of AT&T NE resulting from a merger of AT&T, its parent company, and SBC.¹

On March 25, 2005, the Vermont Department of Public Service ("Department") filed a letter with the Board recommending the Board approve the transfer of control because the proposed transaction would not detrimentally impact Vermont consumers or cause them inconvenience or confusion. The Department notes that due to SBC's minimal presence in the Vermont telecommunications market, it is unlikely that SBC's acquisition of AT&T and its subsidiaries will result in a material increase in market concentration in Vermont. The Department further recommended the Board approve the Petition without further investigation or hearing.

The Board has reviewed the Petition and the accompanying documents and agrees that approval should be granted without hearing.

1. The Petitioners have also requested approval of the merger of AT&T and SBC. However, because neither AT&T nor SBC are certificated entities operating in Vermont, they are not subject to Board jurisdiction and, therefore, Board approval of the merger is not necessary.

II. FINDINGS OF FACT

Based upon the Application, Petition and accompanying documents, we hereby make the following findings of fact.

1. AT&T NE was issued a Certificate of Public Good to provide telecommunications services in Vermont on August 10, 1998, in Docket No. 6022. Application at 2.
2. SBC and AT&T are not certificated as telecommunications carriers in Vermont. Application at 1-2.
3. Pursuant to a proposed merger between SBC and AT&T, the parent company of AT&T NE, AT&T will become a wholly-owned subsidiary of SBC. The merger will result in AT&T NE becoming an indirect subsidiary of SBC. Application at 2-3.
4. Following the transaction, AT&T NE will continue to operate under its current name and tariff. Accordingly, the transfer will not cause any inconvenience for Vermont consumers. Application at 4.
5. The proposed transaction will promote the public interest by allowing the combined organization to accelerate the capital investment in AT&T's facilities necessary to keep pace with technology and market developments, thereby enhancing the ability of AT&T and its Vermont operating subsidiaries to compete in the telecommunications market and ensuring the continued existence of telecommunications competition in Vermont. Application at 5.

III. DISCUSSION

The proposed transaction requires approval by the Board under 30 V.S.A § 107. This statute conditions approval of a proposed transfer of control upon findings that the transfer of control will promote the public good (30 V.S.A § 107). This standard is met in this case.

Under 30 V.S.A. § 107(a), "[n]o company shall directly or indirectly acquire a controlling interest in any company subject to the jurisdiction of the [Board] . . . without the approval of the [Board]." "Controlling interest" is defined as "ten percent or more of the outstanding voting securities of a company" or such other interest as the Board determines "to constitute the means to direct or cause the direction of the management or policies of a company." 30 V.S.A.

§ 107(c)(1).² In order to approve the acquisition of such a controlling interest, the Board must first find that it will "promote the public good." 30 V.S.A. § 107(b).

After reviewing the Petition, we conclude that 30 V.S.A. § 107 applies because the holding company level transaction contemplated will result in the indirect transfer of controlling interest of AT&T NE. We further conclude that the transfer of control will not affect the services that AT&T NE currently provides to customers in Vermont. AT&T NE will continue to offer service at the same rates, terms and conditions. The proposed transaction will also allow AT&T NE access to greater resources, which may, in turn, result in enhanced competition among providers of telecommunications services in Vermont. The resulting transfer of control, therefore, will promote the public good. For all of these reasons, we conclude that the proposed transaction meets the standards set forth in 30 V.S.A. § 107 and should be approved.

IV. CONCLUSIONS

The indirect transfer of control of AT&T NE should be approved because the transaction will promote the public good of the State of Vermont and will not result in obstructing or preventing competition. 30 V.S.A. § 107(b).

V. 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 AT&T Communications of New England, Inc., will promote the public good and, therefore, is approved.
2. Petitioners shall file a letter notifying the Board of the completion of the transaction within one week of such completion.

2. The statute also provides that "[t]he presumption that ten percent or more of the outstanding voting securities of a company constitutes a controlling interest may be rebutted by a company under procedures established by the board by rule." 30 V.S.A. § 107(c)(1).

DATED at Montpelier, Vermont, this 13th day of April, 2005.

s/James Volz)	PUBLIC SERVICE BOARD OF VERMONT
)	
s/David C. Coen)	
)	
)	
s/John D. Burke)	

OFFICE OF THE CLERK

Filed: April 13, 2005

Attest: s/Judith C. Whitney
Acting 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 apparent 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.