

STATE OF VERMONT
PUBLIC SERVICE BOARD

Docket No. 6264

Petition of Primus Telecommunications, Inc.)
and Telegroup, Inc. for Authority to Transfer)
Selected Assets)

Order entered: 2/16/2000

INTRODUCTION

On June 25, 1999, Primus Telecommunications, Inc. ("Primus") and Telegroup, Inc. ("Telegroup") and their respective legal counsel filed a petition seeking authority, pursuant to 30 V.S.A. § 109, to transfer selected assets, including certain telephone numbers, from Primus to Telegroup. Telegroup is an authorized non-dominant interexchange carrier that has recently filed for protection under Chapter 11 of the U. S. Bankruptcy Code in the U. S. Bankruptcy Court for the District of New Jersey.

By letter dated January 14, 2000, the Vermont Department of Public Service ("Department") has reviewed the petition and recommends approval of the proposed asset transfer from Telegroup to Primus, without the need for a hearing.

FINDINGS OF FACT

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

1. Primus is a Delaware corporation headquartered at 1700 Old Meadow Road, Third Floor, Burlington, Vermont. Primus is an authorized interexchange carrier and is authorized to provide telecommunications services in Vermont through its CPG No. 285 which was issued on November 18, 1994, in CPG No. 285.
2. Telegroup is an Iowa corporation whose principal offices are located at 209 Nutmeg Avenue, Burlington, Vermont. Telegroup is an authorized interexchange carrier and is authorized to provide telecommunications services in Vermont on November 18, 1994, in CPG No. 285.
3. Telegroup filed for reorganization under Chapter 11 of the U.S Bankruptcy Code, 11 U.S.C. § 1101, on January 14, 2000.

Court for the District of New Jersey. *Id.* at 2.

4. On June 30, 1999, Primus Telecommunications Group, Inc., the parent group of Primus Purchase Agreement ("Asset Purchase Agreement") pursuant to which Primus will acquire certain provision of telecommunications services. The Asset Purchase Agreement is part of a reorganization Court for the district of New Jersey. *Id.* at 4; and Amendment to Application filed July 15, 1999.

5. The transfer of assets will be virtually transparent to consumers in Vermont and will not telecommunications services in Vermont. Primus will assume all agreements between Telegroup, a service pursuant to the terms and conditions of the existing Telegroup tariff. Thus, customers will continue to receive services at competitive rates. *Id.* at 5.

6. Approval of the transfer of selected assets from Telegroup to Primus should ultimately benefit assets of the companies will accelerate competition by enhancing Primus's ability to compete against competition in the telecommunications market in Vermont. *Id.* at 5-6

DISCUSSION

The proposed transfer of assets requires approval by the Board pursuant to 30 V.S.A. § 109. This statute conditions approval of a proposed transfer of selected assets upon a finding that the good of the state. The transfer of assets from Telegroup to Primus is in the public interest because it is in the market for telecommunications services in Vermont. Furthermore, the market for telecommunications services in Vermont. Thus, the transfer of selected assets from Telegroup to Primus will not have any detrimental impact on telecommunications services.

One additional matter remains: whether the Board should require Primus to post a bond in connection with its prepaid calling card service. The Board has imposed such a requirement on new entrants into the

calling card services. *See* C.P.G. No. 145, Order of 7/13/94, and C.P.G. No. 146, Order of 8/17/94. Nos. 145 and 146, the public utilities commissions of several states have expressed concern about payment in advance of receipt of service, and it had the same concern. Consequently, the Board of Telecommunications Inc. to post a bond, payable to the Board, in an amount equal to their projected 12 months of operation. It also stated that it would examine the issue of whether this requirement should be the subject of our informal rulemaking proceeding.

The Board made a distinction, however, between new entrants into the Vermont market that are long-term participants (such as AT&T) that offer a multitude of services and that simply seek to add debit card offerings. For this latter group, it does not impose a bond requirement, on the theory that the provider provides several services that are provided on an on-going basis, and would be unlikely to "take the money and run."

Primus, however, fits into neither group. Primus, a currently certificated provider of debit card services in Vermont, is a company which is also currently certified as a provider of debit card services in Vermont and will be offering a calling card service. We conclude that the most sensible approach is to require Primus to post a bond equal to its post transaction projected Vermont intrastate revenues from its prepaid calling card services, to the transfer of assets. This approach will be fair to Primus, fair to the public, and consistent with the approach of other telecommunications providers offering debit card services.

ORDER

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

1. The transfer of selected assets from Telegroup, Inc. to Primus Telecommunications, Inc.
2. A certificate of consent to the transfer shall be issued, pursuant to 30 V.S.A. § 109.

3. Primus shall post a bond, payable to the Board, in an amount equivalent to the Company calling card services, for the first 12 months of operation subsequent to the transfer of assets.

DATED at Montpelier, Vermont, this 16th day of February, 2000.

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| <u>s/Michael H. Dworkin</u> |) | |
| |) | PUBLIC SERVICE |
| |) | |
| <u>s/Suzanne D. Rude</u> |) | BOARD |
| |) | |
| |) | OF VERMONT |
| <u>s/David C. Coen</u> |) | |

OFFICE OF THE CLERK

Filed: February 16, 2000

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 any necessary corrections may be made.

Appeal of this decision to the Supreme Court of Vermont must be filed with the Clerk of the Board within thirty c

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further Order by this Board or appropriate action by the Supreme Court of Vermont. Motions for reconsideration or stay ten days of the date of this decision and order.