

BEFORE THE TENNESSEE REGULATORY AUTHORITY

NASHVILLE, TENNESSEE

April 26, 2012

IN RE:

**PETITION OF SPECTROTEL, INC. D/B/A ONETOUCH
COMMUNICATIONS D/B/A TOUCH BASE
COMMUNICATIONS FOR CCN TO PROVIDE
FACILITIES-BASED COMPETING LOCAL EXCHANGE
TELECOMMUNICATIONS SERVICES**

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**DOCKET NO.
11-00132**

**ORDER GRANTING CERTIFICATE OF
PUBLIC CONVENIENCE AND NECESSITY**

This matter came before the Tennessee Regulatory Authority (the "Authority" or "TRA") at a regularly scheduled Authority Conference held on March 26, 2012 to consider the *Application of Spectrotel, Inc. d/b/a OneTouch Communications d/b/a Touch Base Communications for a Certificate to Provide Facilities-Based Competing Local Exchange Telecommunications Services on a Facilities and Resold Basis and Long Distance Service on a Resold Basis* (the "*Application*") filed on August 12, 2011 by Spectrotel, Inc. d/b/a OneTouch Communications d/b/a Touch Base Communications ("Spectrotel" or "Applicant"). In its *Application*, Spectrotel seeks a Certificate of Public Convenience and Necessity ("CCN") for authority to provide facilities-based competing local exchange telecommunications services, including exchange access telecommunication services, resold local exchange telecommunications services, and resold long distance services in Tennessee.

LEGAL STANDARD

Spectrotel's *Application* was made pursuant to and considered in light of the criteria for

granting a CCN as set forth in Tenn. Code Ann. § 65-4-201 (Supp. 2011), which provides, in pertinent part:

(a) No public utility shall establish or begin the construction of, or operate any line, plant, or system, or route in or into a municipality or other territory already receiving a like service from another public utility, or establish service therein, without first having obtained from the authority, after written application and hearing, a certificate that the present or future public convenience and necessity require or will require such construction, establishment, and operation, and no person or corporation not at the time a public utility shall commence the construction of any plant, line, system or route to be operated as a public utility, or the operation of which would constitute the same, or the owner or operator thereof, a public utility as defined by law, without having first obtained, in like manner, a similar certificate . . .

* * *

(c) After notice to the incumbent local exchange telephone company and other interested parties and following a hearing, the authority shall grant a certificate of convenience and necessity to a competing telecommunications service provider if after examining the evidence presented, the authority finds:

- (1) The applicant has demonstrated that it will adhere to all applicable commission policies, rules and orders; and
- (2) The applicant possesses sufficient managerial, financial, and technical abilities to provide the applied for services.

* * *

Furthermore, pursuant to Tenn. Code Ann. § 65-5-112 (2004), a competing telecommunications provider is required to file with the Authority (1) a plan containing the provider's plan for purchasing goods and services from small and minority-owned telecommunications businesses; and (2) information on programs that might provide technical assistance to such businesses.

MARCH 26, 2012 AUTHORITY CONFERENCE

Pursuant to Tenn. Code Ann. § 65-4-204 (2004), public notice was issued by the Authority's General Counsel on March 16, 2012, setting the matter for hearing before the

Directors during the Authority Conference on March 26, 2012. No persons sought intervention prior to or during the Hearing.

During the Hearing, which was convened as noticed during a regularly scheduled Authority Conference on March 26, 2012, Joseph R. Mullin, Product Manager for Spectrotel, appeared on behalf of the Applicant and participated in the Hearing. Mr. Mullin adopted the pre-filed testimony of Ross Artale, Chief Operating Officer, which was filed with the *Application* on August 12, 2011, and was subject to examination by the Directors.

FINDINGS & CONCLUSIONS

I. Spectrotel's Qualifications

1. Spectrotel was incorporated in the State of Delaware on February 29, 2000 and was authorized to transact business in Tennessee by the Tennessee Secretary of State as of March 1, 2005.

2. Spectrotel's corporate office and principal place of business is located at 3535 State Highway 66, Suite 7, Neptune, New Jersey 07753. The telephone number is (732) 345-7000.

3. The *Application* and information in the record indicate that Spectrotel has the requisite technical and managerial ability to provide the applied for telecommunications services within the State of Tennessee. Specifically, Spectrotel's senior management team possesses sufficient business, technical and operational experience.

4. Spectrotel has the necessary capital and financial ability to provide the services it proposes to offer.

5. Spectrotel has represented that it will adhere to all applicable statutes, policies, rules and orders of the Authority.

II. Proposed Services

Spectrotel seeks to provide voice grade local services and other services to larger corporate business customers. In doing so, the Applicant intends to offer interexchange toll services throughout the state of Tennessee, and local exchange service in areas currently served by AT&T-Tennessee that are designated open to competition.¹ Spectrotel does not intend to install or otherwise own its own network facilities, but will resell other carrier's services and/or lease an underlying carrier's unbundled network elements (e.g., loops and switching) through the execution of interconnection or commercial agreements with such carriers. Thus, in order to provide such services in Tennessee, the Applicant has requested authority from the TRA to provide facilities-based exchange services, as well as resold local exchange and long distance telecommunication services.²

III. Permitting Competition to Serve the Public Convenience and Necessity

Approval of Spectrotel's *Application* would inure to the benefit of the present and future public convenience by furthering competition in the telecommunications services markets in the State and fostering the development of an efficient, technologically advanced statewide system of telecommunications services.

IV. Small and Minority-Owned Telecommunications Business Participation Plan and Business Assistance Program

Spectrotel has filed a satisfactory small and minority-owned telecommunications business participation plan pursuant to Tenn. Code Ann. § 65-5-112 (2004) and the Authority's Rules.

¹ *Application* (August 12, 2011).


² *Id.*; see also *Affidavit of Joseph R. Mullin* (April 10, 2012) (affirming the scope of Spectrotel's services and clarifying its request for authority).

Upon review of the *Application* and the record in this matter, the Directors found that approval of Spectrotel's *Application* met the requirements of Tenn. Code Ann. § 65-4-201 and TRA Rules 1220-4-8.02 through 1220-4-8.04. Further, the Directors found that Spectrotel has demonstrated that it has sufficient managerial, financial, and technical qualifications to provide the services for which it has applied and has affirmed that it will adhere to all applicable Authority policies, rules and orders. For the foregoing reasons, the Directors voted unanimously to approve the *Application*.

IT IS THEREFORE ORDERED THAT:

1. The *Application of Spectrotel, Inc. d/b/a OneTouch Communications d/b/a Touch Base Communications for a Certificate to Provide Facilities-Based Competing Local Exchange Telecommunications Services on a Facilities and Resold Basis and Long Distance Service on a Resold Basis* is approved.

2. Spectrotel, Inc. d/b/a OneTouch Communications d/b/a Touch Base Communications shall file an official tariff that conforms to the requirements of the statutes and rules of the Tennessee Regulatory Authority, which includes notation of the appropriate issued and effective dates.


Kenneth C. Hill, Chairman


Sara Kyle, Director


Mary W. Freeman, Director