

Decision No. C22-0728

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

PROCEEDING NO. 22A-0431T

IN THE MATTER OF THE JOINT APPLICATION OF SPECTROTEL, INC., AND SPECTROTEL OF THE WEST, LLC AND SPECTROTEL ULTIMATE HOLDINGS LLC TO EXECUTE AN INDIRECT TRANSFER OF CONTROL OF SPECTROTEL, INC., AND SPECTROTEL OF THE WEST, LLC.

**COMMISSION DECISION
APPROVING JOINT TRANSFER**

Mailed Date: November 17, 2022
Adopted Date: November 16, 2022

I.

BY THE COMMISSION

A. Statement

1. This matter comes before the Commission for consideration, as modified on October 25, 2022, of a Joint Application filed by Spectrotel, Inc. (Spectrotel) and Spectrotel Ultimate Holdings, LLC (Spectrotel Ultimate), on October 11, 2022.

2. The Applicants request Commission authorization for the approval of the change of control of Spectrotel to Spectrotel Ultimate, herein referred to as the Transaction. The Transaction is pursuant to an Equity Purchase Agreement, where Spectrotel Ultimate will indirectly purchase all of the outstanding equity interests in Spectrotel., Prior to closing, and as part of the Transaction, Spectrotel intends to convert from a corporation to a limited liability company.

3. We construe this filing as an application for approval of the change of control, including Commission issued telecommunications authority held by Spectrotel pursuant to 4 *Code of Colorado Regulations* 723-2-2110 of the Commission's Rules Regulating Telecommunications Services and Providers of Telecommunications Services.

4. Spectrotel was granted a Certificate of Public Convenience and Necessity (CPCN) and acquired a Letter of Registration (LOR) for the provision of switched access service in Proceeding No. 13A-0220T by Decision No. C13-0518 on May 2, 2013. Spectrotel provides resold voice and IP-based data services to small and medium-sized businesses and enterprise customers.

5. Spectrotel Ultimate Holdings, LLC is a limited liability company organized under the laws of the state of Delaware. Spectrotel Ultimate Holdings, LLC does not hold any Commission issued telecommunications authority.

6. Applicants request Commission approval of the transfer of control of Spectrotel, including its Commission issued authority, to Spectrotel Ultimate with Spectrotel continuing to exist as a separate entity.

7. On October 11, 2022, a notice of the Joint Application was provided to all persons, firms, or corporations interested in or affected by the grant or denial of the requested relief. Interventions were due on or before November 10, 2022. No interventions were filed.

8. On October 25, 2021, Spectrotel and Spectrotel Ultimate filed a revised Application, removing Spectrotel of the West, LLC from the Application as the recipient and holder of the CPCN held by Spectrotel. The transaction was modified and converted to a transfer of control of Spectrotel to Spectrotel Ultimate.

9. On October 27, 2022, Spectrotel and Spectrotel Ultimate filed a supplement, providing clarification on the October 25, 2022, revised application.

B. Discussion

10. The Commission has jurisdiction over this Joint Application pursuant to §§ 40-5-105, 40-15-204, and 40-15-303, C.R.S.

11. The application contains all of the information required by the applicable Commission Rules and is therefore deemed complete.

12. The application is unopposed and therefore may be considered without a formal hearing, pursuant to § 40-6-109(5), C.R.S.

13. Applicants request Commission approval of the change of control of Spectrotel to Spectrotel Ultimate. Spectrotel Ultimate does not hold any Commission issued telecommunications authorities.

14. The application represents that the transfer of control will have no effect on Spectrotel, its customers, or its operations. Spectrotel Ultimate states that Spectrotel will continue to provide high-quality and innovative communications solutions to its customers, none of which will suffer any loss or impairment of service as a result of the Transaction.

15. Spectrotel is a competitive provider with Commission issued authority. Except for limited circumstances (such as for providers that are recipients of state high-cost support and for the provision of basic emergency services), certifications to provide basic local exchange services are no longer regulated by the Commission. *See* § 40-15-401(1)(b), C.R.S. Similarly, the provision of any other emerging competitive services such as advanced features, premium services, intraLATA toll, non-optional operator services, and private line services, except switched access

services and basic emergency services, are no longer regulated by the Commission. *See* §§ 40-15-401(1)(e),(k),(n),(o),(s),(t), C.R.S. Consequently, the Commission does not have the authority to approve the transfers of the CPCNs or those parts of the LORs addressing advanced features, premium services, intraLATA toll, non-optional operator services, and private line services.

16. Switched access services and the provision of basic emergency services have not been deregulated. As a result, we have the authority to review and approve/deny the transfers and encumbrances of the part of authorities held by providers that address those services.

17. We remind applicants that public utilities remain subject to Commission oversight that includes but is not limited to reporting and payment obligations to the Colorado High-Cost Support Mechanism and the Telecommunications Relay Services Program.

18. We find that the proposed transfer of control of the telecommunications authority held by Spectrotel to Spectrotel Ultimate is not contrary to the public interest and therefore grant the Joint Application for transfer to that extent. Entities that hold Commission issued authorities remain obligated to comply with any applicable requirements or regulations as stated in Article 15 of Title 40.

19. We acknowledge the request for the intention to convert Spectrotel, Inc. to a limited liability company following the intended transaction and direct Spectrotel, Inc. to make the appropriate filing with the Commission to accomplish this change.

II. ORDER

A. The Commission Orders That:

1. The Joint Application to Transfer Control filed by Spectrotel, Inc. and Spectrotel Ultimate Holdings, LLC is granted.
2. If Spectrotel, Inc. decides to convert its business structure to a limited liability company, it shall file an Adoption Notice with the Commission that includes the appropriate documents from the Colorado Secretary of State's Office recognizing this change. It shall include the Decision Number issued in this Proceeding.
3. Spectrotel and Spectrotel Ultimate or their authorized representatives shall jointly notify the Commission if the transfer has been terminated or is not completed within 60 days of the proposed effective date stated in the application or if the proposed transfer terms are changed prior to the consummation date. The notice shall include the proceeding and decision numbers which granted the authority to execute the transfer.
4. Spectrotel shall file an updated Statement of Information (SOI) within 30 days of the change of its contemplated conversion to a Limited Liability Company from a Corporation organized structure.
5. The 20-day period provided for in § 40-6-114, C.R.S., within which to file applications for rehearing, reargument, or reconsideration begins on the first day following the effective date of this Decision.

6. This Decision is effective on its Mailed Date.

**B. ADOPTED IN COMMISSIONERS' WEEKLY MEETING
November 16, 2022.**

(S E A L)



ATTEST: A TRUE COPY

A handwritten signature in cursive script that reads "Doug Dean".

Doug Dean,
Director

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

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JOHN GAVAN

MEGAN M. GILMAN

Commissioners