

**PUBLIC SERVICE COMMISSION OF THE DISTRICT OF COLUMBIA
1325 G STREET, N.W., SUITE 800
WASHINGTON, DC 20005**

ORDER

January 4, 2021

**FORMAL CASE NOS. TA2000-29, IN THE MATTER OF THE NOTICE OF
SPECTROTEL, INC., OF A PROPOSED INTERNAL CORPORATE
REORGANIZATION, Order No. 20680**

I. INTRODUCTION

1. By this Order, the Public Service Commission of the District of Columbia (“Commission”) accepts the Notice of the internal corporate reorganization of Spectrotel, Inc. (“Spectrotel” or “Applicant”) that creates a newly-formed affiliate, Spectrotel of the East LLC (“Spectrotel East”), and conversion of its Certificate of Public Convenience and Necessity to Spectrotel East. In accepting Notice of Spectrotel’s internal reorganization, the Commission dismisses further review of the transaction.

II. BACKGROUND

2. On December 10, 2020, Spectrotel filed Notice with the Commission seeking approval, to the extent necessary, of an internal corporate reorganization resulting in the creation of a new Spectrotel affiliate, Spectrotel East, which the Applicant asserts will become the telecommunications service provider for the Applicant’s District of Columbia (“District”) customers.¹ Spectrotel asserts that the internal reorganization is *pro forma* in nature and is transparent to District customers. Spectrotel requests that the Commission approve the transaction to the extent required by law and/or Commission rules and the transition of its Certificate of Public Convenience and Necessity to Spectrotel East.²

A. Description of the Parties

3. Spectrotel asserts that it is a privately held corporation organized under the laws of the State of Delaware, with its principal place of business in Neptune, New Jersey.³ Spectrotel states that it was authorized to provide facilities-based and resold local exchange and exchange access telecommunications services in the District in *Formal Case No. 892*,

¹ *Formal Case Nos. TA2000-29*, Spectrotel, Inc. Notice of Corporate Reorganization (“Notice”), filed December 10, 2020.

² Notice at 1.

³ Notice at 2.

Order No. 11810, on October 12, 2000.⁴ Spectrotel describes Spectrotel East as a newly created privately held limited liability company organized under the laws of the State of Delaware, with offices at the same location as Spectrotel. The Notice includes the submission of Spectrotel East's Certificate of Formation of Limited Liability Company in Delaware, the certificate of good standing issued by the Delaware Secretary of State and the Certificate of Authority to transact business as a foreign LLC in the District.⁵

B. Description of the Transactions

4. Spectrotel states that it has undertaken an internal corporate reorganization, creating Spectrotel East to serve its customers in the District. Spectrotel avers that the corporate reorganization will not impact customers, and that the service it provides will continue under the current rates, terms, and conditions. The Applicant maintains that ultimate ownership and control of the Company will not change. It explains that Spectrotel East is a member managed LLC with Spectrotel Holding Company, LLC, a Delaware LLC, as its sole member.⁶ It further explains that Spectrotel Holding Company, LLC is also a member managed LLC, with Spectrotel, Inc. as its primary member. Spectrotel states that, as the ultimate parent company of Spectrotel East, it will continue to be 100% owned by Jack Dayan.⁷

5. The Applicant asserts that no new parent corporation or other entity will acquire Spectrotel and no change of control will occur. In addition, it maintains that no other public service company or stock corporation will acquire Spectrotel because of this transaction. Spectrotel submits an organizational chart depicting the operating entity's corporate ownership and status before and after the restructuring.⁸

6. Spectrotel explains that upon completion of this reorganization, there will be no change to the management, corporate ownership, employees, rates, services, or other contract rights and obligations of the company.⁹ The Applicant states that all of the current managerial, technical, and financial resources available to Spectrotel will remain available to Spectrotel East, since the ultimate ownership of the Company will not change.¹⁰ Spectrotel maintains that, through this transaction, it does not seek to expand or reduce its operating authority, and its services to customers (and service obligations) will not change

⁴ *Formal Case No. 892, In the Matter of the Application of Plan B Communications, Inc. to Provide Telecommunications Services in the District of Columbia*, Order No. 11810, rel. October 12, 2000.

⁵ Notice at 2; *See* Attachment 1.

⁶ Notice at 2.

⁷ Notice at 2.

⁸ Notice at 2; *See* Attachment 2.

⁹ Notice at 2.

¹⁰ Notice at 2.

as a result.¹¹ It maintains that its customer bills will continue to reflect the current Company name.¹² It adds that the proposed restructuring is in the public interest because it will allow Spectrotel to achieve administrative efficiencies and potential cost savings, thus financially strengthening the company without altering its operations.¹³ Lastly, Spectrotel explains that because the internal corporate restructuring will be transparent to customers, customer notice was not provided in order to preclude possible customer confusion.¹⁴

III. DECISION

7. Generally, Commission review of corporate transfer of control cases involving certificated competitive local exchange carriers (“CLEC”) requires a determination of whether any of the entities involved in the transaction is a public utility¹⁵ and, if so, thus subject to review under 15 DCMR § 2511.2.¹⁶ However, according to our holding in *Sidera Networks*, Order No. 17536,¹⁷ CLEC transactions concerning corporate reorganizations and restructurings that are purely internal or intracorporate in nature, and do not involve the transfer of ownership or control to an outside entity or organization, only require a notification to the Commission of the transaction.¹⁸ In addition, purely

¹¹ Notice at 2.

¹² Notice at 2.

¹³ Notice at 2.

¹⁴ Notice at 2.

¹⁵ See D.C. Code § 34-1001 (2020): No franchise nor any right to or under any franchise to own or operate any public utility as defined in this subtitle . . . shall be assigned [or] transferred . . . nor shall any contract or agreement with reference to or affecting any such franchise or right be valid or of any force or effect whatsoever unless the assignment, transfer . . . or agreement shall have been approved by the Commission in writing.

¹⁶ See 15 DCMR § 2511.2 (2015). Specifically, 15 DCMR § 2511.2 states: For any change of ownership or control involving a certificated local exchange carrier that must be approved by the Commission pursuant to D.C. Official Code § 34-1001 (2001), all of the entities involved in the transaction must file an application with the Commission at least sixty (60) days before the proposed closing date of the transaction. 15 DCMR § 2511.2(d) states the five standards an application for transfer of control or other type of corporate reorganization must meet in order to receive Commission approval. The five standards are: (1) how the proposed transaction will affect competition in the District of Columbia; (2) how the proposed transaction will affect universal service; (3) how the proposed transaction will affect public safety and welfare; (4) whether the proposed transaction will affect the quality of local telecommunications services; and (5) how the proposed transaction will affect consumer rights.

¹⁷ *Formal Case No. 892, In the Matter of the Joint Application of Sidera Networks, LLC for Approval of a Pro Forma Intra-Company Transaction (“Sidera Networks”),* Order No. 17536, rel. July 10, 2014 (“Order No. 17536”).

¹⁸ Order No. 17536 at 4.

intracorporate CLEC restructurings or reorganizations are subject to dismissal by the Commission.¹⁹

8. In the instant case, the reorganization appears to be purely internal and intracorporate in nature. In essence, the transaction involves the creation of a new Spectrotel affiliate, Spectrotel East, to become the named telecommunications service provider for Spectrotel's District customers. An important indicia of an intracorporate transaction is whether a newly-formed affiliate will share the same officers and directors, and that the same individuals will perform the newly-formed affiliate's regulatory functions. Here, Spectrotel East will have the same sole individual owner and, as the Applicant states, all current managerial, technical, and financial resources available to Spectrotel will remain available to Spectrotel East. As stated in the Notice, ownership and control of Spectrotel will not change, no new parent corporation or other entity will acquire Spectrotel, and no change of control will occur. In addition, the internal reorganization will not impact customers inasmuch as the affiliate will continue to operate under the same "Spectrotel" name and will continue to provide service under the same current rates, terms, and conditions. In our view, this corporate reorganization is a transaction that is purely intracorporate in nature and is permissible under *Sidera Networks* without additional Commission review. Accordingly, the Commission accepts Spectrotel's Notice of its internal intracorporate reorganization, the transition of its Certificate of Public Convenience and Necessity to Spectrotel East, and shall dismiss any further review of this matter.

THEREFORE, IT IS ORDERED THAT:

9. The Notice of Spectrotel, Inc., of the internal corporate reorganization resulting in the creation of a new Spectrotel, Inc. affiliate, Spectrotel of the East LLC, the conversion of the Certificate of Public Convenience and Necessity to Spectrotel of the East LLC, is **ACCEPTED**, and further Commission review of this matter is **DISMISSED**.

A TRUE COPY:

BY DIRECTION OF THE COMMISSION:



CHIEF CLERK:

**BRINDA WESTBROOK-SEDGWICK
COMMISSION SECRETARY**

¹⁹ Order No. 17536 at 4.