



Agenda Date: 6/7/10
Agenda Item: IB

STATE OF NEW JERSEY
Board of Public Utilities
Two Gateway Center
Newark, NJ 07102
www.nj.gov/bpu/

TELECOMMUNICATIONS

IN THE MATTER OF THE PETITION OF CREXENDO) ORDER
BUSINESS SOLUTIONS, INC. FOR APPROVAL)
TO PROVIDE LOCAL EXCHANGE)
TELECOMMUNICATIONS SERVICES)
THROUGHOUT THE STATE OF NEW JERSEY) DOCKET NO. TE10030204

(SERVICE LIST ATTACHED)

Lance J. M. Steinhart, P. C. Alpharetta, GA 30005 - for Petitioner
Kenneth Saffren, Esq., Saffren & Weinberg, Jenkintown, PA 19046 – for Petitioner

BY THE BOARD:

Pursuant to N.J.S.A. 48:2-1 et seq. and Section 253 of the Federal Telecommunications Act of 1996, 47 U.S.C. §151 et seq., and by letter dated March 17, 2010, Crexendo Business Solutions, Inc. ("Petitioner" or "Crexendo") filed a Petition with the New Jersey Board of Public Utilities ("Board") requesting authority to provide both resold and facilities-based Unbundled Network Element ("UNE") competitive local exchange telecommunications services throughout the State of New Jersey.

Crexendo is a privately held company organized under the laws of the State of Arizona. Crexendo is a wholly owned subsidiary of iMergent, Inc., a publicly traded Delaware corporation. Petitioner's principal offices are located at 10201 South 51st Street, Phoenix, Arizona 85044. Petitioner has submitted copies of its Articles of Incorporation, its Certificate of Good Standing from the State of Arizona and its New Jersey Certificate of Authority to Operate as a Foreign Corporation.

Petitioner has filed a Resale Acknowledgement Letter to provide resold local exchange and interexchange telecommunications services in the State of New Jersey, however, to date it has not commenced providing any telecommunications services. Petitioner has not commenced negotiations to enter into an interconnection agreement with any Incumbent Local Exchange Carriers.

Petitioner will initially resell and/or provide Local Exchange Services utilizing UNE to its end user customers and as market conditions warrant may augment its service offerings to include some facilities-based services. Petitioner will combine switchless resale, leasing of local loops in conjunction with company owned switching, and/or purchasing UNE from Verizon – New Jersey and other carriers. Petitioner also plans to provide basic telephone exchange, data, internet, digital subscriber line, access, call waiting and forwarding, speed dialing, distinctive ringing,

three-way calling, operator services like 911 and E911, directory listing, third party calling arrangement, local calling and per use services such as call return and redial services to both residential and business customers throughout the State of New Jersey.

Petitioner states that it has not been denied authority to provide telecommunications services, its authority has not been revoked in any jurisdiction and it has not been the subject of any civil or criminal proceedings.

Petitioner requests a waiver of N.J.S.A. 48:3-7.8 and N.J.A.C. 14:1-4.3, which require that books and records be kept within the State of New Jersey and be maintained in accordance with the Uniform System of Accounts ("USOA"), respectively. Petitioner, instead, requests permission to maintain its books and records in accordance with Generally Accepted Accounting Principles and to keep all books, records, documents and other writings incident to the conduct of Petitioner's business in the State of New Jersey at Petitioner's corporate offices located in Phoenix, Arizona.

DISCUSSION

On February 8, 1996, the Federal Telecommunications Act of 1996, P.L. 104-104, 110 Stat. 56, codified in scattered sections of 47 U.S.C. §151 et seq., was signed into law, removing barriers to competition by providing that "[n]o State or local statute or regulation, or other State or local legal requirement, may prohibit or have the effect of prohibiting the ability of any entity to provide any interstate or intrastate telecommunications service." 47 U.S.C. §253(a).

Any grant of authority is subject to the right of the Board as the state regulatory authority to impose requirements necessary to protect the public safety and welfare, ensure the continued quality of telecommunications services, and safeguard the rights of consumers. 47 U.S.C. §253(c).

In considering this Petition, the Board recognizes its obligation not to prohibit entry into intrastate telecommunications markets of qualified applicants. 47 U.S.C. §253(a). The Board also considers the New Jersey State Legislature's declaration that it is the policy of the State to provide diversity in the supply of telecommunications services and the Legislature's findings that "competition will promote efficiency, reduce regulatory delay, and foster productivity and innovation" and "produce a wider selection of services at competitive market-based prices." N.J.S.A. 48:2-21.16(a)(4); N.J.S.A. 48:2-21.16(b)(1) and (3).

Therefore, having reviewed Crexendo's Petition and the information supplied in support thereof, the Board FINDS that the Petitioner is in compliance with the Board's filing requirements to provide telecommunications services in New Jersey. Accordingly, the Board HEREBY AUTHORIZES the Petitioner to provide local exchange telecommunications services throughout the State of New Jersey. The Board notes that the Petitioner will not be permitted to provide telecommunications services until a tariff is filed with the Board. Additionally, Petitioner is not relieved from its responsibility to file an Annual Report and a Statement of Gross Intrastate Revenues from Operations form for the preceding calendar year.

Furthermore, the Board FINDS that in accordance with N.J.S.A. 48:2-59 and 48:2-60 and N.J.S.A. 52:27EE-52 the Petitioner is subject to an annual assessment by both the Board and the Division of Rate Counsel, respectively.

The Board HEREBY ORDERS

- 1) Petitioner shall file its tariff with the Board.

- 2) Pursuant to N.J.S.A. 48:2-16(2)(b) and N.J.A.C. 14:3-6.3, Petitioner shall file an annual report as of December 31 of each year, which is due on or before March 31 of the following year. Pursuant to N.J.S.A. 48:2-16.3, if Petitioner fails to file an annual report by the due date, Petitioner shall be subject to a penalty of \$5.00 for each day thereafter until such report is filed.
- 3) Pursuant to N.J.S.A. 48:2-62, Petitioner shall file a statement of gross intrastate revenues from operations form (AR3-1) as of December 31 of each year, which is due on or before June 1 of the following year.

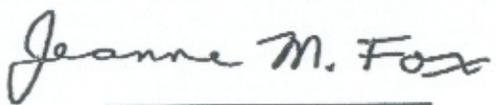
On or before February 1st of each year, the Petitioner will receive from the Division of Audits an annual report package and a statement of gross intrastate revenues from operations form for the preceding calendar year. The purpose of these documents is to report the Petitioner's financial information and gross intrastate revenues from operations as of December 31 of each year. The annual report and a statement of gross intrastate revenues from operations form are due on or before March 31 and June 1 of the following year, respectively. If Petitioner does not receive these documents, it is Petitioner's responsibility to obtain them from the Board. It is also the Petitioner's responsibility to ensure timely filing of these reports.

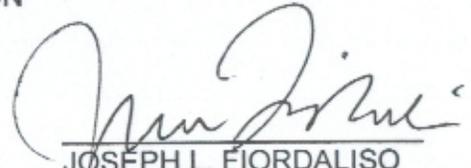
Regarding the Petitioner's request for waivers of the Board rules, the Board FINDS that the Petitioner has demonstrated good cause why the Board should grant relief from its requirements that the Petitioner maintains its books and records in accordance with USOA and within New Jersey. Therefore, subject to the Petitioner's continuing responsibility to provide the Board books and records upon 48 hours notice, and in the manner requested, and to pay to the Board all expenses or charges incurred by the Board for any investigation or examination of these books and records, the Board APPROVES the Petitioner's request for the exemptions from maintaining its books and records in accordance with USOA and in New Jersey.

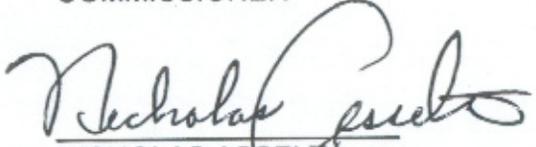
DATED: 6/7/10

BOARD OF PUBLIC UTILITIES
BY:

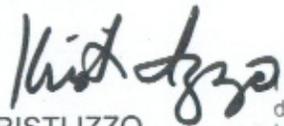

LEE A. SOLOMON
PRESIDENT

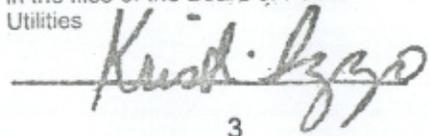

JEANNE M. FOX
COMMISSIONER


JOSEPH L. FIORDALISO
COMMISSIONER


NICHOLAS ASSELTA
COMMISSIONER


ELIZABETH RANDALL
COMMISSIONER

ATTEST: 
KRISTI IZZO
SECRETARY

HEREBY CERTIFY that the within document is a true copy of the original in the files of the Board of Public Utilities


IN THE MATTER OF THE PETITION OF CREXENDO BUSINESS SOLUTIONS, INC.
FOR AUTHORITY TO PROVIDE LOCAL EXCHANGE TELECOMMUNICATIONS
SERVICES IN THE STATE OF NEW JERSEY

DOCKET NO. TE10030204

SERVICE LIST

1. Petitioner's Contact Person:

Jeff Korn
Chief Legal Officer and
Regulatory Contact
Crexendo Business Solutions, Inc.
10201 South 51st Street
Phoenix, Arizona 85044

4. Public Advocate:

Stefanie A. Brand, Esquire
Director, Division of Rate Counsel
Department of Public Advocate
31 Clinton Street, 11th Floor
P. O. Box 46005
Newark, New Jersey 07101

2. Petitioner's Attorney:

Lance J. M. Steinhart, Esq.
Lance J. M. Steinhart, PC
Attorneys At Law
1720 Windward Concourse
Suite 250
Alpharetta, Georgia 30005

5. Deputy Attorney General:

Jessica L. Campbell, DAG
Department of Law & Public Safety
Division of Law
124 Halsey Street, 5th Floor
P. O. Box 45029
Newark, New Jersey 07102

3. Board's Staff:

Dennis J. Moran
Director, Division of Audits
Board of Public Utilities
Two Gateway Center
Newark, New Jersey 07102

6. Board's Staff:

Anthony Centrella
Director, Division of Telecommunications
Board of Public Utilities
Two Gateway Center
Newark, New Jersey 07102