



STATE OF NEW JERSEY  
Board of Public Utilities  
44 South Clinton Avenue, 9<sup>th</sup> Floor,  
Post Office Box 350  
Trenton, NJ 08625-0350  
[www.nj.gov/bpu/](http://www.nj.gov/bpu/)

TELECOMMUNICATIONS

IN THE MATTER OF THE PETITION OF PEG ) ORDER  
BANDWIDTH NJ, LLC FOR APPROVAL TO PROVIDE )  
LOCAL EXCHANGE AND INTEREXCHANGE )  
TELECOMMUNICATIONS SERVICES THROUGHOUT )  
THE STATE OF NEW JERSEY ) DOCKET NO. TE12040317

**Dennis C. Linken, Esq.**, Scarinci & Hollenbeck, LLC Lyndhurst, New Jersey, for Petitioner  
**Stefanie A. Brand, Esq.**, Director, Division of Rate Counsel

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 April 17, 2012, PEG Bandwidth NJ, LLC ("Petitioner" or "PEG") filed a Verified Petition with the New Jersey Board of Public Utilities ("Board") requesting authority to provide facilities-based and resold private line dedicated point to point and point to multipoint local exchange and interexchange telecommunications services throughout the State of New Jersey. Petitioner has submitted its financial information under seal and has filed a sworn affidavit with substantiation for confidential treatment in accordance with the Board's rules for determining confidentiality, N.J.A.C. 14:1-12.1 et seq. and in compliance with the Open Public Records Act, N.J.S.A. 47:1A-1 et seq.

PEG is a limited liability company organized under the laws of Delaware. Petitioner's principal offices are located at 3 Bala Plaza, Suite 502, Bala Cynwyd, Pennsylvania 19004.

Petitioner has submitted copies of its Certificate of Formation from the State of Delaware and its New Jersey Certificate of Authority to Operate as a Foreign Limited Liability Company. Through its affiliates, Petitioner maintains authority to provide resold and/or facilities-based local exchange and interexchange telecommunications services in Illinois, Mississippi, and Texas, and its affiliates' petition for authority is in process in the State of Pennsylvania and Virginia. Petitioner currently does not intend to provide dial tone service to end user customers, as a provider of Private Line Services. Petitioner currently does not anticipate need for an interconnection agreement with Incumbent Local Exchange Carriers ("ILECs").

Petitioner plans to offer facilities-based and resold private line dedicated point to point and point to multipoint local exchange and interexchange telecommunications services to providers of

wireless telecommunications services, other carriers and ultimately to large enterprise customers throughout New Jersey. Petitioner presently does not intend to offer any outbound dial tone services to residential end user customers. However, in the event Petitioner offers dial tone services to residential and end user customers in the future, Petitioner will file a tariff with the Board. Petitioner does not currently have any telecommunications transmission facilities in New Jersey, however, it intends to provide the above referenced services by purchasing the services of other facilities-based carriers and through the resale of the services of ILECs. As market conditions warrant, Petitioner will place its state-of-the-art telecommunications equipment within the existing facilities of other carriers, central offices of local exchange carriers, or other structures. Petitioner will use the existing conduits, ducts, rights-of-way and facilities of other telecommunications carriers and utilities and may ultimately construct new or extend existing, outside plant. Petitioner currently has no customers in New Jersey.

The Company 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, which requires that books and records be kept within the State of New Jersey. Petitioner requests permission 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 Bala Cynwyd, Pennsylvania. Petitioner also states, upon written notice from the Board and/or Board Staff, it will provide its books and records at such time and place within New Jersey as the Board may designate and will pay any reasonable expenses for examination of records.

Petitioner asserts that approval of its Petition will further the public interest by expanding the availability of competitive telecommunications services in the State of New Jersey. Petitioner also asserts that approval of this Petition will provide New Jersey customers with access to new technologies and service choices and will permit customers to achieve increased efficiencies and cost savings.

With regard to its technical and managerial qualifications, PEG states that it possesses the technical capability and managerial qualifications to operate and manage its telecommunications operations in the State of New Jersey. Petitioner has submitted the professional biographies of its key personnel, who, according to PEG, are well qualified to execute its business plans and have extensive managerial and technical experience in the telecommunications industry.

By letter dated May 15, 2012, the Division of Rate Counsel submitted comments with the Board stating that it does not object to Board approval of the Petition.

## **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 PEG's Petition and the information supplied in support thereof, as well as Rate Counsel's comments, 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 and interexchange telecommunications services throughout the State of New Jersey.

The Board also 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 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.

The Board HEREBY ORDERS that:

- 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.

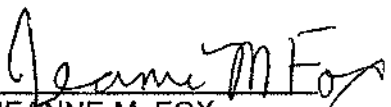
On or before February 1<sup>st</sup> of each year, the Petitioner will receive from the Division of Audits an annual report package and a statement of gross intrastate revenues from operations form for the preceding calendar year. The purpose of these documents is to report the Petitioner's financial 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 waiver 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 keep its books and records 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 keeping its books and records in New Jersey.


DATED: 8/15/12

BOARD OF PUBLIC UTILITIES  
BY:

  
ROBERT M. HANNA  
PRESIDENT

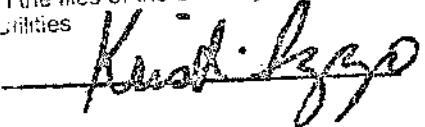
  
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MARY-ANNA HOLDEN  
COMMISSIONER

ATTEST:  
  
KRISTI IZZO  
SECRETARY

I 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 VERIFIED PETITION OF PEG BANDWIDTH NJ, LLC FOR  
AUTHORITY TO PROVIDE LOCAL EXCHANGE AND INTEREXCHANGE  
TELECOMMUNICATIONS SERVICES IN THE STATE OF NEW JERSEY

DOCKET NO. TE12040317

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