



Agenda Date: 2/19/14
Agenda Item: IB

STATE OF NEW JERSEY
Board of Public Utilities
44 South Clinton Avenue, 9th Floor
Post Office Box 350
Trenton, New Jersey 08625-0350
www.nj.gov/bpu/

TELECOMMUNICATIONS

IN THE MATTER OF THE PETITION OF ACCESS ONE) ORDER
OF NEW JERSEY, INC. FOR APPROVAL TO PROVIDE)
RESOLD AND FACILITIES BASED INTEREXCHANGE)
AND LOCAL EXCHANGE SERVICES)
) DOCKET NO. TE13121185

Parties of Record:

Dennis C. Linken, Esq., Scarinci & Hollenbeck, LLC Lyndhurst, New Jersey, for Petitioner
Stefanie A. Brand, Esq., Director, New Jersey 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 December 17, 2013, Access One of New Jersey, Inc. ("Petitioner" or "AOI") filed a verified Petition with the New Jersey Board of Public Utilities ("Board") requesting authority to provide both resold and facilities-based 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 et seq. and in compliance with the Open Public Records Act, N.J.S.A. 47:1A-1 et seq.

AOI is a privately held company organized under the laws of the State of Illinois and its principal offices are located at 820 West Jackson Blvd., 6th Floor, Chicago, Illinois 60607.

Petitioner has submitted copies of its Certificate of Incorporation from the State of Illinois and its New Jersey Certificate of Good Standing and Certificate of Authority to operate as a Foreign Corporation. Petitioner has filed a Resale Carrier Letter of Acknowledgement with Verizon New Jersey, Inc. ("VNJ") and is qualified to provide Resold Local Exchange and Interexchange Telecommunications Services in New Jersey. Petitioner does not at this time seek authority to provide local exchange telecommunications services in the service areas of small or rural local exchange carriers in New Jersey. Petitioner is currently authorized to provide local exchange and interexchange telecommunications services in Arizona, California, Colorado, District of

Columbia, Florida, Georgia, Illinois, Indiana, Iowa, Massachusetts, Michigan, Minnesota, Missouri, Nevada, New York, Ohio, Oregon, Pennsylvania, Texas, Utah, Washington, and Wisconsin. Petitioner is also authorized to provide interexchange services in Alabama, Arkansas, Connecticut, Delaware, Idaho, Kansas, Kentucky, Louisiana, Maine, Mississippi, New Hampshire, New Mexico, North Carolina, Oklahoma, Rhode Island, South Carolina, South Dakota, Vermont, Virginia, West Virginia, and Wyoming.

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 intends to enter into an interconnection agreement with Verizon New Jersey Inc. ("VNJ") and Embarq but has not yet begun negotiations for an agreement.

Petitioner seeks authority to provide both resold and facilities-based local exchange and interexchange telecommunications services to business customers in the State of New Jersey. Its services include, but is not limited to, local exchange services that will enable business customers to originate and terminate local calls in the local calling area served by the petitioner as well as other local exchange carriers; Switched local exchange services such as flat-rates and measure-rated local services; vertical, Direct Inward and Outward Dialed trunks; carrier access; public and semi-public coin telephone services; any other switched local services that currently exist or will exist in the future; and Non-switched local services such as private lines. Petitioner plans to offer services using a combination of both its own facilities and facilities of other carriers by purchasing unbundled network elements and resold telecommunications services. Petitioner will collocate 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. Petitioner does not currently have any telecommunications transmission facilities in New Jersey and will not construct new plant or extend its existing outside plant. Petitioner maintains a toll-free number for customer service inquiries. Petitioner will file an initial tariff with the Board.

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 Chicago, Illinois.

By letter dated January 13, 2014, the Division of Rate Counsel submitted comments with the Board stating that it does not object to Board approval of the Verified 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 AOI'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 and interexchange telecommunications services throughout the State of New Jersey. Pursuant to N.J.A.C. 14:3-1.3(a), 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 1 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 maintain 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.

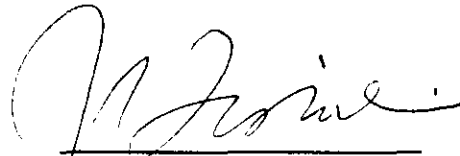
This Order shall be effective March 1, 2014.

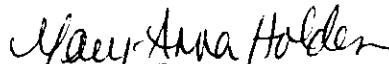
DATED: 2/19/14

BOARD OF PUBLIC UTILITIES
BY:

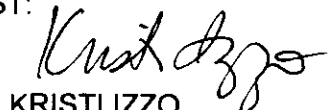

DIANNE SOLOMON
PRESIDENT


JEANNE M. FOX
COMMISSIONER


JOSEPH L. FIORDALISO
COMMISSIONER


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



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APPROVAL TO PROVIDE RESOLD AND FACILITIES BASED INTEREXCHANGE AND
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DOCKET NO. TE13121185

SERVICE LIST

Alberta Lee
Regulatory Contact
Access One of New Jersey, Inc.
820 W. Jackson Blvd., 6th Floor
Chicago, Illinois 60607

Dennis C. Linken, Esq.
Scarinci & Hollenbeck, LLC
1100 Valley Brook Avenue
Post Office 790
Lyndhurst, New Jersey 07071-0790

Stefanie A. Brand, Esq., Director
Division of Rate Counsel
140 East Front Street, 4th Floor
Post Office Box 003
Trenton, New Jersey 08625-0003

Alex Moreau, DAG
Department of Law & Public Safety
Division of Law
124 Halsey Street
Post Office Box 45029
Newark, New Jersey 07101-45029

Kristi Izzo
Secretary of the Board
Board of Public Utilities
44 South Clinton Avenue, 9th Floor
Post Office Box 350
Trenton, New Jersey 08625-0350

Dennis J. Moran, Director
Division of Audits
Board of Public Utilities
44 South Clinton Avenue, 9th Floor
Post Office Box 350
Trenton, New Jersey 08625-0350

Anthony Centrella, Director
Division of Telecommunications
Board of Public Utilities
44 South Clinton Avenue, 9th Floor
Post Office Box 350
Trenton, New Jersey 08625-0350

Valerie Haynes, Chief
Office of Case Management
Board of Public Utilities
44 South Clinton Avenue, 9th Floor
Post Office Box 350
Trenton, New Jersey 08625-0350