



Agenda Date: 12/16/15

Agenda Item: IA

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 VERIFIED PETITION OF) ORDER
QUANTUMSHIFT COMMUNICATIONS, INC., D/B/A)
vCOM SOLUTIONS FOR A CERTIFICATE OF PUBLIC)
CONVENIENCE AND NECESSITY TO PROVIDE)
LOCAL EXCHANGE AND INTRASTATE)
INTEREXCHANGE TELECOMMUNICATIONS)
SERVICES IN THE STATE OF NEW JERSEY) DOCKET NO. TE15101209

Parties of Record:

Jenna Brown, Director, Regulatory Affairs, QuantumShift Communications, Inc.
Stefanie A. Brand, Esq., Director, New Jersey Division of Rate Counsel

BY THE BOARD:¹

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 September 29, 2015, QuantumShift Communications, Inc., dba vCom Solutions (“Petitioner” or “QuantumShift”) filed a verified petition with the New Jersey Board of Public Utilities (“Board”) requesting a Certificate of Public Convenience and Necessity to provide facilities-based competitive 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.

QuantumShift is a privately held corporation organized under the laws of the State of California. On March 5, 1999, MVX Communications LLC, a Nevada based Limited Liability Company and a wholly owned subsidiary of MVX.COM, merged with and into MVX.COM Communications Inc., a California based corporation and wholly owned subsidiary of MVX.COM which was formed for the purpose of having MVX.COM LLC merge with and into MVX.COM Communications Inc. On September 6, 2000, MVX.COM Communications Inc. filed a Certificate of Amendment to its Amended and Restated Articles of Incorporation changing its legal name to QuantumShift. QuantumShift Communications of Virginia, Inc., whose parent company is vCom

¹ Commissioner Joseph L. Fiordaliso was not present at the December 16, 2015 agenda meeting.

Solutions Inc., which provides cloud-based telecommunications expense management software and professional services, is an affiliate of QuantumShift that provides telecommunication services. Petitioner's principal offices are located at 12657 Alcosta Boulevard, Suite 418, San Ramon, California 94583.

Petitioner has submitted copies of its Certificate of Amendment to the Amended and Restated Articles of Incorporation from the State of California, and its New Jersey Certificate of Authority to Transact Business as a Foreign Corporation. Petitioner is currently authorized to operate as a reseller and/or facilities-based provider of competitive local exchange and interexchange services in fifty (50) states, and is in the process of changing its certification to facilities-based Competitive Local Exchange Carrier ("CLEC"). Petitioner also is authorized to provide telecommunications services in Canada as a reseller. 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. Upon approval of its petition, Petitioner will initiate negotiation to enter into an interconnection agreement with appropriate Incumbent Local Exchange Carriers ("ILECs") in New Jersey.

Petitioner seeks authority to provide facilities-based competitive local exchange and interexchange telecommunications services to business and enterprise customers in the State of New Jersey. Petitioner does not intend to provide service to residential customers. Petitioner's service includes but is not limited to Voice Services such as local and long distance, advanced voice applications, Calling Cards and Mobile services, Data and Internet Services such as data, internet, Mobile wireless and fixed wireless, and Enhanced Applications services such as audio conferencing, web conferencing, hosted private branch exchange and virtual assistant services to business and enterprise customers throughout New Jersey. Petitioner also provides its services by assigning a team of experts in each area of the telecom lifecycle such as Client Engagement, Order Desk, Install Coordination, Service Delivery, Technical Support, Bill Consolidation and Audit, Carrier Negotiation, and Software Development to enterprise and business customers. Petitioner has extensive business and contractual relationships with all the major facilities-based providers in the marketplace, including, AT&T, CenturyLink, Verizon, Frontier, and Fair-Point, and also has relationships with alternative providers such as Tele-Pacific, EarthLink, Telekenex, TW Telecom, InterCall, and Granite. Petitioner's industries of focus include healthcare and biotechnology, legal, professional services, manufacturing and logistics, distribution, hospitality, non-profit, agriculture and education, with multiple sites across the country. Petitioner's long-term business plans consist of providing a complete portfolio of voice and data communications services by becoming a nation-wide CLEC, which would permit the QuantumShift to provide voice and other data services to complement its current services. Petitioner has no telephone network facilities currently under construction in New Jersey and does not intend to build facilities but will lease facilities from ILECs. Petitioner's services will be available to subscribers twenty-four hours per day, seven days per week, at rates, terms and conditions established by Petitioner. Petitioner maintains a toll-free number for customer service inquiries. Petitioner will file an initial tariff upon approval of its petition.

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 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 San Ramon, California.

By letter dated November 20, 2015, the New Jersey Division of Rate Counsel submitted comments to the Board stating that, based on its review, "Rate Counsel is satisfied that the

Verified Petition meets the regulatory requirements and is consistent with the public interest, convenience, and necessity, and does not oppose Petitioner's waiver requests connected to accounting and record-keeping methods in this matter. . . ." Id. at 1. Accordingly, Rate Counsel does not oppose a grant of authority or approval of Petitioner's request to provide telecommunications services in New Jersey. Id. at 2.

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(b).

In considering this petition, the Board recognizes its obligation not to prohibit entry into intrastate telecommunications markets by 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 "[p]rovide 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 QuantumShift' s petition and the information supplied in support thereof, the Board **FINDS** that Petitioner is in compliance with the Board's filing requirements to provide telecommunications services in New Jersey. Accordingly, the Board **HEREBY AUTHORIZES** Petitioner to provide local exchange and intrastate interexchange telecommunications services in the State of New Jersey. Pursuant to N.J.A.C. 14:3-1.3(a), the Board notes that 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, 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.

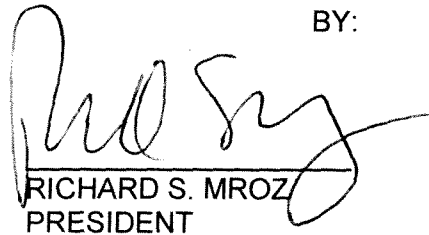
On or before February 1 of each year, Petitioner will receive from the Division of Audits an annual report package and a Statement of Gross Intrastate Revenues from Operations form for the preceding calendar year. The purpose of these documents is to report Petitioner's financial information and gross 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 Petitioner's responsibility to ensure timely filing of these reports.

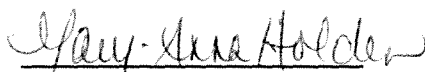
Regarding the Petitioner's request for waivers of the Board rules, the Board **HEREBY FINDS** that the Petitioner demonstrated good cause why the Board should grant relief from its requirements that the Petitioner maintain its books and records in accordance with USOA and within New Jersey. Therefore, 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 **HEREBY 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 December 26, 2015.

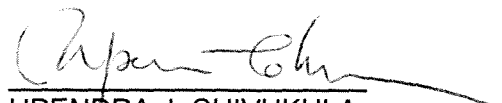
DATED: 12/16/15

BOARD OF PUBLIC UTILITIES
BY:



RICHARD S. MROZ
PRESIDENT


MARY-ANNA HOLDEN
COMMISSIONER

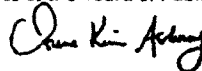

DIANNE SOLOMON
COMMISSIONER


UPENDRA J. CHIVUKULA
COMMISSIONER

ATTEST:


IRENE KIM ASBURY
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 QUANTUMSHIFT COMMUNICATIONS,
INC., DBA vCOM SOLUTIONS FOR A CERTIFICATE OF PUBLIC CONVENIENCE AND
NECESSITY TO PROVIDE LOCAL EXCHANGE AND INTRASTATE
INTEREXCHANGE TELECOMMUNICATIONS SERVICES
IN THE STATE OF NEW JERSEY**

DOCKET NO. TE15101209

SERVICE LIST

Jenna Brown, Director – Regulatory Affairs
QuantumShift Communications, Inc.,
d/b/a vCom Solutions
12657 Alcosta Boulevard
Suite 418
San Ramon, California 94583
Jbrown@vcomsolutions.com

Paul Flanagan, Esq.
Executive Director
Board of Public Utilities
44 South Clinton Avenue, 9th Floor
Post Office Box 350
Trenton, New Jersey 08625-0350
Paul.flanagan@bpu.state.nj.us

Carol Lisowski, Regulatory Consultant
CHL Solutions
3344 Regal Ridge Street
Las Vegas, Nevada 89129
CHLSolutions@msn.com

Irene Kim Asbury, Esq.
Secretary of the Board
Board of Public Utilities
44 South Clinton Avenue, 9th Floor
Post Office Box 350
Trenton, New Jersey 08625-0350
Irene.asbury@bpu.state.nj.us

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

Carol Artale, Esq.
Legal Specialist
Counsel's Office
Board of Public Utilities
44 South Clinton Avenue, 9th Floor
Post Office Box 350
Trenton, New Jersey 08625-0350
Carol.artale@bpu.state.nj.us

Maria T. Novas-Ruiz, Esq.
Division of Rate Counsel
140 East Front Street, 4th Floor
Post Office Box 003
Trenton, New Jersey 08625-0003
Mnovas-ruiz@rpa.state.nj.us

Alan Molner
Division of Telecommunications
Board of Public Utilities
44 South Clinton Avenue, 9th Floor
Post Office Box 350
Trenton, New Jersey 08625-0350
Alan.molner@bpu.state.nj.us

Patricia A. Krogman, Esq.
Deputy Attorney General
Department of Law & Public Safety
Division of Law
124 Halsey Street
Post Office Box 45029
Newark, New Jersey 07101-45029
Patricia.Krogman@dol.lps.state.nj.us

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
Valerie.haynes@bpu.state.nj.us