



Agenda Date: 6/29/16  
Agenda Item: IB

**STATE OF NEW JERSEY**  
**Board of Public Utilities**  
**44 South Clinton Avenue, 3<sup>rd</sup> Floor, Suite 314**  
**Post Office Box 350**  
**Trenton, New Jersey 08625-0350**  
**www.nj.gov/bpu/**

TELECOMMUNICATIONS

IN THE MATTER OF THE PETITION OF ENETWORKS, )  
LLC FOR AN ORDER OF APPROVAL TO PROVIDE )  
COMPETITIVE FACILITIES-BASED LOCAL )  
EXCHANGE, SWITCHED EXCHANGE ACCESS AND )  
INTEREXCHANGE TELECOMMUNICATIONS )  
SERVICES THROUGHOUT THE STATE OF NEW )  
JERSEY )  
ORDER  
  
DOCKET NO. TE16050434

**Parties of Record:**

**Grace S. Power, Esq.**, Eckert Seamans Cherin & Mellott, LLC 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 May 18, 2016, eNetworks, LLC ("Petitioner" or "eNetworks") filed a petition with the New Jersey Board of Public Utilities ("Board") requesting an Order of Approval to provide competitive facilities-based local exchange, switched exchange access, and interexchange telecommunications services to wireless commercial carriers throughout the State of New Jersey. Petitioner has submitted its financial information under seal and has filed a Motion for Confidentiality and 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.

eNetworks is a for-profit, privately held limited liability company organized under the laws of the State of Delaware. eNetworks is a wholly owned subsidiary of its parent companies, Telecommunications Strategies Consultants, LLC and Project Management and Design Services, LLC, each having a 50% ownership interest in eNetworks. As a result of eNetworks' association with its two parent companies, and an affiliate, Essentia, Inc., also operated, owned and/or controlled by the same parent companies, eNetworks has access to the financing and capital necessary to conduct its telecommunications operations. Petitioner's principal offices are located at 11020 David Taylor Drive, Suite 103, Charlotte, North Carolina 28262.

Petitioner has submitted copies of its Certificate of Formation from the State of Delaware and its New Jersey Certificate of Authority to Transact Business as a Foreign Limited Liability

Company. Petitioner is not currently providing local exchange or interexchange telecommunication services in other states, as it is not yet authorized to provide such services. Petitioner states that it has not been denied authority to provide telecommunications services nor has its authority been revoked in any jurisdiction. Moreover, eNetworks asserts that it has not been the subject of any civil or criminal proceedings. Petitioner is, however, planning to file petitions requesting authorization to provide local exchange and facilities-based interexchange services in Georgia, Kentucky, Louisiana, Maryland, Pennsylvania, Texas and Virginia. At present, Petitioner has not entered into interconnection agreements with Incumbent Local Exchange Carriers (ILECs). However, upon approval of its petition, Petitioner will initiate negotiations to enter into interconnection agreements with appropriate ILECs and competitive local exchange carriers.

Petitioner seeks authority to provide competitive facilities-based local exchange, switched exchange access, and interexchange telecommunications services to commercial wireless carriers throughout the State of New Jersey. Petitioner provides dark fiber, and other specialized services to carriers which is negotiated on an individual case basis and is determined based on location and demand. Petitioner intends to offer leases on mobile infrastructure i.e. primarily dark fiber and metro cell nodes to mobility companies like Verizon Wireless, AT&T, Sprint and T-Mobile on a build to suit basis. The location of these projects will depend on the demand growth of the carriers' networks for data, device, and population growth and, the fiber and node locations are not dependent upon traditional exchange boundaries but will be directed primarily by the mobile carriers who own the equipment and the data. Petitioner proposes to deploy fiber and outdoor metro cell nodes at the direction of the mobility carriers which is comprised of equipment and an antenna most typically mounted on or near a utility pole or light pole. Over 20,000 nodes have been deployed across the United States and the footprint of a node is typically, far less intrusive to a municipality than that of a traditional macro cell i.e. cell tower. Petitioner may rely on existing facilities which could be leased fiber, utility pole owner attachment agreement, etc. to deploy its network. And, in many cases Petitioner will also construct its own facilities. Petitioner maintains a toll-free number for customer service inquiries.

Concurrently with this petition, pursuant to N.J.A.C. 14:10-5.6(b), Petitioner filed its initial tariff under Docket No. TT16050435 on May 19, 2016 which will become effective thirty (30) days following approval of this petition.

Petitioner requests a waiver of N.J.S.A. 48:3-7.8 which require that books and records be kept within the State of New Jersey. Instead, 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 Charlotte, North Carolina in accordance with N.J.A.C. 14:1-5.15(a)(2).

By letter dated June 1, 2016, the New Jersey Division of Rate Counsel submitted comments to the Board stating that, based on its review; the Petition meets regulatory requirements and is consistent with the public interest, convenience, and necessity. Rate Counsel further does not object to a grant of the waiver requested in connection with record-keeping by Petitioner, nor does Rate Counsel oppose Petitioner's request to treat its financial information as confidential and placed under seal. Accordingly, Rate Counsel does not oppose a grant of authority or approval of Petitioner's request to provide local exchange telecommunications services to carrier customers in New Jersey.

## **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 eNetworks' 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, switched exchange access and interexchange telecommunications services in the State of New Jersey. The Board has noted that pursuant to N.J.A.C. 14:10-5.6(b), Petitioner has filed an initial tariff concurrently with this petition which will become effective thirty (30) days from the approval of this petition. Additionally, Petitioner is not relieved from its responsibility to file an Annual Report and a Statement of Gross Intrastate Revenues from Operations from 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) 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.
- 2) 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 Petitioner's request for a waiver of the Board rules, the Board **FINDS** that full compliance with the rule would adversely affect the entity. Good cause thus exists pursuant to N.J.A.C. 14:1-1.2 to waive the requirement that 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 waiver request to maintain its books and records in New Jersey.

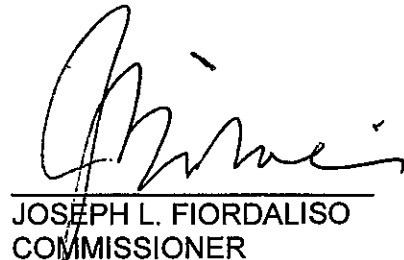
This Order shall be effective July 9, 2016.

DATED: 6/29/16

BOARD OF PUBLIC UTILITIES  
BY:



RICHARD S. MROZ  
PRESIDENT



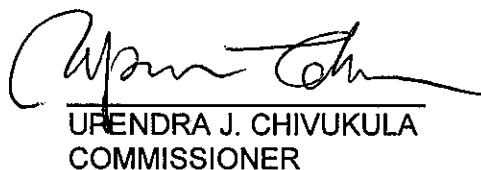
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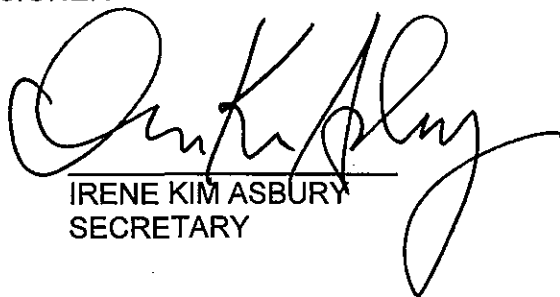
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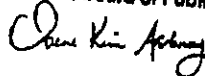
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URENDRA J. CHIVUKULA  
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ATTEST:   
IRENE KIM ASBURY  
SECRETARY

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 ENETWORKS, LLC FOR AN OREDR  
OF APPROVAL TO PROVIDE COMPETITIVE FACILITIES-BASED LOCAL EXCHANGE,  
SWITCHED EXCHANGE ACCESS AND INTEREXCHANGE TELECOMMUNICATIONS  
SERVICES THROUGHOUT THE STATE OF NEW JERSEY**

**DOCKET NO. TE16050434**

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