



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)
O1 COMMUNICATIONS EAST, LLC FOR AUTHORITY)
TO PROVIDE LOCAL EXCHANGE AND EXCHANGE)
ACCESS TELECOMMUNICATIONS SERVICES)
IN THE STATE OF NEW JERSEY)

ORDER

DOCKET NO. TE12090886

Parties of Record:

James H. Laskey, Esq., Norris, McLaughlin & Marcus, P.A., Bridgewater, NJ, 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 September 27, 2012, O1 Communications East, LLC ("Petitioner" or "O1 East") filed a Verified Petition with the New Jersey Board of Public Utilities ("Board") requesting authority to provide all forms of facilities-based competitive local exchange and exchange access telecommunications services throughout the State of New Jersey. Petitioner has submitted its financial information under seal and 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.

O1 East is a limited liability company organized under the laws of the State of Delaware and is a wholly owned subsidiary of O1 Communications, Inc. O1 East was initially formed on March 10, 2011 as Vaya Telecom of Georgia, LLC. The company filed a Certificate of Amendment to its Certificate of Formation on December 28, 2011, changing its name to O1 East. Petitioner's principal offices are located at 5190 Golden Foothill Parkway, El Dorado Hills, California 95762.

Petitioner has submitted copies of its Certificate of Amendment to its Certificate of Formation from the State of Delaware and its New Jersey Certificate of Authority to operate as a foreign limited liability company. Petitioner is currently authorized to provide telecommunications services in the States of Georgia and New York and is seeking authority to provide local and long distance telecommunications services in the States of Florida and Pennsylvania. 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states that it has not been denied authority to provide telecommunications services, its authority has not been revoked in any jurisdiction, and it has not been the subject of any civil or criminal proceedings.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 has not yet executed an interconnection agreement for its New Jersey operations but will negotiate such an agreement upon approval of its petition.

Petitioner seeks the authority to provide all forms of facilities-based competitive local exchange and exchange access telecommunications services in Verizon New Jersey, Inc.'s service territory to business customers throughout the State of New Jersey. Petitioner also seeks statewide authority to provide facilities-based interexchange telecommunications services. Petitioner proposes to provide a full range of local exchange services through the purchase of unbundled network elements using facilities and services of other carriers and its own facilities such as switches, routers, and associated electronics which Petitioner will install to its existing structures. Its local exchange services include basic local, optional calling features and listing services. Petitioner plans to offer wholesale services to Information and Voice over Internet Protocol service providers and to other carriers. Its services will be available twenty-four hours a day, seven days a week. Petitioner maintains a toll-free number for customer service inquiries. Petitioner will file a proposed 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 requires 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 El Dorado Hills, California. Petitioner also states, upon written notice from the Board 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, 01 East 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 01 East, are well qualified to execute its business plans and have extensive managerial and technical experience in the telecommunications industry.

By letter dated October 10, 2012, Division of Rate Counsel submitted comments with the Board recommending that the Board approve 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 01 East'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 exchange access 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 offer aforementioned services until a tariff is filed with the Board. Further, the Petitioner will not be relieved from its responsibility to file an Annual Report and a Statement of Gross Intrastate Revenues from Operations form for the preceding calendar year and payment of annual assessment to both the Board and the New Jersey Division of Rate Counsel.

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 31st of each year, which is due on or before March 31st 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 31st of each year, which is due on or before June 1 of the following year.

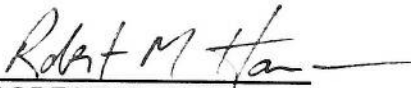
On or before February 1st of each year, the Petitioner will receive from the Division of Audits an annual report package and a statement of gross intrastate revenues from operations form for the preceding calendar year. The purpose of these documents is to report the Petitioner's financial information and gross intrastate revenues from operations as of December 31st of each year. The annual report and a statement of gross intrastate revenues from operations form are due on or before March 31st and June 1st 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 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 exemption from maintaining its books and records in accordance with USOA and in New Jersey.

DATED: 12/19/12

BOARD OF PUBLIC UTILITIES
BY:


ROBERT M. HANNA
PRESIDENT


JEANNE M. FOX
COMMISSIONER


JOSEPH L. FIORDALISO
COMMISSIONER


NICHOLAS ASSELTA
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



IN THE MATTER OF THE PETITION OF 01 COMMUNICATIONS EAST, LLC
FOR AUTHORITY TO PROVIDE LOCAL EXCHANGE AND EXCHANGE
ACCESS TELECOMMUNICATIONS SERVICES IN THE
STATE OF NEW JERSEY

DOCKET NO. TE12090886

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