



Agenda Date: 12/19/17  
Agenda Item: IA

**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/](http://www.nj.gov/bpu/)

TELECOMMUNICATIONS

IN THE MATTER OF THE VERIFIED PETITION OF )  
TRITON NETWORKS LLC FOR AUTHORITY TO )  
PROVIDE COMPETITIVE FACILITIES-BASED LOCAL )  
EXCHANGE SERVICES AND EXCHANGE ACCESS )  
SERVICES THROUGHOUT THE STATE OF NEW )  
JERSEY ) ORDER  
  
DOCKET NO. TE17101115

**Parties of Record:**

**James H. Laskey, Esq.**, Norris McLaughlin and Marcus, P. A. for Petitioner  
**Stefanie A. Brand, Esq.**, Director, New Jersey Division of Rate Counsel

BY THE BOARD:<sup>1</sup>

Pursuant to N.J.S.A. 48:2-1 et seq. and Section 253 of the Telecommunications Act of 1996, 47 U.S.C. § 151 et seq., and by letter dated October 30, 2017, Triton Networks LLC (“Petitioner” or “Triton Networks”) 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 services to small to medium size business customers 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.

**BACKGROUND**

Triton Network is a privately held limited liability company organized under the laws of the State of Texas. Petitioner’s principal offices are located at 12160 Abrams Road, Suite 200, Dallas, Texas 75243.

Petitioner has submitted copies of its Certificate of Amendment to the Articles of Organization and its Certificate of Fact to the Certificate of Formation from the State of Texas and its New Jersey Certificate of Authority to Transact Business as a Foreign Limited Liability Company. Petitioner is currently authorized to provide competitive telecommunications services in the State of Texas. Petitioner states that it has not been denied authority to provide

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<sup>1</sup> Commissioner Upendra J. Chivukula did not participate.

telecommunications services, its authority has not been revoked in any jurisdiction, and it has not been the subject of any civil or criminal proceedings including any settlement. Additionally, Petitioner has never filed for bankruptcy nor has it been the subject of any state or federal investigation. Upon approval of its petition, Petitioner intends to negotiate an interconnection agreement with Verizon-New Jersey Inc. ("Verizon") in accordance with 47 United States Code ("U.S.C.") Section ("§") 252 and applicable rules.

Petitioner is requesting authority to provide all forms of facilities-based competitive local exchange, and exchange access services to small to medium size business customers in exchanges served by Verizon in the State of New Jersey. Petitioner seeks statewide authority so that it may expand its service areas as market conditions warrants and as additional service areas become open to competition. Petitioner proposes to offer aforementioned service by leasing and using Unbundled Network Elements ("UNE") and Resold Services available from the underlying incumbent local exchange carriers or other facilities-based carriers. Its switched directed dialed long distance services will be provided by reselling the services of underlying interexchange carriers. Petitioner will ensure that its retail customers have access to 911 services, directory assistance and telecommunications relay service. Petitioner does not intend to install its own facilities, but will lease UNE from Verizon and will rely on Verizon's engineering and network management for maintenance of the network. Petitioner stated customer service is available seven days/week, twenty-four hours/day and an informational schedule of prices, terms and conditions of service, and rates will be made available publicly on its website. Petitioner maintains a toll-free number for customer service inquiries.

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. For administrative efficiencies, Petitioner requests permission to maintain its books and records in accordance with Generally Accepted Accounting Principles ("GAAP") and to keep all financial 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 Dallas, Texas.

By letter dated November 28, 2017, the New Jersey Division of Rate Counsel ("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. Rate Counsel does not object to granting the waiver requests in connection with record-keeping by Petitioner, nor does Rate Counsel oppose Petitioner's request to treat its financial information as confidential and place under seal. Accordingly, Rate Counsel does not oppose a grant of authority or approval of Petitioner's request to provide competitive local exchange and exchange access telecommunications services throughout the State of New Jersey.

## **DISCUSSION**

On February 8, 1996, the 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, promoting competition and removing barriers to entry in telecommunications markets 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). The Board, as the State regulatory authority, may impose requirements necessary to protect the public safety and welfare, ensure the continued quality of

telecommunications services, and safeguard the rights of consumers on a competitively neutral basis and consistent with universal service. 47 U.S.C. § 253(b).

In considering this petition for CLEC authority to provide telecommunication services, the Board recognizes its obligation not to prohibit entry into intrastate telecommunications markets by qualified applicants. 47 U.S.C. § 253(a). The Board additionally notes the State policy to “[p]rovide diversity in the supply of telecommunications services” and the Legislative 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” pursuant to the New Jersey Telecommunications Act of 1992. N.J.S.A. 48:2-21.16(a)(4), and N.J.S.A. 48:2-21.16(b)(1) and (3).

Therefore, having reviewed Triton Network’s petition and the information supplied, the Board **FINDS** that Petitioner with respect to their request to provide facilities-based landline CLEC services only, is in compliance with the Board’s filing requirements to provide landline facilities-based competitive local exchange telecommunications landline services in New Jersey. Accordingly, the Board **HEREBY AUTHORIZES** Petitioner to provide competitive facilities-based local exchange and exchange access telecommunications services in the State of New Jersey. These findings and authorization do not pertain to non-CLEC services. Pursuant to N.J.S.A. 48:2-21.19(a)(2) and N.J.A.C. 14:10-5.2, Petitioner must make the terms and conditions of said service publicly available on its website and must provide a printed copy of those terms and conditions to a customer upon request.

The granting of such authority conveys certain rights and privileges upon the Petitioner, in its designation as a CLEC in New Jersey, which are reserved for the provision of facilities-based landline services. While CLECs may also provide other telecommunications services, such as wireless, small cell or distributed antenna systems, these service offerings are beyond the scope of Board jurisdiction and the granting of CLEC authority in this Order and generally. Specifically, the Board granting of CLEC authority is limited to the provision of competitive facilities-based local and interexchange services. To the extent that a CLEC provides non-regulated telecommunications services, the CLEC benefits, rights or privileges are not applicable to those non-regulated services.

The Board **HEREBY ORDERS:**

- 1) Petitioner shall provide notice to the Board of its website link which contains the terms and conditions of its competitive local exchange telecommunications services within five (5) days from the effective date of a Board Order. To ensure service quality, Petitioner shall notify the Board within 10 days from the date it begins service to New Jersey customers;
- 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. If Petitioner does not receive the Board’s annual report package from the Division of Audits on or before February 1 of each year, it is Petitioner’s responsibility to obtain them from the Board. It is also Petitioner’s responsibility to ensure timely filing of these reports. 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.
- 4) Failure to comply with this order may result in monetary penalties pursuant to N.J.S.A. 48:2-42, suspension of CLEC authority, and/or revocation of CLEC authority; and
- 5) 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.

Petitioner additionally requests a waiver of N.J.S.A. 48:3-7.8 and N.J.A.C. 14:1-4.3. Petition seeks authority to keep its books and records outside the State of New Jersey and in accordance with GAAP. The request was noticed and unopposed. Upon review, the Board **FINDS** that the Petitioner demonstrated good cause why relief should be granted. Subject to the Petitioner's continuing responsibility to produce such records at such time and place within this State as the Board may designate, in the manner requested, and to pay all expenses or charges incurred for any investigation or examination of these books and records, the Board **GRANTS** its permission to keep records, books, accounts, documents and other writings outside the State of New Jersey pursuant to N.J.A.C. 14:1-15 and waives the USOA requirement at N.J.A.C. 14:1-4.3.

This Order shall be effective December 29, 2017.

DATED: 12/19/17

BOARD OF PUBLIC UTILITIES  
BY:



RICHARD S. MROZ  
PRESIDENT



JOSEPH L. FIORDALISO  
COMMISSIONER

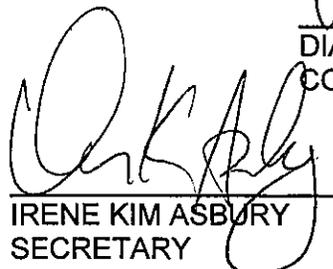


MARY-ANNA HOLDEN  
COMMISSIONER



DIANNE SOLOMON  
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 TRITON NETWORKS LLC FOR  
AUTHORITY TO PROVIDE COMPETITIVE FACILITIES-BASED LOCAL EXCHANGE  
SERVICES AND EXCHANGE ACCESS SERVICES THROUGHOUT THE STATE OF  
NEW JERSEY - DOCKET NO. TE17101115**

**SERVICE LIST**

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