



Agenda Date: 5/22/24  
Agenda Item: IB

**STATE OF NEW JERSEY**  
**Board of Public Utilities**  
44 South Clinton Avenue, 1<sup>st</sup> Floor  
Post Office Box 350  
Trenton, New Jersey 08625-0350  
[www.nj.gov/bpu/](http://www.nj.gov/bpu/)

OFFICE OF CABLE TELEVISION  
AND TELECOMMUNICATIONS

IN THE MATTER OF THE PETITION OF ARCHTOP ) ORDER  
FIBER LLC FOR AN ORDER OF APPROVAL TO )  
PROVIDE COMPETITIVE RESOLD AND FACILITIES- )  
BASED LOCAL EXCHANGE AND INTEREXCHANGE )  
TELECOMMUNICATIONS SERVICES ) DOCKET NO. TE23120908  
THROUGHOUT THE STATE OF NEW JERSEY )

**Parties of Record:**

**Brian O. Lipman, Esq., Director**, New Jersey Division of Rate Counsel  
**Shawn Beqaj** for Archtop Fiber LLC

BY THE BOARD:

On December 14, 2023, Archtop Fiber LLC (“Petitioner” or “Archtop”) filed a petition with the New Jersey Board of Public Utilities (“Board”), requesting an order of approval to provide competitive facilities-based local exchange and interexchange telecommunications services throughout the State of New Jersey (“Petition”). Petitioner has submitted its financial statements subject to a claim of confidentiality filed pursuant to the Board’s rules for determining confidentiality, N.J.A.C. 14:1-12 et seq., and consistent with the Open Public Record Act, N.J.S.A. 47:1A-1 et seq. By the Petition, Archtop also requested a waiver of N.J.S.A 48:3-7.8 and N.J.A.C. 14:1-5.15(a), which require records to be maintained in the State of New Jersey.

**BACKGROUND**

Archtop is a privately held limited liability company organized under the laws of the State of Delaware on February 22, 2022. The Petitioner is a wholly owned subsidiary of Archtop Fiber Intermediate, LLC. Petitioner’s principal office is located at 300 Enterprise Dr, Kingston, New York 12401. Petitioner has submitted a copy of Certificate of Formation from the State of Delaware and its New Jersey Certificate of Authority to transact business as a for profit foreign limited liability company.

Petitioner is authorized as a Competitive Local Exchange Carrier (“CLEC”) in the Commonwealth of Massachusetts, State of New York, and the Commonwealth of Pennsylvania. Petitioner asserted that its authority to operate has not been revoked in any jurisdiction and there have been no cases of Petitioner withdrawing an application to provide telecommunications service upon

notification of a state regulatory body that the applications would not likely be approved. Petitioner has not been the subject of civil or criminal proceedings in any jurisdiction and in no instance has Petitioner's operating authority been denied.

Concurrently with the Petition, Archtop filed applications for transfer of control with the Federal Communications Commission to acquire three Incumbent Local Exchange Carriers ("ILECs") based in the State of New York, of which each of them have been approved. One (1) of the applications involved acquisition of Alteva of Warwick LLC, an ILEC based in the State of New York that also operates in the State of New Jersey.<sup>1</sup> Besides these acquisitions, Petitioner asserted that it plans to expand into new territories as a competitive provider.

Petitioner sought authority to provide facilities-based competitive local exchange, switched exchange access, broadband, dedicated private lines, and inter Local Access and Transport Area ("LATA") /intraLATA interexchange telecommunications services within the State of New Jersey. Petitioner will provide services including dial tone service, custom calling features, and toll services for residential and business customers. Petitioner indicated that it intends to provide services with Voice Over Internet Protocol ("VoIP") technologies. Petitioner further indicated that it intends to use its own switching facilities and build a fiber network to serve customers. Petitioner also intends to offer switched exchange access telecommunications services to interconnecting carriers. Petitioner asserted that it plans to construct new Fiber to the Home (FTTH) networks in various areas of the state. The fiber networks will be built by attaching fiber to existing power/telephone poles owned by other companies with some buried facilities as needed. Petitioner asserted that it is more cost effective with a faster construction period to install aerial cable as much as possible, with buried cable in limited situations.

Petitioner indicated that it initially expects to negotiate with Verizon New Jersey for an interconnection agreement, which will be filed with the Board for approval upon finalization. Petitioner represented that it will coordinate with ILECs for the provision of emergency 911 services, directory publishing, and directory distribution to local customers. Petitioner's services will be available to customers 24 hours per day, seven (7) days per week, at rates, terms, and conditions established by Petitioner, pursuant to its approved tariff. Petitioner maintains toll free number for customer service inquiries.

Pursuant to N.J.A.C. 14:1-1.2, Petitioner also requested a waiver of N.J.S.A 48:3-7.8 and N.J.A.C. 14:1-5.15, which pertain to maintenance of books and records in New Jersey. Petitioner instead requests permission to keep all books, records, documents, and other writings incident to the conduct of its business in the State of New Jersey at its corporate offices located in Kingston, New York.

By letter dated April 22, 2024, the New Jersey Division of Rate Counsel ("Rate Counsel") submitted comments to the Board stating that, based on its review, it is satisfied that the Petition meets the regulatory requirements and is consistent with the public interest, convenience, and necessity. Rate Counsel did not object to granting the waiver requests in connection with maintaining books and records in New Jersey. Accordingly, Rate Counsel did not oppose a grant of authority or approval of Petitioner's request to provide local and interexchange telecommunications services throughout the State of New Jersey.

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<sup>1</sup>See In the Matter of the Verified Petition of Alteva of Warwick LLC, MBS Intermediate Holdings, LLC, Archtop Fiber LLC for Approval of a Transfer of Control, BPU Docket No. TM23060344, Order dated December 6, 2023.

## **DISCUSSION AND FINDINGS**

On February 8, 1996, the Federal Telecommunications Act of 1996, Pub. L. No. 104-104, 110 Stat. 56 (1996), was signed into law to promote competition and remove barriers to entry into telecommunications markets. To that end, 47 U.S.C. § 253(a) provides 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.” However, pursuant to 47 U.S.C. § 253(b), the Board, as the State’s 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 that is consistent with universal service.

In considering the instant Petition for CLEC authority to provide telecommunication services, the Board recognizes its obligation to not prohibit entry into intrastate telecommunications markets by qualified applicants. 47 U.S.C. § 253(a). The Board additionally notes that, pursuant to the New Jersey Telecommunications Act of 1992, N.J.S.A. 48:2-21.16 et seq., State policy is 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.” N.J.S.A. 48:2-21.16(a)(4), (b)(1) and (b)(3). Consistent with State and federal law, the Board is empowered to grant CLEC authority to telecommunications companies wishing to provide service in New Jersey. See N.J.S.A. 48:2-13 and 48:2-21.20(d).

Therefore, having reviewed the Petition and the information supplied, the Board **HEREBY FINDS** that, with respect to its request for approval to provide local exchange and interexchange services, Petitioner follows 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 local exchange and interexchange services throughout 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 shall make the rates, terms, and conditions of said service publicly available on its website and shall provide a printed copy of those terms and conditions to a customer upon request and the link to the CLEC website with this information for inclusion on the Board’s website.

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) Pursuant to N.J.S.A. 48:2-21.19(a)(2) and N.J.A.C. 14:10-5.2, Petitioner shall post the terms and conditions of its retail competitive services on its website in a publicly available location and shall also provide a printed copy of those terms and conditions to a customer upon the customer’s request.

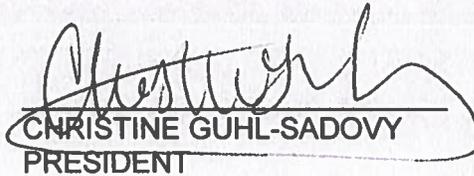
- 2) Petitioner shall provide the Board and Rate Counsel with a link to the page of the website described above that contains the terms and conditions of its competitive local exchange and interexchange telecommunications services no later than five (5) days after the effective date of this Order. To ensure service quality, the Petitioner shall notify the Board within 10 days from the date it begins providing such services to New Jersey customers.
- 3) In the event Petitioner intends to provide or provides services requiring the provision of 9-1-1 or E-9-1-1 services under Federal law, Petitioner shall provide the Board with a link to the page of its website that contains the terms and conditions of 9-1-1 and E-9-1-1 services to ensure that Petitioner's owned/leased facilities are equipped to provide reliable and functional access to 9-1-1 and E-9-1-1 services to subscribers. To ensure service quality, the Petitioner shall notify the Board within ten (10) days from the date it begins providing such services to New Jersey customers.
- 4) Pursuant to N.J.S.A. 48:2-16(2)(b), N.J.A.C. 14:3-6.3, and N.J.S.A. 48:2-62, Petitioner shall file an annual report and a statement of gross intrastate revenues from operations form (AR3-1) as of December 31 of each year, which is due on or before March 31 and June 1 of the following year, respectively. 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 the 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.
- 5) 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.
- 6) In accordance with N.J.S.A. 48:2-59, N.J.S.A. 48:2-60, and N.J.S.A. 52:27EE-52, Petitioner is subject to an annual assessment by both the Board and Rate Counsel, respectively.

The Petitioner additionally requested a waiver of N.J.S.A. 48:3-7.8 and N.J.A.C. 14:1-5.15(a). Upon review, the Board **HEREBY FINDS** that the Petitioner demonstrated requisite good cause for the Board to grant such relief pursuant to N.J.A.C. 14:1-1.2. Accordingly, the Board **HEREBY GRANTS** Archtop permission to refrain from the bookkeeping requirements at N.J.S.A 48:3-7.8 N.J.A.C. 14:1-5.15(a).

This Order shall be effective May 29, 2024.

DATED: May 22, 2024

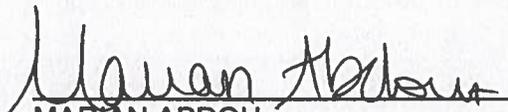
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COMMISSIONER



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MICHAEL BANGE  
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ATTEST:



SHERRIL GOLDEN  
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 ARCHTOP FIBER LLC FOR AN ORDER OF APPROVAL TO PROVIDE  
COMPETITIVE RESOLD AND FACILITIES-BASED LOCAL EXCHANGE AND INTEREXCHANGE  
TELECOMMUNICATIONS SERVICES THROUGHOUT THE STATE OF NEW JERSEY

DOCKET NO. TE23120908

SERVICE LIST

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