



STATE OF NEW JERSEY
Board of Public Utilities
Two Gateway Center
Newark, NJ 07102
www.nj.gov/bpu/

IN THE MATTER OF THE PETITION OF MICROWAVE)
SATELLITE TECHNOLOGIES, INC. FOR AUTHORITY)
TO PROVIDE FACILITIES-BASED LOCAL EXCHANGE)
SERVICES AND INTEREXCHANGE TELECOMMUNICA)
TIONS SERVICES THROUGHOUT THE STATE OF)
NEW JERSEY)

TELECOMMUNICATIONS

ORDER

DOCKET NO. TE07060412

(SERVICE LIST ATTACHED)

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 June 21, 2007, Microwave Satellite Inc. ("Petitioner" or "MST") filed a Petition with the New Jersey Board of Public Utilities ("Board") requesting authority to provide all forms of regulated telecommunications services, including local exchange service, on a facilities-based and resale basis 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: A-1 et seq.,

MST was incorporated under the laws of the State of New Jersey on May 6, 1982. Petitioner's principal offices are located at 259-263 Goffle Road, Hawthorne, New Jersey 07506. Petitioner submitted copies of its Articles of Incorporation and New Jersey Certificate of Good Standing. Petitioner is a wholly owned subsidiary of MSTI Holdings Inc., a publicly-traded company organized under the laws of the State of Delaware. The competitive exchange carrier questionnaire submitted indicates that MST may offer services to both residential and business customers in certain major metropolitan areas, including, but not limited to, Edgewater, Jersey City and Paterson. MST states that prior to providing local exchange service, it will enter into a resale agreement with Verizon of New Jersey. Petitioner added at such time as MST determines it is economically feasible to do so, it may broaden its service territory and may obtain its own facilities to provide such services. According to the Petition, MST's application for certification as a common carrier is currently pending before the New York State Public Service Commission. Petitioner does not operate as a regulated telecommunications carrier in any jurisdiction and is

not seeking authority to provide local exchange services in any other jurisdiction. MST claims that it has never acquired a customer by switching it from another company without customer authorization. Petitioner states that it has never been the subject of a complaint or investigation for the unauthorized switching of a customer's local or long distance service from one carrier to another. Petitioner asserts that it will obtain prior customer authorization for all carrier change orders in accordance with applicable federal and state regulations. Petitioner also added that no legal proceedings are currently pending that could be expected to have material adverse effect on MST's business and financial condition.

MST is a carrier class communications technology company specializing in providing quadruple play ("Quad-Play") services (video, Voice over Internet Protocol (VOIP), high-speed internet and Wireless Fidelity (Wi-Fi) access) to multi-tenant unit and multi-dwelling unit residential, hospitality and commercial properties. MST is also a national internet service provider (ISP) offering a full range of services including the design, installation and service of satellite and IP based video conferencing and surveillance/security systems.

MST seeks Board authority to provide facilities-based services, as well as to provide services as a reseller of all forms of regulated telecommunications within New Jersey, including local exchange services. MST initially plans to provide regulated telecommunications services as a pure reseller. MST seeks authority to provide facilities-based local exchange authority to permit the expansion of its service offerings through the deployment of its own local exchange facilities or by leasing such facilities from the incumbent local exchange provider (e.g. Verizon New Jersey). Prior to providing regulated telecommunications services, MST intends to enter into a resale and/or interconnection agreement, as applicable.

MST intends to offer such services to both residential and business customers.

According to Petitioner, services to be offered may include, but are not limited to, local dial tone, two-way local lines/trunks, custom calling features, flat-rate local and long distance services, Centrex and/or similar services, DSL, ISDN, frame relay and other high capacity line services, and certain ancillary services. Petitioner states that prior to providing such services, MST will enter into the appropriate resale and/or interconnection agreement and as applicable, file tariffs, subject to review by the Board of Public Utilities, setting forth the terms and conditions of MST's provision of any such regulated telecommunications services as a facilities-based carrier. MST also states that at such time, it will provide access to public safety/emergency telephone services in accordance with applicable rules and regulations. Petitioner states that it will comply with the Board's Consumer Protection Standards, Title 48 of the New Jersey Statutes and the Administrative Code, including, but not limited to N.J.A.C. 14:3-1 et seq., and 14:10-1.1 et seq. Petitioner's toll free number for local customer service is 866-859-6800.

Petitioner requests a waiver of N.J.A.C. 14:1-4.3 which requires that books and records be maintained in accordance with the Uniform System of Accounts ("USOA"). In the interest of efficiency and to prevent undue burden, Petitioner requests permission to maintain its books and records in accordance with Generally Accepted Accounting Principles.

Petitioner states that, as evident from the information contained in Exhibit D, MST is managed by persons with substantial technical expertise in designing, constructing and operating telecommunications networks. Petitioner currently possesses qualified personnel, either as employees of MST or under contract with MST, including individuals specializing in accounting, engineering, sales, customer support and all other personnel required for MST to provide the regulated telecommunications services throughout the State of 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).

Therefore, Board approval of Petitioner’s entry into the telecommunications marketplace is required, as long as Petitioner is in compliance with the Board’s filing requirements to provide telecommunications services in New Jersey. 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 MST’s Petition and the information supplied in support thereof, 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 interexchange telecommunications services throughout 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. 52:27E-61 and 52:27E-62, the Petitioner is subject to an annual assessment by both the Board and the Division of the Rate Counsel respectively. The Board notes that the Petitioner will not be permitted to provide telecommunications services until a tariff is filed with the Board.

The Board HEREBY ORDERS that:

- 1) Petitioner 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.

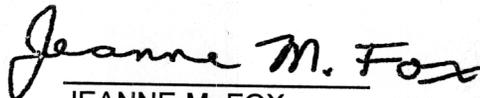
On or before February 1st of each year, the Petitioner will receive from the Division of Audits an annual report package and a statement of gross intrastate revenues from operations form for the preceding calendar year. The purpose of these documents is to report the company’s financial

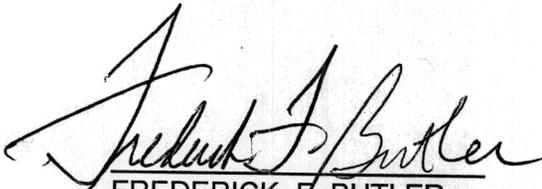
information and gross intrastate revenues from operations as of December 31 of each year. The annual report and statement of gross intrastate revenues from operations form are due on or before March 31 and June 1 of the following year, respectively. If Petitioner does not receive these documents, it is Petitioner's responsibility to obtain them from the Board. It is also the Petitioner's responsibility to ensure timely filing of these reports.

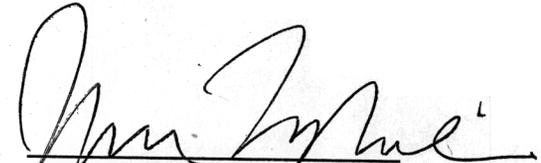
Regarding the Petitioner's request for a waiver of the Board rules, the Board FINDS that the Petitioner has demonstrated good cause why the Board should grant relief from its requirement that the Petitioner maintain its books and records under the USOA. The Board APPROVES the Petitioner's request for exemption from maintaining its books and records under the USOA.

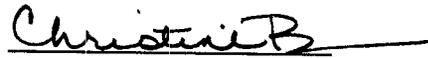
DATED: 11/28/07

BOARD OF PUBLIC UTILITIES
BY:

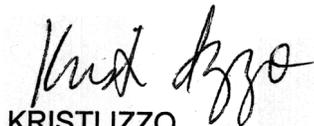

JEANNE M. FOX
PRESIDENT


FREDERICK F. BUTLER
COMMISSIONER

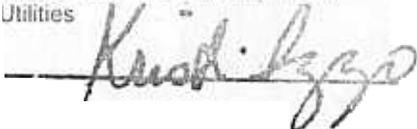

JOSEPH L. FIORDALISO
COMMISSIONER


CHRISTINE V. BATOR
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 MICROWAVE SATELLITE TECHNOLOGIES, INC.
FOR A CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY TO PROVIDE
FACILITIES- BASED LOCAL EXCHANGE SERVICES AND INTEREXCHANGE
TELECOMMUNICATIONS SERVICES THROUGHOUT THE STATE OF NEW JERSEY
DOCKET NO. TE07060412

SERVICE LIST

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