



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

TELECOMMUNICATIONS

IN THE MATTER OF THE PETITION OF ALEC, INC.)
D/B/A ALEC OF KENTUCKY, INC. FOR AUTHORITY TO)
PROVIDE LOCAL EXCHANGE AND INTEREXCHANGE)
TELECOMMUNICATIONS SERVICES)
THROUGHOUT THE STATE OF NEW JERSEY)

ORDER

DOCKET NO. TE09090761

James H. Laskey, Esq. Norris, McLaughlin & Marcus, P.A. Bridgewater, New Jersey for
Petitioner

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 17, 2009, ALEC, Inc. d/b/a ALEC of Kentucky, Inc. ("Petitioner" or "ALEC") filed a Petition with the New Jersey Board of Public Utilities ("Board") requesting authority to provide all forms of competitive and facilities-based local exchange and interexchange telecommunications services 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. 14:1-12.1 et seq. and in compliance with the Open Public Records Act, N.J.S.A. 47:1A-1 et seq.

ALEC is a privately held corporation organized under the laws of the State of Kentucky. ALEC is a wholly-owned subsidiary of SinglePipe Communications, Inc., a wholesale provider of Internet Protocol-based voice, data and other enhanced services to cable companies, Internet Service Providers, competitive local exchange carriers and other technology companies. Petitioner's principal offices are located at 250 West Main Street, Suite 1920, Lexington, Kentucky 40507.

Petitioner has submitted copies of its Certificate of Incorporation from the State of Kentucky and its New Jersey Certificate of Authority to Operate as a Foreign Corporation. At present, the Petitioner is authorized to provide local exchange and interexchange long distance telecommunications services in the States of Alabama, California, Florida, Georgia, Kansas, Kentucky, Mississippi, Nebraska, Nevada, North Carolina, Ohio, South Carolina, Tennessee, Texas and Washington and its applications for authority to provide local exchange and/or

interexchange telecommunications services are pending in the States of Indiana, New York, Pennsylvania and Wisconsin. 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 proceeding. At present, Petitioner has not entered into an interconnection agreement with an Incumbent Local Exchange Carrier ("ILEC") however, upon approval it intends to negotiate such agreement with Verizon New Jersey Inc.

Petitioner seeks authority to provide all forms of competitive and facilities-based local exchange and interexchange telecommunications services to both residential and business customers in the State of New Jersey. It plans to provide said services to the extent the network and transmission facilities of its facilities-based competitive suppliers permit. ALEC intends to collocate switching, signaling systems and other equipment of ILEC and non-ILEC collocation facilities such as carrier hotels, and to lease capacity of fiber circuits from other carriers. The company states that the location of its facilities will depend upon the service requests of its customers and therefore it has not been fully finalized. ALEC currently does not anticipate the physical construction of fiber optic or copper cables and it states that it has electronic interfaces with all major suppliers for the provisioning and maintenance of services. Petitioner states that monitoring and support network services are available twenty-four hours a day and 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. 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 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 Lexington, Kentucky. Petitioner states, upon written notice from the Board and/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 the 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, ALEC 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 ALEC, are well qualified to execute its business plans and have extensive managerial and technical experience in the telecommunications industry.

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 ALEC'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 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 provide telecommunications services until a tariff is filed with the Board. However, Petitioner is not 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 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 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 the Petitioner's responsibility to ensure timely filing of these reports.

Regarding the Petitioner's request for waivers 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 maintain 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 any reasonable 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 exemptions from maintaining its books and records in accordance with USOA and in New Jersey.

DATED: 11/10/09

BOARD OF PUBLIC UTILITIES
BY:



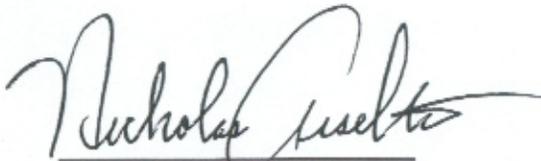
JEANNE M. FOX
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FREDERICK F. BUTLER
COMMISSIONER



JOSEPH L. FIORDALISO
COMMISSIONER

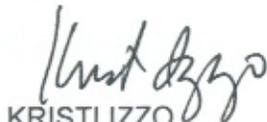


NICHOLAS ASSELTA
COMMISSIONER



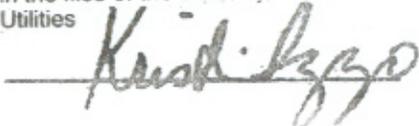
ELIZABETH RANDALL
COMMISSIONER

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 ALEC, INC. D/B/A ALEC OF KENTUCKY, INC.
FOR AUTHORITY TO PROVIDE LOCAL EXCHANGE AND INTEREXCHANGE
TELECOMMUNICATIONS SERVICES IN THE STATE OF NEW JERSEY

DOCKET NO. TE09090761

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