



Agenda Date: 6/8/09  
Agenda Item: **IB**

**STATE OF NEW JERSEY**  
**Board of Public Utilities**  
**Two Gateway Center**  
**Newark, NJ 07102**  
**[www.nj.gov/bpu/](http://www.nj.gov/bpu/)**

TELECOMMUNICATIONS

IN THE MATTER OF THE PETITION OF ENTELEGENT )  
SOLUTIONS, INC. FOR AUTHORITY TO PROVIDE )  
LOCAL EXCHANGE, INTEREXCHANGE AND ACCESS )  
EXCHANGE TELECOMMUNICATIONS SERVICES )  
THROUGHOUT THE STATE OF NEW JERSEY )

ORDER

DOCKET NO. TE09040281

(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 March 31, 2009, Entelegent Solutions, Inc. ("Petitioner" or "Entelegent") filed a Petition with the New Jersey Board of Public Utilities ("Board") requesting authority to provide both resold and facilities-based competitive local exchange, interexchange and access exchange 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 et seq. and in compliance with the Open Public Records Act, N.J.S.A. 47:1A-1 et seq.

Entelegent is a privately held corporation organized under the laws of the State of North Carolina. Tom Turpin is the Chairman and principal owner and has 100% ownership interest in the company. W. B. Wheeler, the President and David Gibson, Vice President of Operations are the principal operators of the company. Lightwave Consulting Group, a provider of Telecom Consulting and Sales Services is 100% operated, owned and/or controlled by the principal owner of Entelegent. Petitioner's principal offices are located at 3800 Arco Corporate Drive, Suite 310, Charlotte, North Carolina 28273.

Petitioner has submitted copies of its Certificate of Incorporation from the State of North Carolina and its New Jersey Certificate of Authority to Operate as a Foreign Corporation. At present, the Petitioner has not yet initiated operations in any state. The Petitioner is a start-up company and is in the process of applying for local and long distance authority nationwide excluding the State of Alaska. Petitioner states that it has not been denied authority to provide telecommunications services, its authority has not been revoked in any jurisdiction and it has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, it intends to negotiate such agreement with Verizon New Jersey Inc. ("Verizon").

Petitioner seeks authority to provide both resold and facilities-based competitive local exchange, interexchange and access exchange telecommunications services to both residential and business customers in the State of New Jersey. The company proposes to offer these services through the purchase of unbundled network elements and resold services available from the underlying ILEC or other facilities-based carriers. Petitioner initially proposes to offer services in the Verizon service territory and in the future, it may offer services in other territories as well. Petitioner currently has no plans to construct its own facilities in New Jersey, instead it intends to rely upon the facilities of its underlying carriers. 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.<sup>1</sup> 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 Charlotte, North Carolina. 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, Enteleger 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 Enteleger, 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).

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<sup>1</sup> The Petitioner requests a waiver of the requirement to use USOA, as set forth in N.J.A.C. 14:10-1.16(a), which was recodified as N.J.A.C. 14:10-1A.16 effective September 17, 2007. N.J.A.C. 14:10-1A.16 provides that "all carriers that are required by the FCC to use the [USOA] for Telephone Companies found in 47 CFR Part 32 shall use that system of accounts for intrastate reporting purposes." The Board deems Petitioner's request for a waiver of the requirement to use USOA to also be a request for a waiver of the requirements of N.J.A.C. 14:1-4.3.

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 Enteleget'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, interexchange and access exchange 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 to the Board 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 1<sup>st</sup> 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

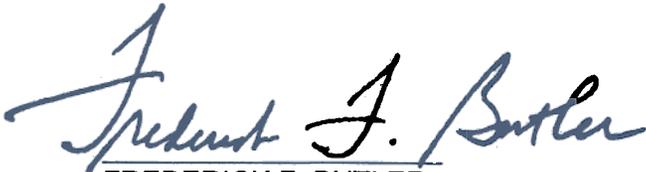
Jersey. Therefore, subject to the Petitioner's continuing responsibility to provide the Board books and records upon 48 hours notice, and in the manner requested, and to pay to the Board any reasonable expenses or charges incurred by the Board for any investigation or examination of these books and records, 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: 6/10/09

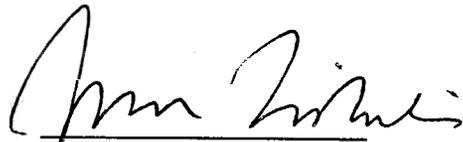
BOARD OF PUBLIC UTILITIES  
BY:



JEANNE M. FOX  
PRESIDENT



FREDERICK F. BUTLER  
COMMISSIONER



JOSEPH L. FIORDALISO  
COMMISSIONER



NICHOLAS ASSELTA  
COMMISSIONER



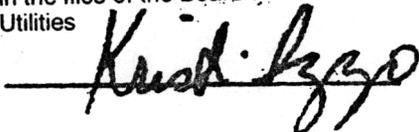
ELIZABETH RANDALL  
COMMISSIONER

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 ENTELEAGENT SOLUTIONS, INC. FOR AUTHORITY  
TO PROVIDE LOCAL EXCHANGE, INTEREXCHANGE AND ACCESS EXCHANGE  
TELECOMMUNICATIONS SERVICES IN THE STATE OF NEW JERSEY

DOCKET NO. TE09040281

SERVICE LIST

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