



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)
NORTHEASTERN ITS, LLC FOR APPROVAL TO)
PROVIDE LOCAL EXCHANGE AND INTEREXCHANGE)
TELECOMMUNICATIONS SERVICES)
THROUGHOUT THE STATE OF NEW JERSEY) ORDER

DOCKET NO. TE09030225

(SERVICE LIST ATTACHED)

BY THE BOARD¹

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 24, 2009, Northeastern ITS, LLC (“Petitioner” or “Northeastern”) filed a Petition with the New Jersey Board of Public Utilities (“Board”) requesting authority to provide on a competitive basis all forms of switched and dedicated, both resold and facilities-based local exchange, interexchange and carrier 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.

Northeastern is a privately owned limited liability company organized under the laws of the State of Pennsylvania. Northeastern is a wholly owned subsidiary of Spread Networks, LLC (“SN LLC”), an entity created solely for investment purposes. Barksdale Communications, Dama Fiber and DES Investments are the principal owners and shareholders of SN LLC, each having 75%, 12.5% and 12.5% ownership interest respectively in Northeastern. Job 8, LLC, a telecommunications infrastructure and services provider is also commonly controlled by SN LLC. Petitioner’s principal offices are located at 800 Woodlands Parkway, Suite 118, Ridgeland, Mississippi 39157.

Petitioner has submitted copies of its Certificate of Organization from the State of Pennsylvania and its New Jersey Certificate of Authority to Operate as a Foreign Limited Liability Company. At present, Petitioner does not have current or pending authorizations in any jurisdictions, is not currently operational and does not have authority in any jurisdiction. Petitioner states that it has not been denied authority to provide telecommunications services, its authority has not been revoked in any jurisdiction and it has not been the subject of any civil or criminal proceedings. Petitioner has not entered into any interconnection agreement with an Incumbent Local Exchange Carrier because it only plans to offer infrastructure and competitive access services, however, any future expansion of Petitioner’s portfolio of services may necessitate entering into an agreement.

¹ Commissioner Frederick Butler did not participate in this matter.

Petitioner seeks authority to provide on a competitive basis all forms of switched and dedicated, both resold and facilities-based local exchange, interexchange and carrier exchange telecommunications services to both residential and business customers in the State of New Jersey. Petitioner plans to manage and construct an east-to-west fiber route in the State of New Jersey that offers diversity from the north-to-south infrastructure currently in existence. This infrastructure is necessary for its customers to bolster their existing optical networks and offer more diverse telecommunications services that fits their business model without the added risk of financing the infrastructure build out in the State of New Jersey. Petitioner's dark fiber may be utilized by competitive local exchange carriers and internet service providers to offer telephony, cable TV and internet services and by private enterprise customers to connect highly valued data-centric facilities located in New Jersey. Petitioner will serve only business customers, although service providers may use Petitioner's facilities to serve residential customers. Petitioner's services may include, but will not be limited to:

- (a) local exchange services that consist of access to single and multiple business and residential lines, direct inward/outward private branch access trunks, Integrated Service Digital Network and Centrex services;
- (b) local exchange usage services that consist of end user access lines;
- (c) switched and special carrier access services to other common carriers;
- (d) interexchange services including both inbound and outbound intra local access and transport areas services; and,
- (e) DSL Services

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 Ridgeland, Mississippi. Petitioner also 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, Northeastern 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 Northeastern, 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 Northeastern'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 won't be 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 to 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.

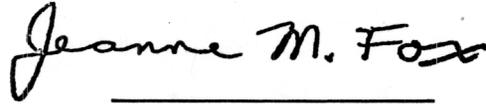
On or before February 1st of each year, the Petitioner will receive from the Division of Audits an annual report package and a statement of gross intrastate revenues from operations form for the preceding calendar year. The purpose of these documents is to report the Petitioner's financial information 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 maintains 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: 4/27/09

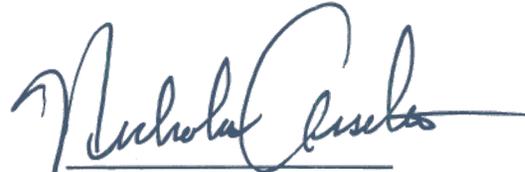
BOARD OF PUBLIC UTILITIES
BY:



JEANNE M. FOX
PRESIDENT



JOSEPH L. FIORDALISO
COMMISSIONER



NICHOLAS ASSELTA
COMMISSIONER



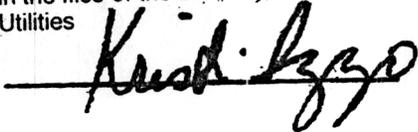
ELIZABETH RANDALL
COMMISSIONER

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 NORTHEASTERN ITS, LLC
FOR AUTHORITY TO PROVIDE LOCAL EXCHANGE AND
INTEREXCHANGE TELECOMMUNICATIONS SERVICES
IN THE STATE OF NEW JERSEY

DOCKET NO. TE09030225

SERVICE LIST

1. Petitioner's Contact Person:

E. Ashton Johnston
Regulatory Contact
Northeastern ITS, LLC
c/o. Lampert, O'Connor & Johnston, P.C.
1776 K Street NW, Suite 700
Washington, DC 20006

4. Public Advocate:

Stefanie A. Brand, Esquire
Director, Division of Rate Counsel
Department of Public Advocate
31 Clinton Street, 11th Floor
P. O. Box 46005
Newark, New Jersey 07101

2. Petitioner's Attorney:

James H. Laskey, Esq.
Norris, McLaughlin & Marcus, P.A.
Attorneys At Law
P. O. Box 5933
721 Route 202-206
Bridgewater, New Jersey 08807-5933

5. Deputy Attorney General:

Jessica L. Campbell, DAG
Department of Law & Public Safety
Division of Law
124 Halsey Street, 5th Floor
P. O. Box 45029
Newark, New Jersey 07102

3. Board's Staff:

Dennis J. Moran
Director, Division of Audits
Board of Public Utilities
Two Gateway Center
Newark, New Jersey 07102

6. Board's Staff:

Anthony Centrella
Director, Division of Telecommunications
Board of Public Utilities
Two Gateway Center
Newark, New Jersey 07102