



**STATE OF NEW JERSEY**  
**Board of Public Utilities**  
**Two Gateway Center**  
**Newark, NJ 07102**  
**www.bpu.state.nj.us**

TELECOMMUNICATIONS

IN THE MATTER OF THE PETITION OF )  
CLEAREND, LLC FOR APPROVAL TO PROVIDE )  
LOCAL EXCHANGE TELECOMMUNICATIONS )  
SERVICES WITHIN THE STATE OF NEW JERSEY )

ORDER

DOCKET NO. TE05030289

(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 25, 2005, ClearEnd, LLC ("Petitioner" or "ClearEnd") filed a verified Petition with the New Jersey Board of Public Utilities ("Board") requesting authority to provide both resold and facilities-based Unbundled Network Elements ("UNE") local exchange and interexchange telecommunications services throughout the State of New Jersey.

ClearEnd is a limited liability company organized under the laws of the State of Delaware. Kevin Alward, Chief Executive Officer/Manager and John P. Rosato, Member, each have 50% ownership interest in the company. Petitioner's principal offices are located at 535 8<sup>th</sup> Avenue, 14<sup>th</sup> Floor, New York, New York 10018.

Petitioner has submitted copies of its Certificate of Formation from the State of Delaware and its New Jersey Certificate of Authority to Operate as a Foreign Corporation. According to the Petition, ClearEnd was formed to provide both resold and facilities-based UNE local exchange and interexchange telecommunications services within the State of New Jersey. Petitioner states that it is in process of applying for authorization to provide resold and facilities-based local exchange and interexchange telecommunications service in the State of New York and that it has filed a Resale Acknowledgement Letter to provide local exchange and interexchange services in New Jersey. Petitioner states that it has not been denied authority to provide telecommunications services nor has its authority been revoked in any jurisdiction and has not been the subject of any civil or criminal proceedings in any jurisdiction. Currently, Petitioner is

not providing telecommunications services in New Jersey and it has not yet commenced negotiations for an interconnection agreement with any incumbent local exchange carrier.

Petitioner seeks authority to provide resold and facilities-based UNE local exchange and interexchange telecommunications services to both residential and business customers in the State of New Jersey. Petitioner states that initially it will resell and/or provide Local Exchange Services ("LES") utilizing UNE to its end user customers and as market conditions warrant, it may augment its service offerings to include some facilities-based services. Petitioner also states that it will combine switchless resale, leasing of local loops in conjunction with company owned switching, and/or purchasing UNE from Verizon – New Jersey. Petitioner plans to provide basic telephone exchange, data, internet, digital subscriber line, access, call waiting and forwarding, speed dialing, distinctive ringing, three-way calling, operator services like 911 and 911E, directory listing, third party calling arrangement, local calling and per use services such as call return and redial services to both residential and business customers throughout New Jersey. Petitioner states that it has no current plans to install facilities in the State of New Jersey for the provision of LES. Petitioner maintains a toll-free number for customer service inquiries and 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 office in New York, New York. 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, ClearEnd 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 ClearEnd, 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)]

Therefore, Board approval of Petitioner's entry into the telecommunications marketplace is required, assuming Petitioner is in compliance with the Board's filing requirements to provide telecommunications services in New Jersey.

In considering this Petition, the Board recognizes its obligation not to prohibit entry into intrastate telecommunications markets. 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 ClearEnd'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 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 Division of Ratepayer Advocate, 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. 48:2-59 and 48:2-60, 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 the 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 the USOA and in New Jersey.

DATED: *May 16, 2005*

BOARD OF PUBLIC UTILITIES  
BY:

*Jeanne M. Fox*  
JEANNE M. FOX  
PRESIDENT

*Frederick F. Butler*  
FREDERICK F. BUTLER  
COMMISSIONER

*Connie O. Hughes*  
CONNIE O. HUGHES  
COMMISSIONER

*Jack Alter*  
JACK ALTER  
COMMISSIONER

ATTEST:

*Carmen Diaz*  
CARMEN DIAZ  
ACTING SECRETARY

I HEREBY CERTIFY that the within document is a true copy of the original in the files of the Board of Public Utilities

*Kristi Pizzo*

IN THE MATTER OF VERIFIED PETITION OF CLEAREND, LLC  
FOR AUTHORITY TO PROVIDE LOCAL EXCHANGE  
TELECOMMUNICATIONS SERVICES WITHIN  
THE STATE OF NEW JERSEY

DOCKET NO. TE05030289

SERVICE LIST

1. Petitioner's Contact Person:

Kevin Alward  
Chief Executive Officer  
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New York, New York 10018

4. Ratepayer Advocate:

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Director and Ratepayer Advocate  
Division of the Ratepayer Advocate  
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2. Petitioner's Attorney:

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3. Board's Staff:

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