



**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 BOARD INVESTIGATION )  
REGARDING THE RECLASSIFICATION OF INCUMBENT )  
LOCAL EXCHANGE CARRIER (ILEC) SERVICES AS )  
COMPETITIVE )

ORDER ON MOTIONS  
FOR INTERVENTION AND  
PARTICIPATION  
DOCKET NO. TX07110873

(SERVICE LIST ATTACHED)

BY COMMISSIONER FREDERICK F. BUTLER:

By Order dated November 28, 2007, in response to a request from Verizon New Jersey ("VNJ"), the Board determined that it is appropriate at this time to conduct a full investigation of and hearing on the question of whether incumbent local exchange carrier (ILEC) provided mass market retail services should be declared competitive pursuant to N.J.S.A. 48:2:21-19 (b), after review and consideration of the necessary criteria.

Among other things, the Order stated that the Board would conduct this hearing with the input of any and all interested parties. ILEC providers in the State that seek such competitive status were invited to intervene. Additionally, the Board invited the input of Rate Counsel, and any other interested parties with the intent of providing insight into the process. The Order also set forth a procedural schedule which directed interested parties to file for intervention on or before December 6, 2007.

The Board received timely Motions to Intervene from two parties: Sprint Communications Company, L.P., Sprint Spectrum, L.P. and Nextel of New York, Inc. (collectively "Sprint Nextel"); and from United Telephone Company of New Jersey, Inc. d/b/a Embarq ("Embarq"). In addition, a late filed request was received on December 7, 2007 from XO Communications Services, Inc. ("XO"). Three other parties have filed Motions for Participant status: Cablevision Lightpath – NJ, Inc. ("Lightpath"); The New Jersey Cable Telecommunications Association



("NJCTA"); and AT&T Communications of NJ, L.P., and its regulated affiliates (collectively, "AT&T").<sup>1</sup>

Sprint Communications Company, L.P. operates as a competitive local exchange carrier (CLEC) and interexchange carrier (IXC) in the state of New Jersey and provides intrastate long distance services. Sprint Spectrum, L.P. and Nextel of New York, Inc. operate as facilities based wireless carriers in the state. Collectively, they state a substantial and significant interest in this proceeding.

Embarq is an ILEC in the State of New Jersey and serves 26 exchanges in parts of five counties in the northwest portions of the state. Embarq serves approximately 178,000 access lines, employs 240 individuals in New Jersey, and submits that it will be substantially, specifically and directly affected by the outcome of this proceeding.

XO is a provider of telecommunications services throughout the United States and New Jersey. XO provides circuit switched local exchange service, domestic and international long distance, toll free service, private lines, data service and information services to its customers. XO competes with ILECs in New Jersey, and contends that it possesses a direct and substantial interest in the issues raised in the case.

Lightpath is a full service facilities based CLEC authorized to provide local exchange and interexchange services in New Jersey. Lightpath currently provides basic and advanced telecommunications services in New Jersey, and submits that it has a significant interest in the outcome of this matter.

NJCTA is a voluntary trade organization which represents the common interests of New Jersey cable television companies. NJCTA has participated in many past Board matters, and seeks to do the same in this case.

AT&T is authorized to provide intrastate telecommunications services in the state of New Jersey. AT&T is both a customer of ILEC wholesale services in New Jersey as well as a direct competitor of ILECs in the end user mass markets and large business markets, and claims that its interests could be affected by the outcome of this proceeding.

Pursuant to N.J.A.C. 1:1-16.3(a), the Board shall consider the nature and extent of the party's interest in the outcome of the investigation, and whether the party's interest is sufficiently different from that of other parties, whether inclusion will add constructively to the case; and whether intervention will confuse or delay the matter. Under N.J.A.C. 1:1-16.6(a), a party with a significant interest in the outcome of a case may move for permission to participate. Participants are limited to the extent that they may argue orally, file a statement or brief; or file exceptions to the decision; or all of the above. My review of these motions is in compliance with the above cited standards for participation and intervention.

## DISCUSSION

Upon review of the above referenced motions and having received no objections after due notice to the parties, I HEREBY GRANT the motions. In addition to the six parties listed above granted intervener or participant status, Rate Counsel and VNJ are also full parties to this proceeding, even though neither party filed a formal Motion to Intervene. Rate Counsel is a party as the Board invited their participation in the November 28<sup>th</sup> Order and Rate Counsel has

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<sup>1</sup> Although the AT&T Motion is entitled "Motion to Intervene", the body of the Motion clearly states that AT&T seeks participant status, and it will be treated as such for the purpose of this ruling.

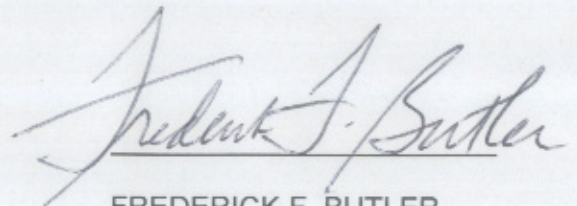


established its interest in this matter through its letter motion filed on December 3, 2007. Although VNJ, an ILEC, did not file a formal Motion to Intervene, its letter dated November 14, 2007 requesting commencement of this investigation will be treated as a motion to intervene in this proceeding. In addition, the company filed initial testimony on December 14, 2007, consistent with the procedural schedule, arguing in favor of reclassification.

Therefore, based upon the above discussion, Rate Counsel, VNJ, XO, Sprint Nextel, VNJ and Embarq are hereby granted intervener status. NJCTA, Lightpath and AT&T are hereby granted participant status. Based upon this determination, I have modified the service list which is attached and ask each party to utilize this list and provide both electronic and hard copies of documents in this matter.

DATED: 12-18-07

BY:

A handwritten signature in cursive script, reading "Frederick F. Butler". The signature is written in dark ink and is positioned above the printed name and title.

FREDERICK F. BUTLER  
COMMISSIONER



**IN THE MATTER OF THE BOARD INVESTIGATION REGARDING THE  
RECLASSIFICATION OF INCUMBENT LOCAL EXCHANGE CARRIER  
(ILEC) SERVICES AS COMPETITIVE**

**DOCKET NO. TX07110873**

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