



Agenda Date: 11-28-07  
Agenda Item: 4A

**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

DOCKET NO. TX07110873

(SERVICE LIST ATTACHED)

BY THE BOARD:

By letter dated November 14, 2007, Verizon New Jersey ("VNJ") has requested that the New Jersey Board of Public Utilities ("Board") initiate a review of the current state of competition in the telecommunications market in New Jersey as to mass market retail services provided by incumbent local exchange carriers ("ILECs") (the "VNJ Letter"). The Legislature has authorized the Board to address changes in technology and the structure of the telecommunications industry, and to modify the regulation of competitive services to promote economic development in New Jersey. Telecommunications Act of 1992, N.J.S.A. 48:2-21.16 et seq. As part of its continuing review and oversight of the industry as a whole, the Board has noted that the competitive environment in the telecommunications industry appears to be undergoing considerable change and modification.

By Order dated June 29, 2007, <sup>1</sup> after notice and hearing, the Board reclassified competitive local exchange carrier (CLEC) retail services as competitive services under the criteria in N.J.S.A. 48:2-21-19(b). Under that section, the Board is authorized to determine whether a service is competitive based on, at a minimum, three criteria: (1) ease of market entry; (2) presence of competitors; and (3) the availability of like or substitute services in the relevant geographic area. The Board declined at that time to expand the proceeding to include a review of retail mass market services when provided by the ILECs, finding that limiting its review to CLEC provided services was necessary to avoid entangling the issues involved in declaring

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<sup>1</sup> In the Matter of the Board Investigation Regarding the Reclassification of Competitive Local Exchange Carrier (CLEC) Services as Competitive, Docket No. TX06120841( June 29, 2007).

CLEC provided services as competitive with the additional analysis needed for the deregulation of ILEC provided services.<sup>2</sup> The Board went on to state:

“Notwithstanding the above, the Board acknowledges that it has worked to ensure that New Jersey consumers benefit from the regulatory policies embodied in both the 1996 Act and the 1992 New Jersey Telecommunications Act aimed at opening all local exchange markets to competition. Although the Board does not find Verizon’s argument persuasive that we are required to include ILEC services in today’s decision, the Board notes that the classification of ILEC services merits further review, in a separate proceeding, to ensure that the issues are properly vetted. The Board, on its own motion, may consider the initiation of such a review, at a future date.”

The VNJ Letter maintains that now is the appropriate time for the Board to initiate its contemplated review of the competitiveness of ILEC retail mass market services. The communications industry has undergone a fundamental transformation and is currently providing customers with a broad selection of communications options. VNJ goes on to state that alternative service platforms are enabling a variety of service providers – many of which are not local exchange carriers – to offer a full assortment of communications services. According to VNJ, the evolution of these platforms has led to the convergence of what had once been disparate services, and has opened up the communication services market to multiple non-traditional competitors, which have been embraced by customers in New Jersey and nationally. VNJ suggests that, due to the convergence of communications technologies, the services offered by ILECs now compete directly with the services offered by CLECs and non-traditional competitors, such as wireless carriers, cable companies and VoIP providers. Those non-traditional competitors are not subject to the same degree of regulation as the ILECs, who, in VNJ’s words, are “required to waste resources and delay market responses while complying with unnecessary regulations, instead of providing the new and innovative services that customers want and deserve.” VNJ Letter at 5.

Based upon the above, and in response to the request from VNJ, the Board deems it appropriate at this time, to conduct a full investigation of and hearing on the question of whether 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. Specifically, the Board seeks to determine if ILEC mass market retail telecommunications services satisfy the necessary elements of ease of market entry, presence of other competitors, and availability of like or substitute services in the relevant geographic area.

In order to provide a full record and to allow for an inclusive and transparent process, the Board proposes to conduct this hearing with the input of any and all interested parties. ILEC providers in the State that seek such competitive status are invited to intervene in this matter. Additionally, the Board welcomes the input of Rate Counsel, and any other interested parties with the intent of providing insight into the process. Because of the possibility of significant participation, it is important for the Board to set a clear and fixed schedule. Accordingly, the Board HEREBY SETS the procedural schedule as described on Attachment A.

The Board retains the right to modify this schedule as necessary and appropriate in the interests of economy and justice. Furthermore, the Board HEREBY DESIGNATES Commissioner

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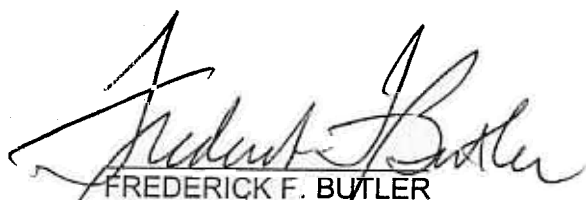
<sup>2</sup> Rate Counsel and VNJ have separately appealed the Board’s June 29, 2007 Order. See, In the Matter of the Board Investigation Regarding the Reclassification of Competitive Local Exchange Carrier (CLEC) Services as Competitive, Appellate Division Docket No. A-6429-06T 2. Also see, I/M/O the Board Investigation Regarding the Reclassification of Competitive Local Exchange Carrier (CLEC) Services as Competitive, Appellate Division Docket No. A-6378-06T 2.

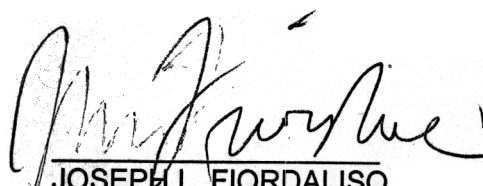
Frederick F. Butler as the presiding officer who is authorized to rule on all motions that arise during the proceeding and modify the schedule as necessary. Finally, the Board HEREBY DIRECTS Staff to provide a copy of this Order to registered telecommunications providers in the State, as well as to any other parties the Staff believes may have an interest in this matter, and to post this Order on the Board's website.

DATED: 11/28/07

BOARD OF PUBLIC UTILITIES  
BY:

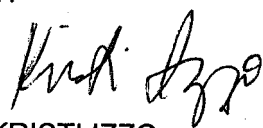
  
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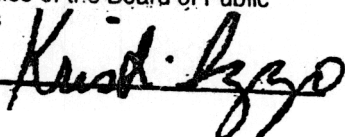
  
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CHRISTINE V. BATOR  
COMMISSIONER

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

**DOCKET NO. TX07110873**

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**PROCEDURAL SCHEDULE  
DOCKET NO. TX07110873**

|                                                                                                                  |                        |
|------------------------------------------------------------------------------------------------------------------|------------------------|
| Board Releases Procedural Schedule                                                                               | November 28, 2007      |
| Requests for Intervention Due                                                                                    | December 6, 2007       |
| Initial Testimony of Parties Supporting<br>Reclassification Due                                                  | December 14, 2007      |
| Last Date for Discovery Requests on Initial<br>Testimony of Parties Supporting<br>Reclassification               | December 21, 2007      |
| Last Date for Responses to Discovery<br>Requests on Initial Testimony of Parties<br>Supporting Reclassification  | January 4, 2008        |
| Reply Testimony of Parties Opposing<br>Reclassification                                                          | January 10, 2008       |
| Last Date for Discovery Requests on<br>Reply Testimony of Parties Opposing<br>Reclassification                   | January 15, 2008       |
| Last Date for Responses to Discovery<br>Requests on Reply Testimony of Parties<br>Opposing Reclassification      | January 22, 2008       |
| Rebuttal Testimony of Parties Supporting<br>Reclassification                                                     | January 29, 2008       |
| Last Date for Discovery Requests on<br>Rebuttal Testimony of Parties Supporting<br>Reclassification              | February 5, 2008       |
| Last Date for Responses to Discovery<br>Requests on Rebuttal Testimony of Parties<br>Supporting Reclassification | February 12, 2008      |
| Evidentiary Hearings                                                                                             | February 25 & 26, 2008 |
| Initial Briefs                                                                                                   | March 7, 2008          |
| Reply Briefs                                                                                                     | March 18, 2008         |
| Anticipated Board Action                                                                                         | April 8, 2008          |