



**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 RCN )  
TELECOM SERVICES, INC. FOR AUTHORITY )  
TO PROVIDE LOCAL EXCHANGE AND )  
INTEREXCHANGE TELECOMMUNICATIONS )  
SERVICES WITHIN THE STATE OF NEW JERSEY )

ORDER

DOCKET NO. TE07090670

(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 September 11, 2007, RCN Telecom Services Inc. ("Petitioner" or "RCN"), filed a Petition with the New Jersey Board of Public Utilities ("Board") requesting authority to provide facilities-based and resold local exchange and interexchange telecommunications services throughout the State of New Jersey.

RCN is a privately held corporation organized under the laws of the Commonwealth of Pennsylvania. RCN Corporation ("RCNC"), a Delaware Corporation, is the parent company of both RCN and RCN New York Communications, LLC ("RCNNY") and is a publicly traded company on the NASDAQ Exchange under the symbol RCNI. In 2006, RCNC acquired Consolidated Edison Communications, Inc. ("CEC") a regulated utility under Docket No. TM05121051 and changed CEC's legal name to RCNNY. RCN is therefore affiliated with RCNNY, which primarily serves business customers in a wide range of industries and is authorized to provide resold and facilities-based local exchange and interexchange telecommunications services in New Jersey under Docket No. TE00100802. Petitioner's principal offices are located at 196 Van Buren Street, Herndon, Virginia 20170.

Petitioner has submitted copies of its Certificate of Incorporation from the Commonwealth of Pennsylvania and its New Jersey Certificate of Authority to Operate as a Foreign Corporation. According to the Petition, RCN was formed to provide facilities-based and resold local exchange and interexchange telecommunications services throughout the State of New Jersey. Petitioner is currently authorized to provide resold and/or facilities-based local exchange and interexchange telecommunications services in the State of Delaware, Maryland, Massachusetts, New York and Pennsylvania. Petitioner states that it has not been denied authority to provide telecommunications services, its authority has not been revoked in any jurisdiction and it has not been the subject of any civil or criminal proceedings.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 states that it intends to request an interconnection agreement with Verizon – New Jersey.

On October 8, 1997, the Board granted RCN Telecom Services of New Jersey, Inc. ("RCNNJ") authority to provide facilities-based local exchange and interexchange telecommunication services in New Jersey under Docket No. TE97040286. On May 27, 2004, RCNC and its subsidiaries, including RCNNJ, filed for bankruptcy under Chapter 11 with the U.S. District Court of New York and subsequently underwent a reorganization. On December 8, 2004, RCNC announced that it had consummated its plan of reorganization and formally emerged from Chapter 11. By letter dated September 22, 2004, RCNNJ voluntarily surrendered its New Jersey certificate as it was not providing telecommunications services in New Jersey and had no plans to do so in the near future. RCNC has now decided to expand its telecommunications services in New Jersey and therefore has filed a petition requesting authority to provide facilities-based and resold local exchange and interexchange services.

According to the Petition, RCN seeks authority to provide facilities-based and resold local exchange and interexchange telecommunications services to both business and residential customers to and from all points in the State of New Jersey. Petitioner states that it plans to offer a variety of local exchange and interexchange telecommunication services to its business and residential customers in the State of New Jersey through a combination of its own facilities and facilities leased from Verizon – New Jersey, Sprint and Embarq. Petitioner further states that it will provide a variety of triple-play communication services consisting of video, high-speed data and voice services to both business and residential customers throughout New Jersey as reflected in its proposed tariff filed with the Board under Docket No. TT07090703. Petitioner states that its subsidiary does not own any telephone network facilities in New Jersey but RCNNY does and can therefore provide data services, including network, hubs and fiber. Petitioner has neither entered into, nor does it plan to enter into, an agreement with its affiliate to use RCNNY's facilities to provide communications services in New Jersey. Should Petitioner decide to use its affiliate's facilities, it will enter into such agreement. Currently, neither Petitioner nor RCNC owns any facilities in New Jersey. Petitioner maintains a toll-free number for customer service inquiries.

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 located in Herndon, Virginia. 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, RCN 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 RCN, 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, as long as Petitioner is in compliance with the Board's filing requirements to provide telecommunications services in New Jersey. 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 RCN'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 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 has filed a proposed tariff in Docket No. TT07090703.

The Board HEREBY ORDERS that:

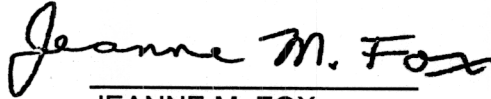
- 1) Pursuant to N.J.S.A. 48:2-16(2)(b) and N.J.A.C. 14:3-6.3, Petitioner shall file an annual report as of December 31 of each year, which is due on or before March 31 of the following year. Pursuant to N.J.S.A. 48:2-16.3, if Petitioner fails to file an annual report by the due date, Petitioner shall be subject to a penalty of \$5.00 for each day thereafter until such report is filed.
- 2) 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.

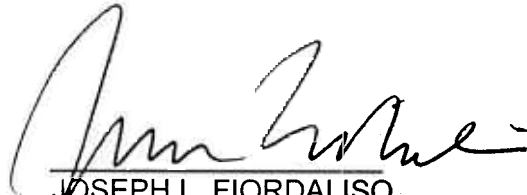
Regarding the Petitioner's request for waivers of the Board rules, the Board FINDS that the Petitioner has demonstrated good cause why the Board should grant relief from its requirements that the Petitioner maintains its books and records in accordance with USOA and within New Jersey. Therefore, subject 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: 11/9/07

BOARD OF PUBLIC UTILITIES  
BY:

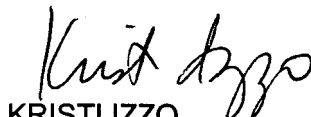
  
JEANNE M. FOX  
PRESIDENT

  
FREDERICK F. BUTLER  
COMMISSIONER

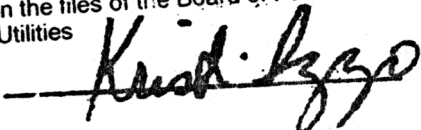
  
JOSEPH L. FIORDALISO  
COMMISSIONER

  
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 PETITION OF RCN TELECOM SERVICES, INC. FOR  
AUTHORITY TO PROVIDE LOCAL EXCHANGE AND INTEREXCHANGE  
TELECOMMUNICATIONS SERVICES WITHIN  
THE STATE OF NEW JERSEY

DOCKET NO. TE07090670

**SERVICE LIST**

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