



**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 REVISED PETITION OF	)	<u>ORDER</u>
INFINITE COMMUNICATION, LLC FOR AUTHORITY TO	)	
PROVIDE LOCAL EXCHANGE AND INTEREXCHANGE	)	
TELECOMMUNICATIONS SERVICES	)	
THROUGHOUT THE STATE OF NEW JERSEY	)	DOCKET NO. TE07020139

(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 letters dated February 28, 2007, March 20, 2007 and May 18, 2007, Infinite Communication, LLC ("Infinite") has filed a revised Petition<sup>1</sup> with the New Jersey Board of Public Utilities ("Board") requesting a Certificate of Public Convenience and Necessity to provide resold and facilities-based competitive local exchange and interexchange 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.

Infinite is a limited liability company organized under the laws of the State of Pennsylvania. Kevin McGeary, Chief Operating Officer, Michael Miller, Chief Executive Officer, Barry Fireman and Raymond Fireman are the principal owners of Infinite and each holds a 25% ownership interest in the company. Infinite's principal owners also own Line Systems, Inc., a telecom utility regulated by the Board. Petitioner's principal offices are located at 1645 West Chester Pike, Suite 200, West Chester, Pennsylvania 19382.

Petitioner has submitted a copy of its Certificate of Organization from the State of Pennsylvania and a Certificate of Authority to Conduct Business in the State of New Jersey as a Foreign Limited Liability Company. According to the petition, Infinite was formed to provide resold and facilities-based competitive local exchange and interexchange telecommunications services to both business and residential customers throughout the State of New Jersey. Petitioner does not currently hold any State or Federal Communications Commission ("FCC") authorizations to provide domestic or international telecommunications services. However, Infinite is currently in the process of becoming

<sup>1</sup> The original petition filed on March 1, 2007, included a request for approval of an asset transfer. By letter dated May 18, 2007, Petition noted that the asset transfer request had been withdrawn, and the instant revised petition, solely seeking authority to provide telecommunications services within the State, was filed.

authorized to provide telecommunications services in the States of Delaware and Pennsylvania, and is also in the process of obtaining authorization from the FCC. 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 criminal proceedings. Petitioner is in the process of entering into an interconnection agreement with an incumbent local exchange carrier; and, upon certification, it will enter into such an agreement with Verizon, New Jersey Inc.<sup>2</sup> On June 18, 2007, Verizon filed a copy of the proposed interconnection agreement with the Board for approval subject to approval of this petition.

Petitioner seeks authority to provide resold and facilities-based competitive local exchange and interexchange telecommunications services to both residential and business customers throughout the States of New Jersey, Pennsylvania and Delaware. Petitioner states that currently it does not own any telephone network facilities in the State of New Jersey and to date, has not purchased or leased any equipment. However, within the next 30-45 days, Petitioner will initiate the construction of a next generation internet protocol-based data and telephony network with a central hub located in a Carrier Hotel in Philadelphia, Pennsylvania. Petitioner plans to offer services through its own facilities in addition to resale and Unbundled Network Elements Platform. Petitioner states that its services will include but not be limited to basic, telephone exchange, data, Internet, DSL and other high capacity lines, 911, directory assistance and other similar services. Petitioner further states that it 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 offices located in West Chester, Pennsylvania. 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, Infinite 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 Infinite, are well qualified to execute its business plans and have extensive managerial and technical experience in the telecommunications industry.

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<sup>2</sup> Verizon filed a motion to intervene in this matter on March 20, 2007. By letter dated July 18, 2007 from Verizon's counsel, that motion was withdrawn based on Verizon's understanding that no transfer of assets, including a direct transfer of customers, from any existing New Jersey telecommunications carrier was contemplated in connection with this petition, and no such transfer, if any such transfer occurs, would be effected without prior Board approval as required by law.

## 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 Infinite'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 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. 48:2-62, 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.

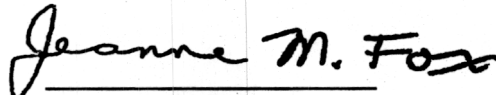
On or before February 1<sup>st</sup> of each year, the Petitioner will receive from the Division of Audits an annual report package and a statement of gross intrastate revenues from operations form for the

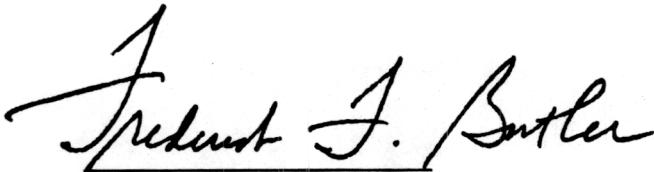
preceding calendar year. The purpose of these documents is to report the Petitioner's financial information and gross intrastate revenues from operations as of December 31 of each year. The annual report and a statement of gross intrastate revenues from operations form are due on or before March 31 and 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 with 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: 8/1/07

BOARD OF PUBLIC UTILITIES  
BY:

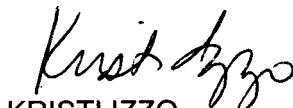
  
JEANNE M. FOX  
PRESIDENT

  
FREDERICK F. BUTLER  
COMMISSIONER

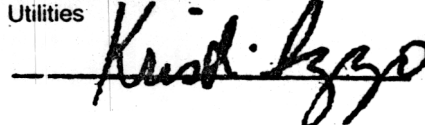
  
JOSEPH L. FIORDALISO  
COMMISSIONER

  
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 REVISED PETITION OF INFINITE COMMUNICATION, LLC FOR A  
CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY TO PROVIDE LOCAL EXCHANGE  
AND INTEREXCHANGE TELECOMMUNICATIONS SERVICES  
THROUGHOUT THE STATE OF NEW JERSEY

DOCKET NO. TE07020139

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