



Agenda Date: 10/3/08
Agenda Item: 4A

STATE OF NEW JERSEY
Board of Public Utilities
Two Gateway Center
Newark, NJ 07102
www.nj.gov/bpu/

TELECOMMUNICATIONS

IN THE MATTER OF THE BOARD'S INVESTIGATION	)	ORDER
AND REVIEW OF LOCAL EXCHANGE CARRIER	)	
INTRASTATE EXCHANGE ACCESS RATES	)	DOCKET NO. TX08090830

(SERVICE LIST ATTACHED)

BY THE BOARD:

By Order dated July 14, 2008,¹ (Summary Order) after notice and hearing, the Board approved a stipulation between Staff, Verizon New Jersey (Verizon) and the Division of Rate Counsel (Rate Counsel) which, among other things, declared the majority of Verizon's retail mass market services as competitive (Verizon Agreement). By Order dated August 20, 2008², (Final Order) a similar stipulation between Board Staff, Rate Counsel and United Telephone Company of New Jersey, d/b/a Embarq (Embarq) was approved by the Board as it related to Embarq's retail mass market services (Embarq Agreement).

A public hearing was held on June 24, 2008 at the Board's Newark Office to receive public comment on the Verizon Agreement. At the hearing, AT&T stated that it did not oppose the settlement, but requested that the Board next address intrastate access rates. Generally, AT&T argues that the Board, in response to the competitive nature of the industry and the fact that Verizon, through the stipulation, has sufficient flexibility to compete, should eliminate all subsidies by reducing intrastate access rates to interstate levels. Sprint echoed the request that the Board commence a proceeding to review intrastate access charges.

In response to the Embarq Agreement, AT&T submitted written comments on July 30, 2008, in support of the settlement but again requested intrastate access rate reductions. Sprint submitted written comments on August 5, 2008, also in support of the settlement upon condition that the Board initiate a proceeding to address alleged subsidies provided in Embarq and Verizon's intrastate switched access rates. AT&T went on in its written comments to suggest

¹ The Board's Investigation Regarding the Reclassification of Incumbent Local Exchange Carrier (ILEC) Services as Competitive – Docket No. TX07110873

² In the matter of the Board's investigation regarding the reclassification of incumbent local exchange carrier (ILEC) services as competitive, Docket No. TX07110873. In the Matter of the application of United Telephone Company of New Jersey Inc., d/b/a Embarq for approval of a plan for alternative regulation, Docket No. TO08060451.

that many other states including West Virginia, California, Ohio, Wisconsin, Texas, Maine, New Mexico, Illinois, Indiana, Kansas and Nebraska have required or set goals requiring that intrastate access rates be no higher than interstate rates.

In the Final Order, the Board disagreed with Sprint's argument that the reclassification of basic retail telephone services should be reviewed in conjunction with a review of intrastate access charges arguing that high access charges create a barrier to entry. In articulating its reasons for disagreeing with Sprint's position the Board stated the following:

As a preliminary matter, the Board's Order issued on December 21, 2007, identified the scope of the proceeding. Specifically, the Board stated that the investigation was initiated to determine whether ILEC provided mass market retail telecommunications services satisfy the statutory elements of ease of market entry, presence of other competitors, and the availability of like or substitute services in the relevant geographic area. Therefore, the issue of access charges was not identified as an issue in the proceeding. In fact, there were several rulings by Commissioner Butler that affirmed that determination. His rulings went on to state that access charges will, if necessary, be addressed in a separate proceeding on the Board's own motion or in response to a legitimate request.

Based upon both the arguments of AT&T and Sprint and the language in the Board's August 20, 2008 Final Order, the Board deems it appropriate at this time, on its own motion, to conduct a full investigation and review of and hearing on the appropriate level of local exchange carrier intrastate exchange access rates. Since the rates were first established in 1984 by the Board, there have been limited changes to the structure and level of these rates. In light of the advent of local competitive alternatives, there are now a significant number of competitive Local Exchange Carriers (CLECs) with intrastate access tariffs on file with the Board, in addition to the access tariffs of the Incumbent Local Exchange Carriers (ILECs), many of which with varying rates. The Board has excluded access services from reclassification in the recent CLEC and ILEC reclassification proceedings; therefore the rates remain regulated by this Board and cannot be adjusted without prior Board approval. The Board is convinced that it is appropriate at this time to determine whether these rates should be adjusted, notwithstanding any longstanding open matters before the Federal Communications Commissioner (FCC). This Board has jurisdiction over these rates, which continue to be considered protected services, and we will continue to exercise our jurisdiction over the provision of intrastate access services.

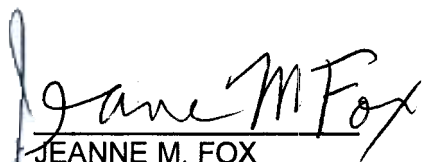
In order to provide a full record and to allow for an inclusive and transparent process, the Board proposes to conduct this proceeding with the input of any and all interested parties. The access rates of all Local Exchange Carriers, both ILEC and CLEC, shall be subject to review and thus both ILECs and CLECs 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 and the number and complexity of the issues that must be examined, the Board HEREBY DIRECTS Board Staff, with the Attorney General's Office, to convene a Pre-Hearing Conference with any and all interested parties. Among other things, parties should be prepared to discuss the issues to be addressed and an appropriate schedule.

Based upon the nature of the issues in question and the overall nature of the expected proceedings, the Board HEREBY DETERMINES that it will retain jurisdiction over this matter. 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.

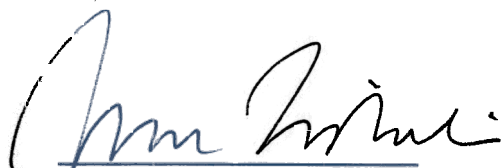
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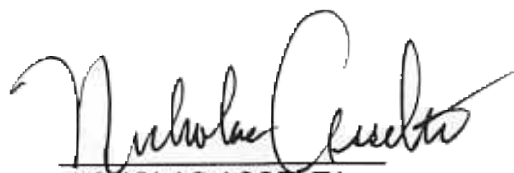
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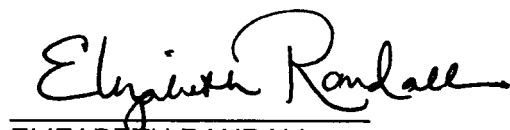
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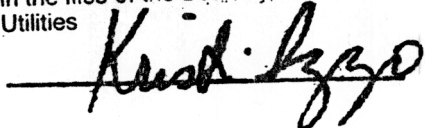

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I HEREBY CERTIFY that the within document is a true copy of the original in the files of the Board of Public Utilities



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10/3/08

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