



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

TELECOMMUNICATIONS

IN THE MATTER OF THE PETITION OF ATC)
OUTDOOR DAS, LLC FOR AUTHORITY TO PROVIDE)
LOCAL EXCHANGE AND INTEREXCHANGE)
TELECOMMUNICATIONS SERVICES WITHIN THE)
STATE OF NEW JERSEY)

ORDER

DOCKET NO. TE08030140

(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 March 5, 2008, ATC Outdoor DAS, LLC ("Petitioner" or "ATC Outdoor"), has filed a Petition with the New Jersey Board of Public Utilities ("Board") requesting authority to provide competitive facilities-based, both switched and dedicated local exchange, exchange access, interexchange and private line telecommunications services within the State of New Jersey.

ATC Outdoor is a limited liability company organized under the laws of the State of Delaware. ATC Outdoor is wholly owned by SpectraSite Communications, LLC which in turn is wholly owned by SpectraSite, LLC. American Tower Corporation, a publicly traded company, is the ultimate parent company of ATC Outdoor and is the sole member and manager of SpectraSite, LLC. Petitioner's principal offices are located at 116 Huntington Avenue, Eleventh Floor, Boston, Massachusetts 02116.

Petitioner has submitted a copy of its Certificate of Incorporation along with a Certificate of Good Standing from the State of Delaware and a Certificate of Authority to Conduct Business in New Jersey as a Foreign Limited Liability Company. Petitioner currently is authorized to provide facilities-based and resold local exchange and interexchange telecommunications services in Massachusetts however, it has applications pending in Florida, Louisiana, Maryland, Michigan, Washington and the District of Columbia and, is currently in the process of submitting applications in Arizona, California, Connecticut, Illinois, New York, Texas and Virginia. Petitioner has not yet begun operating in any jurisdiction. Petitioner states that it has not been denied authority to provide telecommunications services, its authority has not been revoked in any jurisdiction and it has not been the subject of any civil or criminal proceedings.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 currently does not provide switched access voice services to either residential or business customers, therefore it does not need to interconnect with the public switched telephone networks to provide its radio frequency transport services on a wholesale basis. As a result,

Petitioner has not currently negotiated an interconnection agreement with any incumbent local exchange carrier.

The Petitioner was formed and seeks authority to provide competitive facilities-based, both switched and dedicated local exchange, exchange access, interexchange and private line telecommunications services within the State of New Jersey. Petitioner plans to provide these services through a combination of its own facilities and facilities to be leased from a variety of telecommunications carriers. Petitioner's customers are generally large wireless carriers that purchase petitioner's radio frequency transport services on a wholesale basis. Petitioner states that its services will be both intrastate and interstate and will rely on a technical platform known as Distributed Antenna System or "DAS" that consist of Base Station Hotel, Optical Conversion Equipment, Remote Nodes and Access Points. Petitioner further states that its services are designed in part to use wire-line telecommunications to fill in gaps in wireless coverage without requiring the construction of large towers. Petitioner states that at this time it does not intend to furnish traditional residential or business local telephone services or switched, interexchange telephone services. However, in the future should it decide to do so, it will provide either directly or through arrangement with other local exchange carriers 911, E911, access and relay, directory assistance, operator and non-discriminatory interconnection services. Petitioner currently does not have any facilities under construction in New Jersey. Petitioner states that its services will be available twenty-four (24) hours per day, seven (7) days per week subject to the availability of necessary service, equipment and facilities. Petitioner maintains a toll-free number for customer service inquiries and has filed an initial tariff with the Board under Docket No. TT08050320.

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 Boston, Massachusetts. 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, ATC Outdoor 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 ATC Outdoor 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, 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 ATC Outdoor'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 an initial tariff under Docket No. TT08050320.

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 1st 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

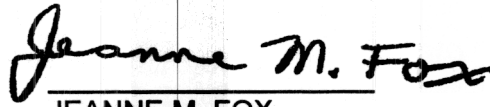
receive these documents, it is Petitioner's responsibility to obtain them from the Board. It is also the Petitioner's responsibility to ensure timely filing of these reports.

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:

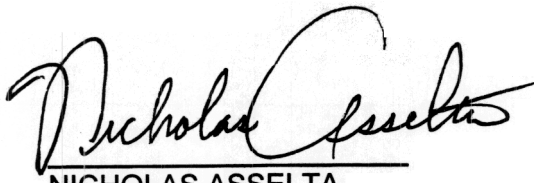
7/14/08


BOARD OF PUBLIC UTILITIES
BY:


JEANNE M. FOX
PRESIDENT


FREDERICK F. BUTLER
COMMISSIONER


JOSEPH L. FIORDALISO
COMMISSIONER

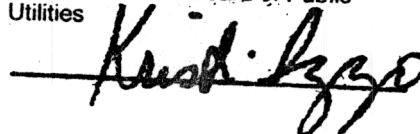

NICHOLAS ASSELTA
COMMISSIONER


ELIZABETH RANDALL
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 ATC OUTDOOR DAS, LLC FOR
AUTHORITY TO PROVIDE LOCAL EXCHANGE AND INTEREXCHANGE
TELECOMMUNICATIONS SERVICES THROUGHOUT THE
STATE OF NEW JERSEY

DOCKET NO. TE08030140

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