



Agenda Date: 8/18/10

Agenda Item: IA

## 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 HUDSON	)	ORDER
FIBER NETWORK, INC. FOR APPROVAL TO PROVIDE	)	
LOCAL EXCHANGE AND INTEREXCHANGE	)	
TELECOMMUNICATIONS SERVICES	)	
THROUGHOUT THE STATE OF NEW JERSEY	)	DOCKET NO. TE10050365

(SERVICE LIST ATTACHED)

Robert D. Balin Esq., Davis Wright Tremaine LLP New York, New York - for Petitioner

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 May 21, 2010, Hudson Fiber Network, Inc. ("Petitioner" or "HFN") filed a Petition with the New Jersey Board of Public Utilities ("Board") requesting authority to provide both resold and facilities-based competitive local exchange, exchange access and interexchange telecommunications services throughout the State of New Jersey.

HFN is a privately held company organized under the laws of the State of New Jersey. Brett Diamond is the President, Keith Muller the Chief Executive Officer and Ande Horning the Chief Technology Officer and all are the principal owners of the company, each having 51%, 40% and 9% ownership interest, respectively. Petitioner's principal offices are located at 12N SR Trail 17, Suite 120, Paramus, New Jersey 07652. Petitioner has submitted copies of its Certificate of Incorporation and its Certificate of Good Standing from the State of New Jersey.

Petitioner does not at this time seek authority to provide local exchange telecommunications services in the service areas of small or rural local exchange carriers in New Jersey that qualify for the rural exemption outlined in Section 251(f)(1) of the Federal Act. Petitioner to date, has not commenced providing telecommunications services in New Jersey. Petitioner has executed a resale agreement with Verizon, New Jersey and plans to negotiate an interconnection agreement with said incumbent local exchange carrier upon approval of its petition.

HFN seeks authority to provide both resold and facilities-based competitive local exchange, exchange access and interexchange telecommunications services throughout the state of New Jersey. Petitioner will initially deploy its networks by using a combination of its own equipment and competitive local transport services purchased from other telecommunications companies and reselling them to wireless carriers. The Petitioner will also install and operate equipment to support backhaul services for wire-line and voice over internet protocol voice service providers.



The Petitioner will provide its services using backhaul linked by fiber optic cables with conversion equipment attached to poles, wires, fiber termination equipment and other structures. Additionally, HFN's services are designed in part to use wire-line telecommunications to fill gaps in data coverage without requiring the construction of major facilities. The Petitioner does not initially intend to provide voice services to end-use-subscribers, however, should it decide to do so in the future, it will provide either directly or through an arrangement with other providers, 911 & E911, telecommunications relay, directory assistance, operator and non-discriminatory interconnection services throughout the state of New Jersey.

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 requests a waiver of N.J.A.C. 14:1-4.3, which require that books and records be maintained in accordance with the Uniform System of Accounts ("USOA"). Petitioner, instead, requests permission to maintain its books and records in accordance with Generally Accepted Accounting Principles.

## 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).

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 HFN'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 the State of New Jersey. The Board notes that the Petitioner will not be permitted to provide telecommunications services until a tariff is filed with the Board. Additionally, Petitioner is not relieved from its responsibility to file an Annual Report and a Statement of Gross Intrastate Revenues from Operations form for the preceding calendar year.

Furthermore, the Board 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 HEREBY ORDERS

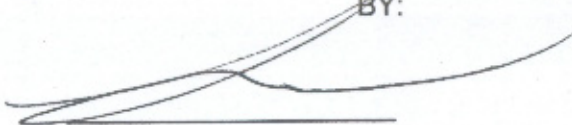
- 1) Petitioner shall file its tariff with the Board.
- 2) Pursuant to N.J.S.A. 48:2-16(2)(b) and N.J.A.C. 14:3-6.3, Petitioner shall file an annual report as of December 31 of each year, which is due on or before March 31 of the following year. Pursuant to N.J.S.A. 48:2-16.3, if Petitioner fails to 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.

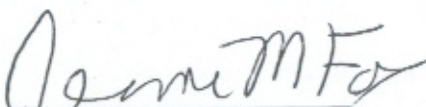
Regarding the Petitioner's request for waivers of the Board rules, the Board FINDS that the Petitioner has demonstrated good cause why the Board should grant relief from its requirements that the Petitioner maintains its books and records in accordance with USOA and within New Jersey. Therefore, subject to the Petitioner's continuing responsibility to provide the Board books and records upon 48 hours notice, and in the manner requested, and to pay to the Board all 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: 8/18/10

BOARD OF PUBLIC UTILITIES  
BY:



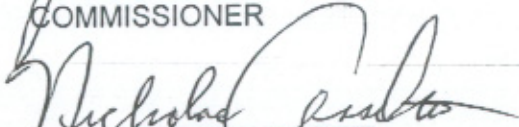
LEE A. SOLOMON  
PRESIDENT



JEANNE M. FOX  
COMMISSIONER



JOSEPH L. FIORDALISO  
COMMISSIONER



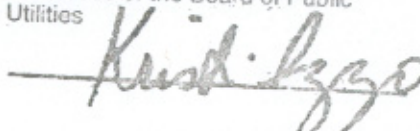
NICHOLAS ASSELTA  
COMMISSIONER



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 HUDSON FIBER NETWORK, INC. FOR  
AUTHORITY TO PROVIDE LOCAL EXCHANGE AND INTEREXCHANGE  
TELECOMMUNICATIONS SERVICES  
IN THE STATE OF NEW JERSEY

DOCKET NO. TE10050365

SERVICE LIST

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