



Chris Christie  
Governor

Kim Guadagno  
Lt. Governor

**STATE OF NEW JERSEY**  
**Board of Public Utilities**  
44 South Clinton Avenue, 9<sup>th</sup> Floor  
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Trenton, New Jersey 08625-0350  
[www.nj.gov/bpu/](http://www.nj.gov/bpu/)

Kristi Izzo  
Secretary of the Board  
Tel. # (973) 648-3426

July 26, 2011

To the Attached Service List:

Re: In The Matter of the Petition of Cross River Fiber, LLC for Approval to Provide Local Exchange and Interexchange Telecommunications Services Throughout the State of New Jersey - Docket No. TE11050320.

Enclosed please find a corrected order in the above referenced matter. The original order was initially released on July 14, 2011 and has since been corrected to redact the information which had been previously requested to be treated as confidential. A corrected order has been posted on the Board's web page and has been circulated to the service list.

We apologize for any inconvenience this may have caused and thank you for your understanding in this regard.

Sincerely,

A handwritten signature in cursive script that reads "Kristi Izzo".

Kristi Izzo  
Secretary of the Board

/ac  
enclosure



**STATE OF NEW JERSEY**  
**Board of Public Utilities**  
**Two Gateway Center, Suite 801**  
**Newark, NJ 07102**  
[www.nj.gov/bpu/](http://www.nj.gov/bpu/)

TELECOMMUNICATIONS

IN THE MATTER OF THE PETITION OF CROSS )  
RIVER FIBER, LLC FOR APPROVAL TO PROVIDE ) ORDER  
LOCAL EXCHANGE AND INTEREXCHANGE )  
TELECOMMUNICATIONS SERVICES THROUGHOUT )  
THE STATE OF NEW JERSEY ) DOCKET NO. TE11050320

William K. Mosca, Jr. Bevan, Mosca, Giuditta & Zarillo, P.C. Watchung, New Jersey - for  
Petitioner

Vincenzo Clemente, President and Chief Executive Officer of Cross River Fiber, LLC  
Stefanie A. Brand, Esq., Director, Division of Rate Counsel

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 20, 2011, Cross River Fiber, LLC ("Petitioner" or "Cross River") filed a Petition with the New Jersey Board of Public Utilities ("Board") requesting authority to provide both resold and facilities-based 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. 14:1-12.1 et seq. and in compliance with the Open Public Records Act, N.J.S.A. 47:1A-1 et seq.

Cross River is a limited liability company organized under the laws of the State of New Jersey. Vincenzo Clemente is the President and Chief Executive Officer and holds a majority ownership interest in Cross River whose principal offices are located at 33 Wood Avenue South, Suite 600, Iselin, New Jersey 08830.<sup>1</sup>

Petitioner has submitted a copy of its Certificate of Formation from the State of New Jersey. Petitioner plans initially to install and lease dark fiber facilities to enterprise customers throughout New Jersey. The Company states that it has not been denied authority to provide telecommunications services, its authority has not been revoked in any jurisdiction and it has

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<sup>1</sup>An Order of Approval was issued on July 14, 2011, which inadvertently included confidential information. This serves to correct the initial order and excludes the information which was requested to be treated as confidential and is the only language that has been removed from the previously issued Order.

not been the subject of any civil or criminal proceedings. Petitioner plans to enter into an interconnection agreement with New Jersey Incumbent Local Exchange Carriers (“ILEC”) as necessary to support its initial provision of dark fiber services and its future provision of lit fiber services and resold ILEC services.

Petitioner seeks authority to provide both resold and facilities-based local exchange and interexchange telecommunications services to enterprise and carrier customers requiring fiber optic connectivity between business operations and data centers throughout the State of New Jersey by utilizing its owned facilities and facilities leased from New Jersey ILECs. Petitioner plans to offer dark fiber, fractional dark fiber and interconnection to third party carriers in the State of New Jersey. The Petitioner is engaged in the installation of fiber optic technology for the communications industry, both in the public and private sector. Its operation includes, but is not limited to, activities as a contractor in the Northeast Region. Petitioner’s plans include construction of forty-five (45) fiber optic route miles to connect to strategic datacenters, enterprise, government, healthcare and education facilities. Petitioner expects its current facilities construction plan to be completed by the fourth quarter of 2011. Depending upon customer’s acceptance of Petitioner’s offer, Petitioner will consider further expansion of its fiber optic facilities to include more of the above mentioned facilities throughout New Jersey. Petitioner further states that after its dark fiber services are established, Petitioner may extend its service offering to include lit fiber service which includes, but is not limited to, private lines, end-user voice and data applications, including a full range of vertical features and functions such as call waiting and forwarding, conference calling, emergency services, etc., and full array resold ILEC services over its own facilities and facilities leased from New Jersey ILECs. Petitioner maintains a toll-free number for customer service inquiries. Petitioner will file a proposed tariff with the Board.

Petitioner requests a waiver of N.J.A.C. 14:1-4.3, which requires that books and records be maintained in accordance with the Uniform System of Accounts (“USOA”). 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. 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.

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, Cross River 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 Cross River, are well qualified to execute its business plans and have extensive managerial and technical experience in the telecommunications industry.

By letter dated June 14, 2011, the Division of Rate Counsel submitted comments with the Board recommending that the Board approve the Petition.

## **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 Cross River’s Petition and the information supplied in support thereof, as well as Rate Counsel’s comments, 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 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 offer dark fiber, fractional dark fiber and lit fiber telecommunications services until a tariff is filed with the Board. However, Petitioner won’t be relieved from its responsibility to file an Annual Report and a Statement of Gross Intrastate Revenues from Operations form for the preceding calendar year and payment of annual assessment to both the Board and the New Jersey Division of Rate Counsel.

The Board HEREBY ORDERS that:

- 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 waiver 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. 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 exemption from maintaining its books and records in accordance with USOA.

DATED: 7/14/11

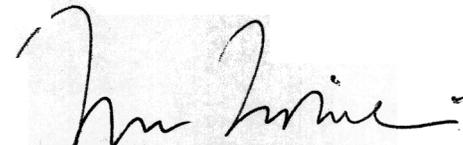
BOARD OF PUBLIC UTILITIES  
BY:



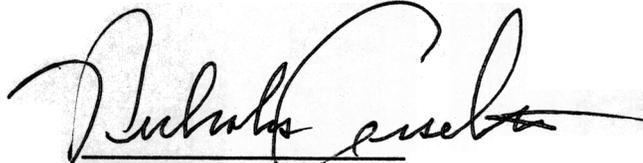
LEE A. SOLOMON  
PRESIDENT



JEANNE M. FOX  
COMMISSIONER



JOSEPH L. FIORDALISO  
COMMISSIONER



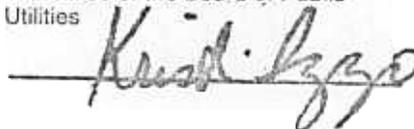
NICHOLAS ASSELTA  
COMMISSIONER

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 CROSS RIVER FIBER, LLC FOR  
AUTHORITY TO PROVIDE LOCAL EXCHANGE AND  
INTEREXCHANGE TELECOMMUNICATIONS  
SERVICES IN THE STATE OF NEW JERSEY

**DOCKET NO. TE11050320**

**SERVICE LIST**

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