



Agenda Date: 12/18/13
Agenda Item: IA

STATE OF NEW JERSEY
Board of Public Utilities
44 South Clinton Avenue, 9th Floor
Post Office Box 350
Trenton, New Jersey 08625-0350
www.nj.gov/bpu/

TELECOMMUNICATIONS

IN THE MATTER OF ONVOY, INC. PETITION FOR)
AUTHORITY TO PROVIDE LOCAL EXCHANGE,)
EXCHANGE ACCESS, INTEREXCHANGE AND)
PRIVATE LINE TELECOMMUNICATIONS SERVICES)
THROUGHOUT THE STATE OF NEW JERSEY)

ORDER

DOCKET NO. TE13100935

Parties of Record:

Dennis C. Linken, Esq., Scarinci & Hollenbeck, LLC Lyndhurst, New Jersey, for Petitioner
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 October 9, 2013, Onvoy, Inc. ("Petitioner" or "Onvoy") filed a Verified Petition with the New Jersey Board of Public Utilities ("Board") requesting authority to provide both resold and facilities-based local exchange, exchange access, interexchange and private line 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.

Onvoy is a privately held company organized under the laws of the State of Minnesota and is a wholly owned subsidiary of Zayo Group Holdings, Inc. ("Zayo Group"), a Delaware Corporation. Zayo Group is wholly owned by Communications Infrastructure Investments, LLC, which has no majority owner. Zayo Group owns Zayo Group, LLC, an infrastructure provider regulated by the Board. The Board granted authority to Zayo Group, LLC to provide local exchange, interexchange and exchange access telecommunications services throughout New Jersey on May 16, 2011 under Docket No TE11020049. Onvoy's principal offices are located at 10300 6th Avenue N., Plymouth, Minnesota 55441.

Petitioner has submitted copies of its Amended and Restated Articles of Incorporation and a Certificate of Good Standing from the State of Minnesota and its New Jersey Certificate of Authority to operate as a Foreign Corporation. On May 31, 2013, Petitioner filed a Registration of Alternate Name to operate as Onvoy Voice Services to provide Wholesale Telecommunications services in the State of New Jersey. Petitioner is currently authorized to provide local exchange, access and/or interexchange telecommunications services in Arizona, California, Colorado, Indiana, Idaho, Iowa, Michigan, Minnesota, Montana, Nebraska, Nevada, New Mexico, New York, North Dakota, Ohio, Oregon, Pennsylvania, South Dakota, Texas, Utah, Washington, Wisconsin and Wyoming. Petitioner is also authorized to provide interstate and international telecommunications services by the Federal Communications Commission.

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 intends to enter into an interconnection agreement with Verizon New Jersey Inc. ("VNJ") and Embarq but has not yet begun negotiations for an agreement.

Petitioner seeks authority to provide both resold and facilities-based local exchange, exchange access, interexchange and private line telecommunications services in the State of New Jersey. Petitioner intends to offer wholesale local exchange, exchange access, transit, and long distance services to other local exchange carriers, competitive local exchange carriers, voice over internet protocol providers and interexchange carriers. Petitioner also intends to provide intrastate primary rate interface services, direct inward dialing and dedicated internet access to retail enterprise customers. Petitioner initially intends to provide service in areas served by VNJ and Embarq, but does not plan to provide service in areas consisting of small or rural local exchange carriers at this time. Petitioner may expand into other services as market conditions warrant and as additional service areas become open to competition. Petitioner maintains a toll-free number for customer service inquiries. Petitioner will file an initial 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 require 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. Petitioner, instead, 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 Plymouth, Minnesota.

By letter dated October 28, 2013, the Division of Rate Counsel submitted comments with the Board stating that it does not object to Board approval of the Verified 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 Onvoy'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, exchange access, interexchange and private line 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**:

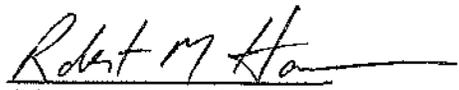
- 1) Petitioner shall file its tariff with the Board.
- 2) Pursuant to N.J.S.A. 48:2-16(2)(b) and N.J.A.C. 14:3-6.3, Petitioner shall file an annual report as of December 31 of each year, which is due on or before March 31 of the following year. Pursuant to N.J.S.A. 48:2-16.3, if Petitioner fails to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

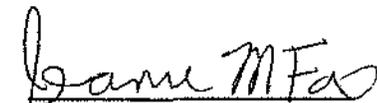
On or before February 1 of each year, the Petitioner will receive from the Division of Audits an annual report package and a Statement of Gross Intrastate Revenues from Operations form for the preceding calendar year. The purpose of these documents is to report the Petitioner's financial information 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.

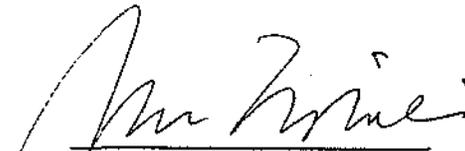
Regarding the Petitioner's request for waivers of the Board rules, the Board **FINDS** that the Petitioner has demonstrated good cause why the Board should grant relief from its requirements that the Petitioner maintain its books and records in accordance with USOA and within New Jersey. Therefore, subject 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: 12/18/13

BOARD OF PUBLIC UTILITIES
BY:


ROBERT M. HANNA
PRESIDENT

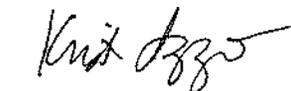

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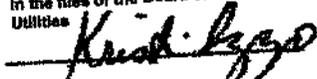

MARY-ANNA HOLDEN
COMMISSIONER


DIANNE SOLOMON
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



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TELECOMMUNICATIONS SERVICES THROUGHOUT THE STATE OF NEW JERSEY
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