



Agenda Date: 12/17/14
Agenda Item: IB

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 THE PETITION OF DSCI, LLC)
FOR AUTHORITY APPROVAL TO PROVIDE RESOLD)
AND FACILITIES-BASED COMPETITIVE INTRASTATE)
LOCAL EXCHANGE AND INTEREXCHANGE)
TELECOMMUNICATIONS SERVICES THROUGHOUT)
THE STATE OF NEW JERSEY)

ORDER

DOCKET NO. TE14091038

Parties of Record:

Jeffrey Blumenfeld, Esq., Kutak Rock LLP, for Petitioner
Stefanie A. Brand, Esq., Director, New Jersey 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 September 16, 2014, DSCI, LLC ("Petitioner" or "DSCI") filed a verified Petition with the New Jersey Board of Public Utilities ("Board") requesting an order of approval to provide competitive resold and facilities-based local exchange, switched exchange access, and interexchange telecommunications services to commercial subscribers 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.

DSCI is a privately held limited liability company organized under the laws of the State of Delaware. DSCI is a wholly-owned subsidiary of DSCI Holdings Corporation ("DSCI Holdings"), formerly known as DSCI Corporation ("DSCI Corp"). DSCI's principal offices are located at 303 Wyman Street, Suite 350, Waltham, MA 02451.

In New Jersey, DSCI Holdings was authorized by the Board to provide competitive local exchange and interexchange telecommunications services under Docket No. TE04111410 on February 23, 2005. DSCI Holdings provides integrated business communications services, including facilities-based and resold local and long distance voice and data services; hosted unified communications and collaboration; network connectivity; Internet and Internet Protocol-based services; and network integration, monitoring and server backup services. DSCI Holdings is authorized by the Federal Communications Commission ("FCC") to provide international and domestic interstate telecommunications services. DSCI Holdings is also authorized to provide interexchange telecommunications services and competitive local exchange services, pursuant to certification, registration or tariff requirements, or on a deregulated basis, in California, District of Columbia, Florida, Georgia, Maine, Massachusetts, New Hampshire, New York, Pennsylvania, Rhode Island, Vermont, and Virginia.

Upon approval of this petition and under the terms of a Contributions Agreement between DSCI Holdings and the Petitioner, DSCI Holdings will transfer substantially all of its assets and liabilities, including its customers and licenses, to DSCI. The Petitioner has concurrently filed a separate petition requesting the Board's approval to consummate the above transaction under Docket No. TM14030237. The assignment will be seamless and transparent to customers. Following the consummation of transactions, Petitioner will continue to operate DSCI Holdings' facilities and provide service to its customers at the same rates, terms, and conditions as provided by DSCI Holdings.

Petitioner has submitted copies of its Certificate of Formation from the State of Delaware and its New Jersey Certificate of Authority to Operate as a Foreign Limited Liability Company. Pursuant to the transfer of assets, including licenses, from DSCI Holdings, Petitioner will be authorized to provide telecommunications services in California, District of Columbia, Florida, Georgia, Maine, Massachusetts, New Hampshire, New York, Pennsylvania, Rhode Island, Vermont and Virginia. In addition, Petitioner will hold authorization from the FCC to provide interstate and international telecommunications services. 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. Pursuant to the terms of the assignment of assets from DSCI Holdings to Petitioner, DSCI will assume the existing interconnection agreement between DSCI Holdings and Verizon, as well as other agreements with underlying carriers and other suppliers, for access to Unbundled Network Elements ("UNEs"), unbundled network element platform and resold services. Petitioner also may negotiate agreements with other competitive carriers for leased and resold services as necessary to provide services in New Jersey.

Petitioner seeks authority to provide facilities-based and resold competitive local exchange, switched exchange access, and intra and inter Local Access and Transport Areas ("LATA") interexchange telecommunications services to commercial subscribers within the State of New Jersey. Petitioner will serve local exchange and interexchange subscribers utilizing a combination of local exchange carrier UNEs and resold services. In conjunction with Petitioner's resold Intrastate and Interstates services, the Company will offer a full range of competitive services in New Jersey. Initially, Petitioner will provide retail switched and dedicated local exchange and interexchange services to commercial subscribers. Petitioner will provide local exchange services and related custom calling features, directory assistance and intra-LATA/inter-LATA toll services and, may provide switched exchange access telecommunications services to interconnecting carriers. Petitioner will coordinate with incumbent local exchange carriers for the provision of emergency 911 services, directory publication, and directory

distribution to local customers. Petitioner intends to provide services in the same areas currently served by DSCI Holdings and expand its operation from there. Petitioner will not offer alternative operator services to the transient public. Petitioner will not construct facilities in New Jersey. Its services will be available twenty-four hours per day, seven days per week. Petitioner's initial tariff, which will mirror DSCI Holdings' current tariff, will be filed upon approval of this petition. Petitioner maintains a toll-free number for customer service inquiries.

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 Waltham, Massachusetts.

By letter dated October 20, 2014, the New Jersey Division of Rate Counsel submitted comments with the Board stating that, based on its review, "Rate Counsel is satisfied that the Petition meets the regulatory requirements and is consistent with the public interest, convenience, and necessity." Id. at 1-2. Accordingly, Rate Counsel does not oppose a grant of authority or approval of Petitioner's request to provide telecommunications services in New Jersey. Id. at 2-3. In addition, Rate Counsel does not object to a grant of the waivers requested by Petitioner, nor does Rate Counsel oppose Petitioner's request to treat its financial information as confidential and placed under seal. Id. at 2.

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(b) and (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 DSCI'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 in the State of New Jersey. Pursuant to N.J.A.C. 14:3-1.3(a), 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.

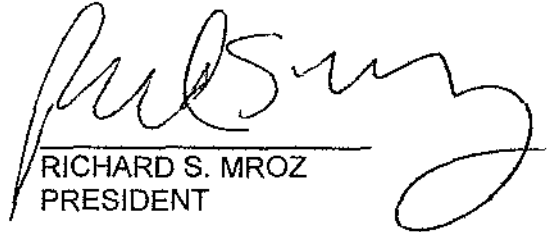
On or before February 1 of each year, the Petitioner will receive from the Division of Audits an annual report package and a Statement of Gross Intrastate Revenues from Operations form for the preceding calendar year. The purpose of these documents is to report the Petitioner's financial information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

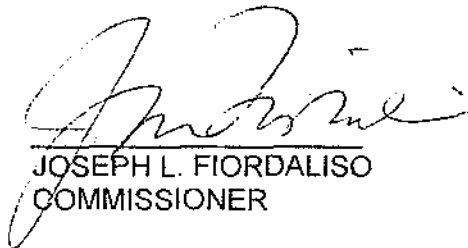
Regarding the Petitioner's request for waivers of the Board rules, the Board **FINDS** that the Petitioner has demonstrated good cause why the Board should grant relief from its requirements that the Petitioner maintain its books and records in accordance with USOA and within New Jersey. Therefore, subject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

This Order shall be effective December 26, 2014.

DATED: 12/17/14

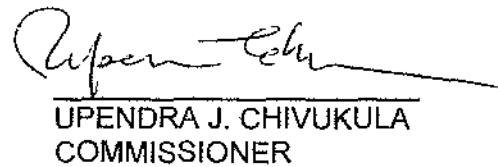
BOARD OF PUBLIC UTILITIES
BY:


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PRESIDENT


JOSEPH L. FIORDALISO
COMMISSIONER


MARY-ANNA HOLDEN
COMMISSIONER

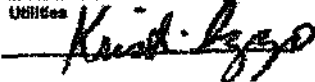

DIANNE SOLOMON
COMMISSIONER


UPENDRA J. CHIVUKULA
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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