



Agenda Date: 3/18/16
Agenda Item: IB

STATE OF NEW JERSEY
Board of Public Utilities
44 South Clinton Avenue, 3rd Floor, Suite 314
Post Office Box 350
Trenton, New Jersey 08625-0350
www.nj.gov/bpu/

TELECOMMUNICATIONS

IN THE MATTER OF THE VERIFIED PETITION OF) ORDER
TIME WARNER CABLE BUSINESS, LLC FOR)
AUTHORIZATION TO PROVIDE FACILITIES-BASED)
NON-VOICE INTEREXCHANGE)
TELECOMMUNICATIONS SERVICES IN NEW JERSEY) DOCKET NO. TE13100988

Parties of Record:

Dennis C. Linken, Esq., Scarinci & Hollenbeck, LLC Lyndhurst, New Jersey, 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 letters dated October 24, 2013 and August 18, 2014, Time Warner Cable Business LLC ("Petitioner" or "TWCB LLC") filed initial and amended verified Petition respectively with the New Jersey Board of Public Utilities ("Board") requesting authority to provide facilities-based non-voice interexchange telecommunications services throughout the State of New Jersey.

TWCB LLC is a limited liability company organized under the laws of the State of Delaware and is an indirect wholly-owned subsidiary of Time Warner Cable Inc. (TWC), the ultimate corporate parent of the Petitioner. TWC, together with its subsidiaries, provides video, high-speed data, voice, telecommunications and other services. Time Warner Cable Information Services (New Jersey), LLC ("TWCNJ") an affiliate of TWBC LLC, was granted authority to provide local exchange and interexchange telecommunications services in New Jersey under Docket No TE04091033 on January 28, 2009.¹ TWCB LLC's principal offices are located at 60 Columbus Circle, New York, New York 10023.

¹ See I/M/O the Petition of Time Warner Cable Information Services (New Jersey), LLC D/B/A Time Warner Cable for Authority to Provide Local Exchange and Interexchange Telecommunications Services Throughout the State of New Jersey, Docket No. TE04091033, Order dated January 28, 2009.

Charter Communications, Inc. ("Charter") and TWC concurrently filed two separate joint petitions with the Board on July 7, 2015 requesting Board approval to transfer the control of TWC's New Jersey cable operations to Charter per Docket No. CM15070770 and to transfer control of TWC's New Jersey voice operations to Charter under Docket No TM15070772.² A joint stipulation in these matters was approved by the Board on February 24, 2016. Upon closing of the transaction described in those petitions, TWCB LLC will become an indirect wholly-owned subsidiary of Charter without further approval by the Board.

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. Petitioner is authorized to provide interexchange services in the State of Colorado, Hawaii, Idaho, Illinois, Indiana, Kansas, Kentucky, Maine, Massachusetts, Michigan, Missouri, Nebraska, New Hampshire, New Mexico, New York, North Carolina, Ohio, Pennsylvania, South Carolina, Tennessee, Texas, Virginia, Washington, West Virginia and Wisconsin. Petitioner plans to seek authorization to provide interexchange services in nearly all fifty states and has concurrently filed for authorization to provide its services in multiple states, including the states neighboring 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 has not initiated negotiations to enter into an interconnection agreement with incumbent local exchange carriers, as it intends to offer facilities-based non-voice interexchange telecommunications services which do not require an interconnection agreement.

Petitioner seeks authority to provide competitive and facilities-based non-voice interexchange telecommunications services to commercial customers in the State of New Jersey. Petitioner intends to offer commercial customers High Capacity Transmission Services which provide point-to-point, point-to-multipoint and multipoint-to-multipoint dedicated non-voice connections between one or more customer-designated locations and/or Petitioner.³ The Company intends to provide services by use of the existing hybrid fiber coaxial network facilities of its affiliates and of its ultimate corporate parent, TWC, and by leasing or constructing of additional network facilities on an as-needed basis. Its service may utilize Ethernet interface, optical fiber and/or coaxial cable facilities, is scalable from 1 Millions of Bits per Second to 10 Billions of Bits per Second, and will be designed and provisioned on an Individual Case Basis ("ICB") in accordance with contacts with customers. Additionally, all requesting customers shall have non-discriminatory access to ICB services and facilities at nondiscriminatory rate, terms and conditions. Petitioner states that its service will be available twenty-four hours per day, seven days per week. Time Warner Cable New York City LLC, an affiliate of Petitioner, owns and

² See I/M/O the Petition of Time Warner Cable Inc., Charter Communications, Inc., and Time Warner Cable New York City LLC, for Approval of the Transfer of Control of Time Warner Cable New York City LLC and Approval of Transaction Financing, Docket No. CM15070770 and I/M/O the Verified Petition of Charter Communications, Inc. and Time Warner Cable Inc., for Approval of the Transfer of Control of Time Warner Cable Information Services (New Jersey), LLC and Approval of Transaction Financing, Docket No. TM15070772.

³ As noted in Amended Petition, Petitioner seeks authority to provide facilities-based non-voice interexchange telecommunications services in New Jersey; Petitioner acknowledges that if at some future point it desires to provide voice services, it will be required to petition the Board for such authority.

operates a hybrid fiber coaxial network in the Bergen County, New Jersey area. Over next five years, Petitioner intends to offer its afore mentioned services to commercial wholesale and retail customers in New Jersey. Petitioner maintains a toll-free number for customer service inquiries. Petitioner will file an initial tariff upon approval of its petition.

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 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 New York, New York.

By letter dated February 23, 2016, the New Jersey Division of Rate Counsel ("Rate Counsel") submitted comments to the Board stating that, based on its review, "Rate Counsel does not oppose a grant of authority or approval of Petitioner's request to provide facilities-based interexchange non-voice telecommunications services throughout New Jersey." Letter from Rate Counsel to the Board at 2. Rate Counsel also "does not object to a grant of the waivers requested by Petitioner herein." Ibid.

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).

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 "[p]rovide 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 TWCB LLC's Petition and the information supplied in support thereof, the Board **FINDS** that Petitioner is in compliance with the Board's filing requirements to provide telecommunications services in New Jersey. Accordingly, the Board **HEREBY AUTHORIZES** Petitioner to provide non-voice interexchange telecommunications services in the State of New Jersey. Pursuant to N.J.A.C. 14:3-1.3(a), the Board notes that 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.

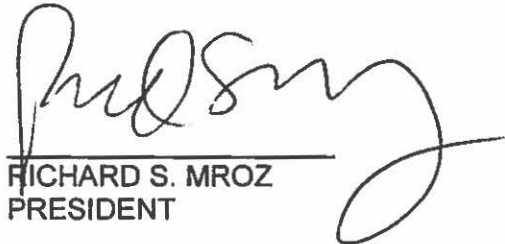
On or before February 1 of each year, the Petitioner will receive from the Division of Audits an annual report package and a Statement of Gross Intrastate Revenues from Operations form for the preceding calendar year. The purpose of these documents is to report the Petitioner's financial information 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 **HEREBY 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 **HEREBY 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 March 28, 2016.

DATED: 3-18-16

BOARD OF PUBLIC UTILITIES
BY:


RICHARD S. MROZ
PRESIDENT


JOSEPH L. FIORDALISO
COMMISSIONER

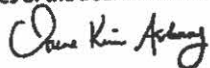

MARY-ANNA HOLDEN
COMMISSIONER


DIANNE SOLOMON
COMMISSIONER


UPENDRA J. CHIVUKULA
COMMISSIONER

ATTEST: 
IRENE KIM ASBURY
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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FOR AUTHORITY TO PROVIDE FACILITIES-BASED NON-VOICE INTEREXCHANGE
TELECOMMUNICATIONS SERVICES IN NEW JERSEY
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