



Agenda Date: 11/21/17  
Agenda Item: 1E

**STATE OF NEW JERSEY**  
**Board of Public Utilities**  
44 South Clinton Avenue, 3<sup>rd</sup> Floor, Suite 314  
Post Office Box 350  
Trenton, New Jersey 08625-0350  
[www.nj.gov/bpu/](http://www.nj.gov/bpu/)

TELECOMMUNICATIONS

IN THE MATTER OF THE VERIFIED PETITION OF )  
THE CHILlicothe TELEPHONE COMPANY, D/B/A ) ORDER  
HORIZON TELCOM, FOR AUTHORIZATION TO )  
PROVIDE TELECOMMUNICATIONS SERVICES IN )  
THE STATE OF NEW JERSEY ) DOCKET NO. TE17030307

**Parties of Record:**

**Dennis C. Linken, Esq.,** Scarinci, & Hollenbeck, LLC 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 Telecommunications Act of 1996, 47 U.S.C. § 151 et seq., and by letters dated March 27, 2017 and October 13, 2017, The Chillicothe Telephone Company, d/b/a Horizon Telcom, ("Petitioner" or "Horizon Telcom") filed initial and amended verified petitions, respectively, with the New Jersey Board of Public Utilities ("Board") requesting authorization to provide telecommunications services in the State of New Jersey. Petitioner has submitted its Calendar Year ("CY") 2014 and 2015 Financial Information ("FI") with its initial petition and filed CY 2016 FI with its amended petition 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. In the amended verified petition of October 13, 2017, Petitioner also clarified its service offerings for authorization.

**BACKGROUND**

Horizon Telcom is a privately held corporation organized under the laws of the State of Ohio. Petitioner's principal offices are located at 68 East Main Street, Chillicothe, Ohio 45601.

Petitioner has submitted copies of its Articles of Incorporation from the State of Ohio and its New Jersey Certificate of Authority to Transact Business as a Foreign Corporation. Petitioner is an Incumbent Local Exchange Carrier ("ILEC") serving Ross County in Ohio and is authorized to provide competitive local exchange and interexchange services in the majority of the State of Ohio. In addition to voice services, Petitioner also provides cable television services and, as a Competitive Local Exchange Carrier ("CLEC"), it provides CLEC services and primarily data transport services in its Ohio service area. Petitioner is authorized to provide intrastate and

interstate telecommunications services in the States of Michigan, Indiana, Pennsylvania and West Virginia. Petitioner states that it has not been denied authority to provide telecommunications services, its authority has not been revoked in any jurisdiction, and neither Petitioner nor any of its officers have been or are currently the subject of any civil or criminal proceedings. Petitioner has not yet entered into or requested an interconnection agreement with ILECs in New Jersey, but where necessary for the provision of service will do so with Board approval prior to the commencement of such service.

Petitioner seeks authorization to provide telecommunications services throughout the State of New Jersey. At this time, Petitioner does not intend to offer traditional residential or business competitive local exchange telephone services or switched, interexchange telephone service. In the future, Petitioner upon commencing CLEC service pursuant to this authority will provide, either directly or through an arrangement with others, access to 9-1-1 and E-9-1-1 services, telecommunications relay services, directory assistance, operator services, and non-discriminatory interconnection with other local exchange carriers. Petitioner generally will provide services on a monthly basis and its service will be available twenty-four hours/day, seven days/week, subject to availability of necessary service, equipment and facilities. Upon certification, and prior to commencing service, Petitioner will file the relevant rates, terms and conditions as may be required under the Board's rules and regulations. 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 requests permission to maintain its books and records in accordance with Generally Accepted Accounting Principles and to keep all financial 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 Chillicothe, Ohio.

By letter dated November 8, 2017, the New Jersey Division of Rate Counsel ("Rate Counsel") submitted comments to the Board stating that, based on its review, Rate Counsel is satisfied that the verified petition meets the regulatory requirements and is consistent with the public interest, convenience, and necessity. Rate Counsel does not object to granting the waiver requested in connection with record-keeping by Petitioner, nor does Rate Counsel oppose Petitioner's request to treat its financial information as confidential and place under seal. Accordingly, Rate Counsel does not oppose a grant of authority or approval of Petitioner's request to provide competitive local exchange and interexchange telecommunications services throughout the State of New Jersey.

## DISCUSSION

On February 8, 1996, the 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, promoting competition and removing barriers to entry in telecommunications markets 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). The Board, as the State regulatory authority, may impose requirements necessary to protect the public safety and welfare, ensure the continued quality of telecommunications services, and safeguard the rights of consumers on a competitively neutral basis and consistent with universal service. 47 U.S.C. § 253(b).

In considering this petition for CLEC authority to provide telecommunications services in New Jersey, the Board recognizes its obligation not to prohibit entry into intrastate

telecommunications markets by qualified applicants. 47 U.S.C. § 253(a). The Board additionally notes the State policy 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” pursuant to the New Jersey Telecommunications Act of 1992. N.J.S.A. 48:2-21.16(a)(4); N.J.S.A. 48:2-21.16(b)(1) and (3).

Having reviewed Horizon Telcom’s petition and the information supplied, the Board **FINDS** that Petitioner is in compliance with the Board’s filing requirements to provide facilities-based landline services/interexchange and local exchange telecommunications services in New Jersey should they offer said services in the future. Accordingly, the Board **HEREBY AUTHORIZES** Petitioner to provide facilities-based landline and interexchange and local exchange telecommunications services in the State of New Jersey. These findings and authorization do not pertain to non-CLEC services. Pursuant to N.J.S.A. 48:2-21.19(a)(2) and N.J.A.C. 14:10-5.2, Petitioner must make the terms and conditions of said service publicly available on its website and must provide a printed copy of those terms and conditions to a customer upon request.

The granting of such authority conveys certain rights and privileges upon the Petitioner, in its designation as a CLEC in New Jersey, which are reserved for the provision of facilities-based landline services. While CLECs may also provide other telecommunications services, such as wireless, small cell or distributed antenna systems (“DAS”), as well as other services, these service offerings are beyond the scope of Board jurisdiction and the grant of CLEC authority in this Order and generally. Specifically, the Board grant of CLEC authority is limited to the provision of competitive facilities-based local and interexchange services. To the extent that a CLEC provides non-regulated telecommunications services, the CLEC benefits, rights or privileges are not applicable to those non-regulated services.

The Board **HEREBY ORDERS**:

- (1) Petitioner shall provide notice to the Board of its website link which contains the terms and conditions of its competitive local exchange telecommunications services within five (5) days from the effective date of a Board Order. To ensure service quality, Petitioner shall notify the Board within 10 days from the date it begins service to New Jersey customers;
- (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. If Petitioner does not receive the Board’s annual report package from the Division of Audits on or before February 1 of each year, it is Petitioner’s responsibility to obtain them from the Board. It is also Petitioner’s responsibility to ensure timely filing of these reports;
- (4) Failure to comply with this order may result in monetary penalties pursuant to N.J.S.A. 48:2-42, suspension of CLEC authority, and/or revocation of CLEC authority; and

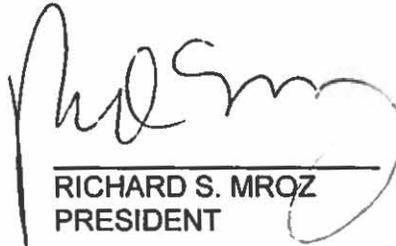
- (5) In accordance with N.J.S.A. 48:2-59 and 48:2-60 and N.J.S.A. 52:27EE-52, Petitioner is subject to an annual assessment by both the Board and the Division of Rate Counsel, respectively.

Petitioner additionally requests a waiver of N.J.S.A. 48:3-7.8. Petitioner seeks authority to keep its books and records outside the State of New Jersey. The request was noticed and unopposed. Upon review, the Board **FINDS** that the Petitioner demonstrated good cause why relief should be granted. Subject to the Petitioner's continuing responsibility to produce such records at such time and place within this State as the Board may designate, in the manner requested, and to pay all expenses or charges incurred for any investigation or examination of the books and records, the Board **GRANTS** its permission to keep records, books, accounts, documents and other writings outside the State of New Jersey pursuant to N.J.A.C. 14:1-15 and waives the USOA requirement at N.J.A.C. 14:1-4.3.

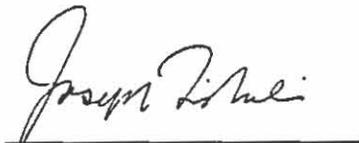
This Order shall be effective December 1, 2017.

DATED: 11/21/17

BOARD OF PUBLIC UTILITIES  
BY:



RICHARD S. MROZ  
PRESIDENT



JOSEPH L. FIORDALISO  
COMMISSIONER



MARY-ANNA HOLDEN  
COMMISSIONER

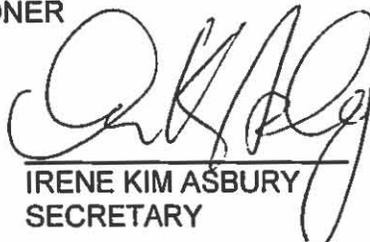


DIANNE SOLOMON  
COMMISSIONER



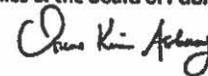
UPENDRA J. CHIVUKULA  
COMMISSIONER

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



**IN THE MATTER OF THE VERIFIED PETITION OF THE CHILLICOTHE TELEPHONE  
COMPANY, D/B/A HORIZON TELCOM, FOR AUTHORIZATION TO PROVIDE  
TELECOMMUNICATIONS SERVICES IN THE STATE OF  
NEW JERSEY - DOCKET NO. TE17030307**

**SERVICE LIST**

**Petitioner**

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