



Agenda Date: 5/28/19  
Agenda Item: IB

**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 APPLICATION OF PLANET )  
NETWORKS, INC. FOR AUTHORIZATION TO )  
PROVIDE LOCAL EXCHANGE AND INTEREXCHANGE )  
TELECOMMUNICATIONS SERVICES THROUGHOUT )  
THE STATE OF NEW JERSEY )

ORDER

DOCKET NO. TE19020198

**Parties of Record:**

**Joseph Isaacs, Chief Regulatory Officer, % ISG-Telecom Consultants**  
**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., ("Federal Act") and by letter dated January 23, 2019, Planet Networks, Inc. ("Petitioner" or "PLANET") filed a petition with the New Jersey Board of Public Utilities ("Board") for authority to provide facilities-based and resold competitive local exchange access and non-dominant interexchange telecommunications services throughout the State of New Jersey. Petitioner does not at this time seek authority to provide local exchange telecommunications service in the service areas of small or rural Local Exchange Carriers ("LECs") in New Jersey that qualify for the rural exemption outlined in Section 251(f)(1) of the Federal Telecommunications Act of 1996 Pub. L. No. 104-104, 110 Stat.56 (1996)("Federal Act").

**BACKGROUND**

PLANET is a privately held corporation organized under the laws of the State of New Jersey. Planet was initially organized as Garden Networks, Inc. ("GNI") on December 18, 1996. GNI filed a Certificate of Amendment to the Certificate of Incorporation changing its legal name to Tellurian Networks, Inc. ("TNI") on November 4, 1998. TNI in turn filed a Certificate of Amendment to the Certificate of Incorporation amending its legal name to iTellus Holdings, Inc. ("iHI") on December 9, 2008. And, finally iHI filed a Certificate of Amendment to the Certificate of Incorporation changing its legal name to PLANET on June 15, 2016. Petitioner's principal offices are located at 1 Ivy Crest Lane, Rockaway, New Jersey 07866.

Petitioner has submitted copies of the Certificate of Incorporation of GNI and its Certificates of Amendment to evidence the above name changes and has also submitted evidence of good standing, in the form of Certificate of Validation from the State of New Jersey. Petitioner currently has no authority to operate in any jurisdiction. However, Petitioner has pending applications in the State of New York and California. 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 begun negotiations with Verizon New Jersey, Inc. to enter into an interconnection agreement and intends to complete said negotiations upon approval of its petition.

Petitioner seeks authority to provide facilities-based and resold local exchange and access services, as well as facilities-based and resold interexchange services throughout most of the State of New Jersey. Petitioner will provide Competitive Local Transport Services ("CLTS"). Initially, Petitioner will deploy its networks by using a combination of its own equipment and services purchased from other telecommunications companies and reselling them to wireless carriers. Additionally, Petitioner will also install and operate equipment to support backhaul services for wire-line and Voice over Internet Protocol voice service providers. Petitioner will provide its CLTS using backhaul linked by fiber optic cables with conversion equipment attached to poles, wires, fiber termination equipment, and other structures. Petitioner's services are designed in part to use wire line telecommunications to fill in gaps in data coverage without requiring the construction of major facilities. Although Petitioner does not initially intend to provide voice service to end-use-subscribers, should it do so in the future, Petitioner will provide, either directly or through arrangement with others, access to, 911 and E911 services; telecommunications relay services; directory assistance services; operator services and non-discriminatory interconnection with other LECs. Initially Petitioner will provide its services on a resale basis until sufficient market research is completed to determine the municipalities where facilities will be deployed in New Jersey. Petitioner intends to begin deployment of facilities in New Jersey upon approval of its petition.

Petitioner maintains a toll-free number for customer service inquiries which will be available on 24-hours-a-day, 7-days-a-week. Petitioner has posted its tariff on its website at [www.planet.net/tariffs](http://www.planet.net/tariffs)

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"). For administrative efficiencies, Petitioner requests permission to maintain its books and records in accordance with Generally Accepted Accounting Principles ("GAAP").

By letter dated April 11, 2019, 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. Accordingly, Rate Counsel does not oppose a grant of authority or approval of Petitioner's request to provide 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 telecommunication services, 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 Legislative 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), and N.J.S.A. 48:2-21.16(b)(1) and (3).

Therefore, having reviewed PLANET’s petition and the information supplied, the Board **FINDS** that Petitioner with respect to their request to provide local exchange and interexchange telecommunications services, is in compliance with the Board’s filing requirements to provide landline facilities-based competitive local exchange telecommunications landline services in New Jersey. Accordingly, the Board **HEREBY AUTHORIZES** Petitioner to provide local exchange and interexchange 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, these service offerings are beyond the scope of Board jurisdiction and the granting of CLEC authority in this Order and generally. Specifically, the Board granting 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) Pursuant to N.J.S.A. 48:2-21.19(a)(2) and N.J.A.C. 14:10-5.2, Petitioner must post the terms and conditions of its retail competitive services on its website in a publically-available location, and must also provide a printed copy of those terms and conditions to a customer upon request of the customer.

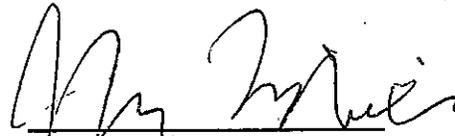
- 2) Petitioner shall provide notice to the Board of its website link described above that contains the terms and conditions of its competitive local exchange and interexchange telecommunications services to end-use subscribers before commencing/offering retail local exchange services to end-use subscribers. To ensure service quality, Petitioner shall notify the Board within 10 days from the date it begins providing such services to New Jersey customers;
- 3) Petitioner shall provide notice to the Board of its website link which contains the terms and conditions of 9-1-1 and E-9-1-1 service when Petitioner begins offering retail local exchange services to end-use subscribers to ensure that Petitioner's owned/leased facilities are equipped to provide reliable and functional access to 9-1-1 and E-9-1-1 services to end-use subscribers. To ensure service quality, Petitioner shall notify the Board within 10 days from the date it begins providing such services to New Jersey customers;
- 4) Pursuant to N.J.S.A. 48:2-16(2)(b) and N.J.A.C. 14:3-6.3 and, N.J.S.A. 48:2-62, Petitioner shall file an annual report and a statement of gross intrastate revenues from operations form (AR3-1) as of December 31 of each year, which is due on or before March 31 and June 1 of the following year, respectively. 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. 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;
- 5) 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
- 6) 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.

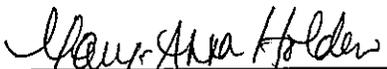
Petitioner additionally requests a waiver of N.J.A.C. 14:1-4.3. Petitioner seeks authority to maintain its books and records in accordance with GAAP. The request was noticed and unopposed. Upon review, the Board **FINDS** that the Petitioner demonstrated good cause why relief should be granted. Subject 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 these books and records, the Board **GRANTS** its permission to maintain books and records in accordance with GAAP and waive the USOA requirement at N.J.A.C. 14:1-4.3.

This Order shall be effective June 7, 2019.

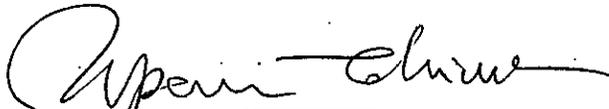
DATED: 5/28/19

BOARD OF PUBLIC UTILITIES  
BY:

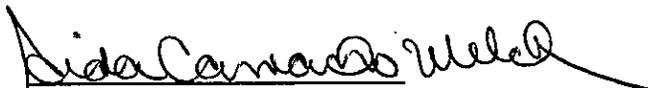
  
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COMMISSIONER

ATTEST:   
AIDA CAMACHO-WELCH  
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 APPLICATION OF PLANET NETWORKS, INC. FOR  
AUTHORIZATION TO PROVIDE LOCAL AND INTEREXCHANGE TELECOMMUNICATIONS  
SERVICES THROUGHOUT THE STATE OF NEW JERSEY**

**DOCKET NO. TE19020198**

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