



Agenda Date: 12/6/23  
Agenda Item: IC

**STATE OF NEW JERSEY**  
**Board of Public Utilities**  
44 South Clinton Avenue, 1<sup>st</sup> Floor  
Post Office Box 350  
Trenton, New Jersey 08625-0350  
[www.nj.gov/bpu/](http://www.nj.gov/bpu/)

TELECOMMUNICATIONS

IN THE MATTER OF PETITION OF EXTENET LVS LLC )  
FOR AUTHORIZATION TO PROVIDE LOCAL )  
EXCHANGE AND INTEREXCHANGE )  
TELECOMMUNICATIONS SERVICES IN THE STATE )  
OF NEW JERSEY )

ORDER  
  
DOCKET NO. TE23040242

**Parties of Record:**

**Brian O. Lipman, Esq., Director**, New Jersey Division of Rate Counsel  
**Dennis C. Linken** for Petitioner

BY THE BOARD:

On April 21, 2023, ExteNet LVS, LLC ("Petitioner" or "ExteNet") filed a petition with the New Jersey Board of Public Utilities ("Board"), pursuant to the New Jersey Telecommunications Act of 1992 ("1992 Act"), N.J.S.A. 48:2-21.16 et seq., and the Federal Telecommunications Act of 1996 ("Federal Act"), Pub. L. No. 104-104, 1110 Stat. 56 (1996), requesting authorization from the Board to provide facilities-based and resold local exchange and interexchange non-voice telecommunications services throughout the State of New Jersey ("Petition"). Petitioner has submitted its Financial Statements under seal and has filed an 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.

## **BACKGROUND**

ExteNet is a privately held limited liability company organized under the laws of the State of Delaware. Petitioner is owned in its entirety by ExteNet LVS Holdings, LLC, which is wholly owned by ExteNet Systems, LLC (formerly ExteNet Systems, Inc.) (“ESL”). ESL is a direct, wholly owned subsidiary of Odyssey Acquisition, LLC (“Odyssey”), a Delaware limited liability company. Odyssey is a direct and wholly owned subsidiary of Mount Royal Holdings, LLC (“Parent”) which is owned by a multiple of private equity firms, an insurance company, and certain individuals in management of ESL. Currently Petitioner’s three (3) affiliates are operating as Competitive Local Exchange Carriers (“CLEC”) in the State of New Jersey.<sup>1</sup>

Petitioner is currently authorized to provide intrastate telecommunications services in Michigan. Petitioner also has a pending application for authorization to provide intrastate telecommunications services in the state of New York and plans to apply for similar authority in Maryland, Massachusetts, Mississippi, Nevada, and Ohio. Petitioner asserted that there are not now, nor have there ever been, civil or criminal proceedings against ExteNet in any jurisdiction, including settlements of any proceeding. The Petitioner affirmed that it has not been the subject of any state or federal investigation. The Petitioner has not initiated negotiation of an interconnection agreement with any Incumbent Local Exchange Carrier (“ILECs”) because it does not intend to furnish switched voice services or dial tone services to end users. However, should Petitioner undertake arrangements requiring an interconnection agreement in the future, it indicated that it would enter into an interconnection agreement with the ILEC whose leased facilities are equipped to provide E-9-1-1 services to end user customers pursuant to Federal Communications Commission guidelines, as well as relevant state law and regulations.

Petitioner seeks authority to provide facilities-based and resold local exchange and interexchange services to wireless service provider and other enterprise customers throughout the State of New Jersey. The telecommunications services Petitioner expects to provide initially will include point-to-point telecommunications services, such as Ethernet and other similar high-bandwidth services, for high-speed data transport. Petitioner will provide its services to wireless service providers and other enterprise customers on a wholesale basis. Using fiber-fed distributed antenna systems, small cells, Wi-Fi, and other technologies, Petitioner initially plans to deploy distributed networks to enhance coverage and capacity and enable superior wireless service in both outdoor and indoor environments.

Petitioner does not intend to furnish switched voice service or dial tone services to end-use-subscribers. Instead Petitioner will offer its service on a non-discriminatory basis and at competitive rate but will do so through individual case basis contracts. Petitioner maintained that its plan for the next year and five (5) years consists of providing services to wireless service

---

<sup>1</sup> (1) ExteNet Systems Inc. f/n/a Clearlinx Network Corporation is authorized to provide local exchange and interexchange telecommunications services. See In re the Petition Clearlinx Network Corporation for approval to provide local exchange and interexchange telecommunications services within the state of New Jersey, Docket No. TE05121059, Order dated April 12, 2006; (2) ExteNet Asset Entity, LLC is authorized to provide local exchange and interexchange telecommunication services. See In re the Petition of ExteNet Asset Entity, LLC for Authorization to Provide Local Exchange and Interexchange Telecommunications Services in the State of New Jersey, Docket No. TE19020196, Order dated April 18, 2019; (3) ExteNet Telecom Solutions, Inc. f/n/a Hudson Fiber Network Inc. is authorized provide local exchange and interexchange telecommunications services. See In re the Petition of Hudson Fiber Network, Inc. for Approval to Provide Local Exchange and Interexchange Telecommunications Services Throughout the State of New Jersey, Docket No. TE10050365, Order dated August 18, 2010.

providers and other enterprise customers on a wholesale basis. Petitioner asserted that it will maintain a toll-free number for customer service inquiries and will monitor and maintain a high level of control over its network 24 hours a day, 7 days a week. Petitioner will provide information regarding the general rates, terms and conditions of its services on its website.

Pursuant to N.J.A.C. 14:1-1.2, Petitioner also requested a waiver of N.J.A.C. 14:10-1A.13, which requires Petitioner to maintain its books and records in accordance with the Uniform System of Accounts (“USOA”) as well as N.J.A.C. 14:1-5.15, which pertains to maintenance of books and records in New Jersey. For administrative efficiencies, Petitioner requested permission to instead maintain its books and records in accordance with Generally Accepted Accounting Principles (“GAAP”). However, Petitioner stated that it will comply with N.J.A.C. 14:10-1A.13 if the Board does not grant the waiver.

By revised letter dated November 13, 2023, the New Jersey Division of Rate Counsel (“Rate Counsel”) submitted comments to the Board stating that, based on its review, it is satisfied that the Petition meets the regulatory requirements and is consistent with the public interest, convenience, and necessity. Rate Counsel did not object to granting the waiver requests in connection with maintenance of books and records per the GAAP as opposed to the USOA, as well as maintaining books and records in New Jersey. Accordingly, Rate Counsel did not oppose a grant of authority or approval of Petitioner’s request to provide local and interexchange telecommunications services throughout the State of New Jersey.

### **DISCUSSION AND FINDINGS**

On February 8, 1996, the Federal Act was signed into law to promote competition and remove barriers to entry into telecommunications markets. To that end, 47 U.S.C. § 253(a) provides 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.” However, pursuant to 47 U.S.C. § 253(b), the Board, as the State’s 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 that is consistent with universal service.

In considering the instant Petition for CLEC authority to provide telecommunication services, the Board recognizes its obligation to not prohibit entry into intrastate telecommunications markets by qualified applicants. 47 U.S.C. § 253(a). The Board additionally notes, pursuant to the 1992 Act, that State policy is 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.” N.J.S.A. 48:2-21.16(a)(4), (b)(1) and (b)(3). Consistent with State and federal law, the Board is empowered to grant CLEC authority to telecommunications companies wishing to provide service in New Jersey. N.J.S.A. 48:2-13 and 48:2-21.20(d).

Therefore, having reviewed the Petition and the information supplied, the Board **HEREBY FINDS** that, with respect to its request for approval to provide local exchange and interexchange services, Petitioner 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 services throughout 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 shall make the rates, terms, and conditions of said service publicly available on its website and

shall provide a printed copy of those terms and conditions to a customer upon request and the link to the CLEC website with this information for inclusion on the Board's website.

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 shall post the terms and conditions of its retail competitive services on its website in a publicly available location, and shall also provide a printed copy of those terms and conditions to a customer upon the customer's request.
- 2) Petitioner shall provide the Board and Rate Counsel with a link to the page of the website described above that contains the terms and conditions of its competitive local exchange and interexchange telecommunications services no later than five (5) days after the effective date of this Order. 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 the Board with a link to the page of its website that contains the terms and conditions of 9-1-1 and E-9-1-1 services 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 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), 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, N.J.S.A. 48:2-60, and N.J.S.A. 52:27EE-52, Petitioner is subject to an annual assessment by both the Board and Rate Counsel, respectively.

The Petitioner additionally requested a waiver of N.J.A.C. 14:10-1A.13 and N.J.A.C. 14:1-5.15(a). Upon review, the Board **FINDS** that the Petitioner demonstrated requisite good cause for the Board to grant such relief pursuant to N.J.A.C. 14:1-1.2. Accordingly, the Board **HEREBY**

**GRANTS** ExteNet LVS, LLC permission to adhere to the GAAP and waives the USOA requirements at N.J.A.C. 14:10-1A.13 and bookkeeping requirements at N.J.A.C. 14:1-5.15(a).

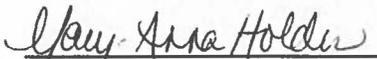
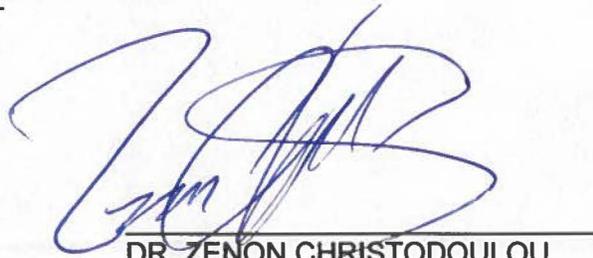
This Order shall be effective December 13, 2023.

DATED: December 6, 2023

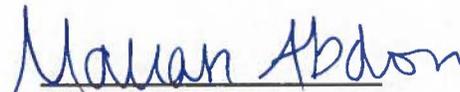
BOARD OF PUBLIC UTILITIES  
BY:



CHRISTINE GUHL-SADOVY  
PRESIDENT

  
MARY-ANNA HOLDEN  
COMMISSIONER

DR. ZENON CHRISTODOULOU  
COMMISSIONER

  
MARIAN ABDOU  
COMMISSIONER

ATTEST:

  
SHERRIL L. GOLDEN  
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 PETITION OF EXTENET LVS, LLC FOR AUTHORIZATION TO PROVIDE  
LOCAL EXCHANGE AND INTEREXCHANGE TELECOMMUNICATIONS SERVICES THROUGHOUT  
THE STATE OF NEW JERSEY

DOCKET NO. TE23040242

SERVICE LIST

**Petitioner & Attorney**

Brian Kirk  
Vice President & Deputy General Counsel  
ExteNet LVS, LLC  
3030 Warrenton Road, Suite 340  
Lisle, Illinois 60532  
[compliance@extenetsystems.com](mailto:compliance@extenetsystems.com)

Scarinci Hollenbeck  
150 Clove Road, 9<sup>th</sup> Floor,  
Little Falls, New Jersey 07424

Dennis C. Linken, Esq.  
[dlinken@sh-law.com](mailto:dlinken@sh-law.com)

Stan Barrett, Esq.  
[sbarrett@sh-law.com](mailto:sbarrett@sh-law.com)

**Division of Rate Counsel**

140 East Front Street, 4<sup>th</sup> Floor  
Trenton, New Jersey 08625-0003

Brian O. Lipman, Esq., Director  
[blipman@rpa.nj.gov](mailto:blipman@rpa.nj.gov)

Emily Smithman, Esq.  
[esmithman@rpa.nj.gov](mailto:esmithman@rpa.nj.gov)

Robert Glover, Esq.  
[rglover@rpa.nj.gov](mailto:rglover@rpa.nj.gov)

**Department of Law & Public Safety**

**Division of Law**  
**NJ Department of Law and Public Safety**  
**Richard J. Hughes Justice Complex Public**  
**Utilities Section**  
**25 Market Street, P.O. Box 112**  
Trenton, NJ 08625

Pamela Owen, Chief, DAG  
[pamela.owen@law.njoag.gov](mailto:pamela.owen@law.njoag.gov)

Terel Klein, DAG  
[terel.klein@law.njoag.gov](mailto:terel.klein@law.njoag.gov)

**Board of Public Utilities**

44 South Clinton Avenue, 1<sup>st</sup> Floor  
Post Office Box 350  
Trenton, New Jersey 08625-0350

Sherri L. Golden, Board Secretary  
[board.secretary@bpu.nj.gov](mailto:board.secretary@bpu.nj.gov)

Stacy Peterson, Deputy Executive Director  
[stacy.peterson@bpu.nj.gov](mailto:stacy.peterson@bpu.nj.gov)

Division of Audits

Alice Bator, Director  
[alice.bator@bpu.nj.gov](mailto:alice.bator@bpu.nj.gov)

Paul Buhagiar, Bureau Chief  
[paul.buhagiar@bpu.nj.gov](mailto:paul.buhagiar@bpu.nj.gov)

Matthew Holman, Auditor  
[matthew.holman@bpu.nj.gov](mailto:matthew.holman@bpu.nj.gov)

Office of Cable Television and  
Telecommunications

Lawanda Gilbert, Director  
[lawanda.gilbert@bpu.nj.gov](mailto:lawanda.gilbert@bpu.nj.gov)

Rocco DellaSerra  
[rocco.dellaserra@bpu.nj.gov](mailto:rocco.dellaserra@bpu.nj.gov)

Counsel's Office

Carol Artale, Deputy General Counsel  
[carol.artale@bpu.nj.gov](mailto:carol.artale@bpu.nj.gov)

Steven Athanassopoulos, Legal Specialist  
[steven.athanassopoulos@bpu.nj.gov](mailto:steven.athanassopoulos@bpu.nj.gov)