



Agenda Date: 4/17/24  
Agenda Item: IB

**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/)

OFFICE OF  
TELECOMMUNICATIONS  
& CABLE

IN THE MATTER OF PETITION OF BIF IV INTREPID )  
OPCO LLC FOR AUTHORIZATION TO PROVIDE ) ORDER  
LOCAL EXCHANGE AND INTEREXCHANGE )  
TELECOMMUNICATIONS SERVICES IN THE STATE )  
OF NEW JERSEY ) DOCKET NO. TE23110861

**Parties of Record:**

**Brian O. Lipman, Esq., Director**, New Jersey Division of Rate Counsel  
**Joshua M. Bobeck** for BIF IV Intrepid Opco, LLC

BY THE BOARD:

On October 19, 2023, BIF IV Intrepid OpCo, LLC (“Petitioner” or “Intrepid”) 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, 110 Stat. 56 (1996), requesting authorization from the Board to provide facilities-based and resold local exchange and interexchange telecommunications services throughout the State of New Jersey (“Petition”). Petitioner has submitted its financial statements under seal and has 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 Record Act, N.J.S.A. 47:1A-1 et seq.

**BACKGROUND**

Intrepid is a privately held limited liability company organized under the laws of the State of Delaware. Petitioner is a wholly owned subsidiary of BIF IV Intrepid Holdco LLC, which is owned by Brookfield Infrastructure Fund IV funds (a private entity fund) and other operating entities who are managed by Brookfield Infrastructure Partners, L.P., a publicly traded company.

Petitioner has pending applications in the states of Florida, Maryland, and Tennessee and is currently authorized to provide intrastate telecommunications services in 34 other states according to the Petition. Petitioner disclosed two (2) instances of unintentional failure to submit timely regulatory assessment fees in Florida and certain reports in Nevada, which led to the

cancellation of Petitioner's certificate of authorization in Florida. The Petitioner stated that it has since paid all fees and contracted a third-party vendor to handle regulatory requirements.

By the Petition, Intrepid sought authority to provide facilities-based and resold local exchange access and non-dominant interexchange services and plans to provide facilities-based point-to-point telecommunications services, such as Ethernet and other similar high-bandwidth services, for high-speed data transport throughout the State of New Jersey. Petitioner intends to provide its services using fiber optic cable along with other equipment and facilities to originate, terminate, and amplify signals. Petitioner proposed to build a fiber-based network in New Jersey, which Petitioner plans to construct to customer locations to provide its services. Petitioner does not currently own or lease facilities in New Jersey. Petitioner will provide services to enterprise customers and to other communications providers on a wholesale basis and does not intend to directly serve residential customers. Petitioner does not intend to furnish switched voice services or dial tone.

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, the Petitioner stated that it will comply with N.J.A.C. 14:10-1A.13 if the Board does not grant the waiver.

By letter dated March 13, 2024, 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 competitive local exchange carrier ("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. See 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) In the event Petitioner intends to provide or provides services requiring the provision of 9-1-1 or E-9-1-1 services under Federal law, 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 the 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.

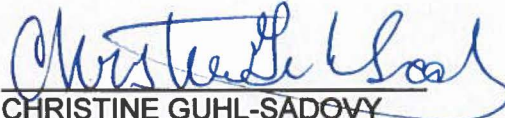
- 5) Failure to comply with this order may result in monetary penalties pursuant to N.J.S.A. 48:2-42, suspension of CLEC authority, and/or revocation of CLEC authority.
- 6) In accordance with N.J.S.A. 48:2-59, N.J.S.A. 48:2-60 and N.J.S.A. 52:27EE-52, Petitioner is subject to an annual assessment by 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 **HEREBY 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** Intrepid 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).

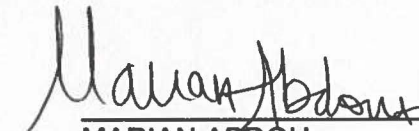
This Order shall be effective April 24, 2024.

DATED: April 17, 2024

BOARD OF PUBLIC UTILITIES  
BY:

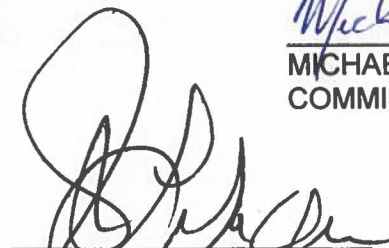
  
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ATTEST:

  
SHERRI L. GOLDEN  
SECRETARY

IN THE MATTER OF PETITION OF BIF IV INTREPID OpCo LLC FOR AUTHORIZATION TO PROVIDE LOCAL EXCHANGE AND INTEREXCHANGE TELECOMMUNICATIONS SERVICES IN THE STATE OF NEW JERSEY

DOCKET NO. TE23110861

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