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Agenda Date: 01-23-03  
Agenda Item: IB



**STATE OF NEW JERSEY**

*Board of Public Utilities*

*Two Gateway Center*

*Newark, NJ 07102*

*www.bpu.state.nj.us*

**TELECOMMUNICATIONS**

IN THE MATTER OF THE PETITION FOR AN ORDER	)	<u>ORDER</u>
AUTHORIZING AMERIMEX COMMUNICATONS CORP	)	
TO OPERATE AS A FACILITIES-BASED PROVIDER	)	
AND RESELLER OF TELECOMMUNICATIONS	)	
SERVICES IN STATE OF NEW JERSEY	)	DOCKET NO. TE02070403

(SERVICE LIST ATTACHED)

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 letter dated July 15, 2002, AmeriMex Communications Corp. ("Petitioner" or "AmeriMex") respectfully filed a Petition with the Board of Public Utilities ("Board") requesting authority to operate as a facilities-based provider and reseller of telecommunications services throughout the State of New Jersey. Petitioner requests confidential treatment of the financial information in Exhibit C of its Petition. <sup>1</sup>

According to the Petition, AmeriMex was incorporated in 1998 under the laws of the State of Georgia. On August 21, 2001, Amended and Restated Articles of Incorporation of the Corporation were duly adopted by the shareholders of the corporation at a duly called special shareholders meeting. Said Amended and Restated Articles of Incorporation shall supersede the original Articles of Incorporation filed by the Corporation on July 15, 1998. Petitioner's principal offices are located at 1078 Alpharetta Street, Suite 9, Roswell, Georgia 30075.

Petitioner submitted copies of its Articles of Incorporation, New Jersey Certificate of Good Standing and its New Jersey Certificate of Authority to Operate as a Foreign Corporation. According to the Petition, AmeriMex was formed to provide competitive facilities-based carrier and reseller of telecommunications services. Petitioner states that it is currently authorized to provide local telecommunications service in Florida, Georgia, North Carolina, South Carolina and Tennessee. Petitioner has filed, or intends to in the near future, an

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<sup>1</sup> Pursuant to the Open Public Records Act, N.J.S. A. 47:1A-1 et seq., and by letter from the Secretary, Petitioner has been notified that the Board shall handle such requests for confidential treatment in accordance with the Board's proposed regulations at N.J.A.C. 14:12 et seq.

application to operate as a facilities-based common carrier in New York. Petitioner states that it has not been denied authority to provide telecommunications services in any state and has not had its authority to provide telecommunications service revoked in any state. Petitioner proposes to provide its services by purchasing from Verizon New Jersey, Inc. ("Verizon"), wholesale telecommunications services and unbundled network elements ("UNEs"), particularly the Une-Platform ("UNE-P"), pursuant to applicable federal and state requirements. AmeriMex has no plans at this time to build, acquire, or install equipment or facilities in New Jersey. Petitioner plans to expand its services throughout the eastern United States and intends to become a leading provider of telecommunication services to the Hispanic population in this region.

In its Petition, Petitioner requests authority to provide competitive local exchange telecommunications services as a facilities-based carrier and reseller throughout the state of New Jersey. Petitioner initially intends to provide local service in those areas currently served by Verizon. Petitioner plans to provide flat-rate local exchange services, including optional calling features and services, to residential and business customers throughout the state of New Jersey. Where facilities permit, service will be available on a full-time basis, 24 hours per day, 7 days per week. Although it does not currently offer long-distance services to consumers, it may do so in the future. Petitioner will satisfy the minimum service standards established by the Board to the extent applicable. Petitioner will file and maintain tariffs in the manner prescribed by the Board and will meet the minimum basic local service standards, including quality of service and billing standards required of all local exchange carriers regulated by the Board.

Petitioner requests a waiver of N.J.S.A. 48:3-7.8, N. J. A. C. 14:1-4.3 and 14:10 -1.16 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. In the interest of efficiency and to prevent undue burden, Petitioner requests permission to maintain its books and records in accordance with Generally Accepted Accounting Principles (GAAP) 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 in Roswell, Georgia. Petitioner also states, upon written notice from the Board, it will provide its books and records at such time and place within New Jersey as the Board may designate and will pay any reasonable expenses for examination of the records.

Petitioner asserts approval of its Petition will promote the public interest. Petitioner states it is poised to offer customers a new service alternative with excellent customer service. Petitioner further states its provision of local service will enhance consumer choice and competition by expanding the selection of products and services available to consumers. Petitioner asserts its focus on the Hispanic population ensures that this portion of the consumer marketplace will receive additional services and benefits. By responding to a market that tends to be underserved, Petitioner states its entry into New Jersey will help increase telephone penetration rates, thereby advancing universal service. Petitioner respectfully requests this Petition be given expedited consideration so the Petitioner may promptly respond to the needs and demands of the marketplace.

With regard to its technical and managerial qualifications, the experience of Petitioner's principals, described in Exhibit D, demonstrates that the Petitioner has the managerial capability and technical qualifications to operate as a facilities-based provider and reseller of Verizon's retail telecommunications services. Furthermore, as a purchaser of wholesale services and UNE-P, AmeriMex will be relying on the technical qualifications of its underlying certificated carrier(s).

Petitioner states it is a privately held corporation and maintains that its financial information is confidential and will therefore be submitted under seal. Petitioner states that it is not a publicly-traded company and thus neither prepares an annual report to stockholders nor files an SEC Form 10K.

## 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)].

Therefore, Board approval of Petitioner's entry into the telecommunications marketplace is required, assuming Petitioner meets all other requirements, including, but not limited to, a demonstration of financial, technical and managerial integrity.

In considering this Petition, the Board recognizes its obligation not to prohibit entry into intrastate telecommunications markets. 47 U.S.C. §253(a). Approval is also in keeping with the New Jersey State Legislature's declaration that it is the policy of the State to provide diversity in the supply of telecommunications services, and its 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 AmeriMex's Petition and the information supplied in support thereof, the Board FINDS that the Petitioner has demonstrated it possesses the requisite financial, technical and managerial resources which are necessary to provide telecommunications services in New Jersey. Accordingly, the Board HEREBY AUTHORIZES the Petitioner to operate as a facilities-based provider and reseller of telecommunications services in the state of New Jersey subject to approval of its tariff and submission of pro forma financials for its New Jersey operations. The Board also FINDS that, in accordance with N.J.S.A. 48:2-59 and 48:2-60, the Petitioner is subject to an annual assessment by the Board. The Board notes that the Petitioner will not be able to provide telecommunications services until a tariff is approved by the Board and the required financial statements have been provided.

The Board HEREBY ORDERS that

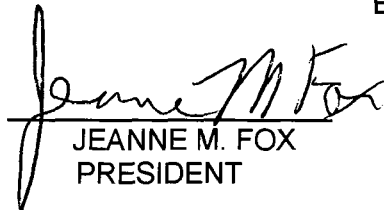
- 1) Petitioner file its tariff for Board approval.
- 2) Pursuant to N. J. S. A. 48:2-16.3, Petitioner shall file an annual report as of December 31 of each year, which is due on or before March 31 of the following year.
- 3) Pursuant to N. J. S. A. 48:2-59 and 48:2-60, Petitioner shall file a statement of gross intrastate revenues from operations form (AR3-1) as of December 31 of each year, which is due on or before June 1 the following year.

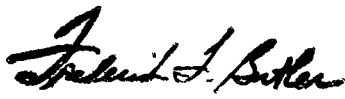
On or before February 1<sup>st</sup> of each year, the Petitioner will receive from the Division of Telecommunications, an annual report package and a statement of gross intrastate revenues from operations form for the preceding calendar year. The purpose of these documents is to report the company's financial information and gross intrastate revenues from operations as of December 31 of each year. The annual report and statement of gross intrastate revenues from operations form is 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 duty and responsibility to make an inquiry at the Board and obtain these documents. It is Petitioner's duty and responsibility to ensure timely filing of these reports.

Regarding the Petitioner's request for waivers of the Board rules, the Board 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 under the USOA and within New Jersey. Therefore, subject to the Petitioner's continuing responsibility to provide the Board its books and records upon 48 hours notice, and in the manner requested, and to pay to the Board any reasonable expenses or charges incurred by the Board for any investigation or examination of these books and records, the Board APPROVES the Petitioner's request for the exemptions from maintaining its books and records in New Jersey and under the USOA.

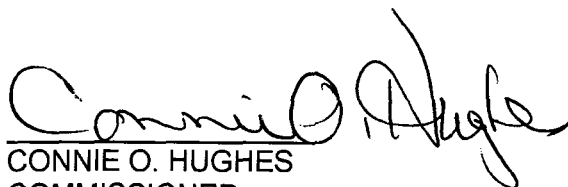
DATED: 1/23/03

BOARD OF PUBLIC UTILITIES  
BY:

  
JEANNE M. FOX  
PRESIDENT

  
FREDERICK F. BUTLER  
COMMISSIONER

  
CAROL J. MURPHY  
COMMISSIONER

  
CONNIE O. HUGHES  
COMMISSIONER

  
JACK ALTER  
COMMISSIONER

ATTEST:

  
KRISTI IZZO  
SECRETARY

IN THE MATTER OF THE PETITION FOR AN ORDER AUTHORIZING  
AMERIMEX COMMUNICATIONS CORP. TO OPERATE AS A FACILITIES-  
BASED PROVIDER AND RESALER OF TELECOMMUNICATIONS  
SERVICES IN THE STATE NEW JERSEY  
DOCKET NO. TE02070403

**SERVICE LIST**

<b>Serial No.</b>	<b><u>Name and Address</u></b>	<b>Serial No.</b>	<b><u>Name and Address</u></b>
<b>1</b>	<b>Petitioner's Contact Person:</b>  Donald L. Aldridge, President & CFO 1078 Alpharetta Street, Suite 9 Roswell, Georgia 30075	<b>5</b>	<b>Board's Staff:</b>  Walter P. Szymanski, Director Division of Audits Board of Public Utilities Two Gateway Center Newark, New Jersey 07102
<b>2</b>	<b>Petitioner's Attorney:</b>  James H. Laskey, Esquire Norris McLaughlin & Marcus, PA Attorneys At Law 721 Route 202-206 Bridgewater, NJ 08807	<b>6</b>	<b>Board's Staff:</b>  Anthony Centrella, Director Division of Telecommunications Board of Public Utilities Two Gateway Center Newark, New Jersey 07102
<b>3</b>	<b>Ratepayers Advocate:</b>  Seema M. Singh, Esquire Acting Director and Ratepayer Advocate Division of Ratepayer Advocate 31 Clinton Street, 11 <sup>th</sup> Floor P.O. Box 46005 Newark, New Jersey 07101	<b>7</b>	<b>Board's Staff:</b>  James F. Murphy, Chief Bureau of Revenue Requirement Division of Telecommunications Board of Public Utilities Two Gateway Center Newark, New Jersey 07102
<b>4</b>	<b>Ratepayers Advocate:</b>  Ava-Marie Madeam, Esquire Division of Ratepayer Advocate 31 Clinton Street, 11 <sup>th</sup> Floor P.O. Box 46005 Newark, New Jersey 07101	<b>8</b>	<b>Board's Staff – DAG:</b>  Peter Tanella Department of Law & Public Safety Division of Law 124 Halsey Street, 5 <sup>th</sup> floor P.O. Box. 45029 Newark, New Jersey 07102