



Agenda Date: 10/31/16
Agenda Item: IB

STATE OF NEW JERSEY
Board of Public Utilities
44 South Clinton Avenue, 3rd Floor, Suite 314
Post Office Box 350
Trenton, New Jersey 08625-0350
www.nj.gov/bpu/

TELECOMMUNICATIONS

IN THE MATTER OF THE VERIFIED PETITION OF) ORDER
SYNERGEM TECHNOLOGIES, INC. FOR AN ORDER)
OF APPROVAL TO PROVIDE COMPETITIVE LOCAL)
EXCHANGE, SWITCHED ACCESS, AND)
INTEREXCHANGE TELECOMMUNICATIONS)
SERVICES THROUGHOUT THE STATE OF NEW)
JERSEY) DOCKET NO. TE16080823

Parties of Record:

Sandra W. Hallman, Chief Financial Officer, Synergem Technologies, Inc.
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 Federal Telecommunications Act of 1996, 47 U.S.C. § 151 et seq., and by letter dated August 25, 2016, Synergem Technologies, Inc. ("Petitioner" or "Synergem") filed a verified petition with the New Jersey Board of Public Utilities ("Board") requesting an order of approval and authority to provide resold and facilities-based competitive local exchange, switched exchange access, and interexchange telecommunications services to subscribers throughout the State of New Jersey. Petitioner has submitted its financial information under seal and has filed a motion for confidentiality and 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.

Synergem is a privately held corporation organized under the laws of the State of Delaware. On May 27, 2003, Petitioner was incorporated as Synergem Emergency Services, LLC in North Carolina. On February 19, 2013, Petitioner filed a Certificate of Conversion from a Limited Liability Company to a Corporation changing its legal name to Synergem. Petitioner's principal offices are located at P.O. Box 911, 523 South Stephens Street, Pilot Mountain, North Carolina 27041.

Petitioner has submitted copies of its Articles of Incorporation and a Certificate of Conversion from a Limited Liability Company to a Corporation from the State of Delaware, and its New Jersey Certificate of Authority to Transact Business as a Foreign Corporation. Petitioner is

currently authorized to provide competitive local exchange carrier telecommunications services in the Commonwealth of Massachusetts and the states of Missouri and North Carolina. Additionally, Petitioner plans to soon file applications in the Commonwealth of Pennsylvania and the states of Florida, Montana, and New York. 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. Upon approval of its petition, Petitioner initially expects to negotiate an interconnection agreement with Verizon New Jersey for access to unbundled network elements and resold services.

Petitioner seeks authority to provide resold and facilities-based competitive local exchange, switched exchange access, and intra Local Access Transport Area ("LATA") and inter LATA interexchange telecommunications services within the State of New Jersey. Petitioner will provide 911 call routing to customers. Petitioner intends to provide services with a combination of time division multiplexing and voice over internet protocol technologies. Petitioner intends to use its own switching facilities and to obtain transport from other providers. Petitioner, in its filing, indicated it plans to offer services to interconnecting carriers. Petitioner will coordinate with incumbent local exchange carriers for the provision of emergency 911 services to local customers. Petitioner's ability to provide network services will rely substantially on the technical capabilities and network services of its underlying carriers that have been certificated and deemed technically and managerially capable of providing telecommunications services in New Jersey. In light of Petitioner's reliance on existing facilities, Petitioner defers to the engineering plans of its underlying local exchange and interexchange carriers. Its services will be available twenty-four hours per day, seven days per week, at rates, terms, and conditions established by Petitioner pursuant to its approved tariff. Petitioner maintains a toll-free number for customer service inquiries. Petitioner will file an initial tariff upon approval of its petition.

Petitioner requests a waiver of N.J.S.A. 48:3-7.8 which requires that books and records be kept within the State of New Jersey. Instead, in accordance with N.J.A.C. 14:1-5.15(a)(2), Petitioner requests permission 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 located in Pilot Mountain, North Carolina.

By letter dated September 16, 2016, the New Jersey Division of 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. . . ." Id. at 1. In addition, Rate Counsel does not object to a grant of the waiver requested by Petitioner, nor does Rate Counsel oppose Petitioner's request to treat its financial information as confidential and placed under seal. Id. at 1-2. Accordingly, Rate Counsel does not oppose a grant of authority or approval of Petitioner's request to provide local exchange, switched exchange access and interexchange telecommunications services in New Jersey. Id. at 1-2.

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).

Any grant of authority is subject to the right of the Board as the state regulatory authority to impose requirements necessary to protect the public safety and welfare, ensure the continued quality of telecommunications services, and safeguard the rights of consumers. 47 U.S.C. § 253(b).

In considering this petition, the Board recognizes its obligation not to prohibit entry into intrastate telecommunications markets of qualified applicants. 47 U.S.C. § 253(a). The Board also considers 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 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." 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 Synergem's petition and the information supplied in support thereof, the Board **FINDS** that Petitioner is in compliance with the Board's filing requirements to provide telecommunications services in New Jersey. Accordingly, the Board **HEREBY AUTHORIZES** Petitioner to provide local exchange, switched exchange access and interexchange telecommunications services in the state of New Jersey. Pursuant to N.J.A.C. 14:3-1.3(a), the Board notes that Petitioner will not be permitted to provide telecommunications services until a tariff is filed with the Board. Additionally, Petitioner is not relieved from its responsibility to file an Annual Report and a Statement of Gross Intrastate Revenues from Operations form for the preceding calendar year.

Furthermore, the Board **FINDS** that 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.

The Board **HEREBY ORDERS**:

- 1) Petitioner shall file its tariff with the Board within five (5) days of the issuance of a Board Order.
- 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.

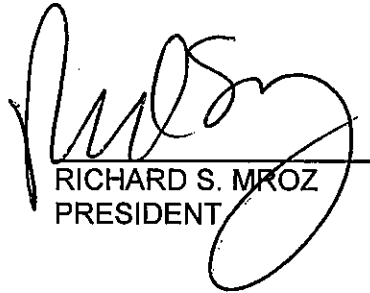
On or before February 1 of each year, Petitioner will receive from the Division of Audits an annual report package and a Statement of Gross Intrastate Revenues from Operations form for the preceding calendar year. The purpose of these documents is to report Petitioner's financial information and gross intrastate revenues from operations as of December 31 of each year. The Annual Report and a Statement of Gross Intrastate Revenues from Operations form are 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 responsibility to obtain them from the Board. It is also Petitioner's responsibility to ensure timely filing of these reports.

Regarding Petitioner's request for waiver of the Board rules, the Board **FINDS** that Petitioner has demonstrated good cause why the Board should grant relief from its requirements that Petitioner maintain its books and records in New Jersey. Therefore, subject to Petitioner's continuing responsibility to provide the Board books and records upon 48 hours' notice, and in the manner requested, and to pay to the Board all expenses or charges incurred by the Board for any investigation or examination of these books and records, the Board **APPROVES** Petitioner's request for the exemptions from maintaining its books and records in New Jersey.

This Order shall be effective November 10, 2016.

DATED: 10/31/16

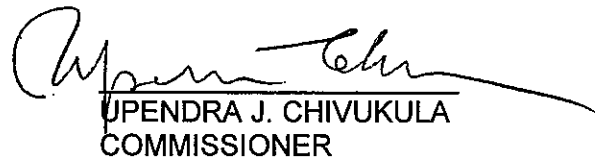
BOARD OF PUBLIC UTILITIES
BY:


RICHARD S. MROZ
PRESIDENT


JOSEPH L. FIORDALISO
COMMISSIONER

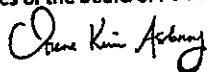

MARY ANNA HOLDEN
COMMISSIONER


DIANNE SOLOMON
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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



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FOR AN ORDER OF APPROVAL TO PROVIDE COMPETITIVE LOCAL EXCHANGE,
SWITCHED ACCESS, AND INTEREXCHANGE TELECOMMUNICATIONS
SERVICES THROUGHOUT THE STATE OF NEW JERSEY**

DOCKET NO. TE16080823

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