



STATE OF NEW JERSEY
Board of Public Utilities
44 South Clinton Avenue, 9th Floor,
Post Office Box 350
Trenton, NJ 08625-0350
www.nj.gov/bpu/

TELECOMMUNICATIONS

IN THE MATTER OF THE PETITION OF AMERICAN) ORDER
DAS NETWORKS LLC FOR APPROVAL TO PROVIDE)
LOCAL EXCHANGE AND INTEREXCHANGE)
TELECOMMUNICATIONS SERVICES THROUGHOUT)
THE STATE OF NEW JERSEY) DOCKET NO. TE12050366

Kevin R. Jones, Esq., Law Offices of Alan B. Zublatt, Princeton, New Jersey, for Petitioner
Stefanie A. Brand, Esq., Director, 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 May 4, 2012, American DAS Networks LLC ("Petitioner" or "ADAS") filed a Verified Petition with the New Jersey Board of Public Utilities ("Board") requesting authority to provide competitive resold and facilities-based local exchange and interexchange services including but not limited to broadband wireless cellular telecommunications services to currently underserved communities throughout the State of New Jersey. Petitioner has submitted its financial information under seal and has filed a sworn affidavit with substantiation for confidential treatment in accordance with the Board's rules for determining confidentiality, N.J.A.C. 14:1-12.1 et seq. and in compliance with the Open Public Records Act, N.J.S.A. 47:1A-1 et seq.

ADAS is a limited liability company organized under the laws of State of New Jersey. ADAS is a wholly owned subsidiary of Squan Construction Services, LLC ("Squan"), a Telecommunication Construction Company. John Celentano and Kevin Frerich are Managing Directors and each has 50% ownership interest in ADAS. Petitioner's principal offices are located at 329 Harold Avenue, Englewood, New Jersey 07631.

Petitioner has submitted a copy of its Certificate of Incorporation from the State of New Jersey. Petitioner may seek to file petitions for competitive local exchange carrier authority in other jurisdictions across the United States in the future. Petitioner is in the process of obtaining an interconnection agreement with incumbent local exchange carriers.

Petitioner seeks authority to provide competitive resold and facilities-based local exchange and interexchange services including but not limited to broadband wireless cellular

telecommunications services to currently underserved communities throughout the State of New Jersey. Petitioner's initial business plan contemplates operation exclusively as a carrier's carrier to provide broadband wireless service by constructing Distributed Antenna Systems ("DASs") attached to municipal rights-of-way and electric poles operated by various utility companies in New Jersey. Petitioner is a wireless carrier's carrier, or neutral host provider, which transmits and receives carrier-licensed frequency via its DASs networks to customers including licensed wireless telecommunications carriers. Petitioner will provide enhanced wireless services to these wireless carriers, encouraging competition between the carriers to provide wireless services to communities lacking adequate signal coverage or data capacity. Petitioner charges the carriers a monthly/annual connection fee, thereby avoiding any fee to the public. Petitioner works closely with the wireless carriers to identify gaps in existing coverage area and also performs various value added services according to carrier specifications.

Although no plan exists currently to expand within New Jersey, Squan/ADAS is planning a new office/warehouse in the Baltimore area to service the rapidly growing customer base in the Mid-Atlantic region. Petitioner's business plans over five years include building and expanding neutral host DAS infrastructure in New Providence, New Jersey to rebroadcast carrier cellular and wireless service to residential and commercial customers, filling a void in coverage and data capacity. Squan is also in the process of designing and building a DAS system at Franklin Lakes, New Jersey.

The Company 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 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"). 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. Petitioner also states, upon written notice from the Board and/or Board Staff, it will provide its books and records at such time and place within New Jersey as the Board may designate.

Petitioner asserts that approval of its Petition will further the public interest by expanding the availability of competitive telecommunications services in the State of New Jersey. Petitioner also asserts that approval of this Petition will provide New Jersey customers with access to new technologies and service choices and will permit customers to achieve increased efficiencies and cost savings.

With regard to its technical and managerial qualifications, ADAS states that it possesses the technical capability and managerial qualifications to operate and manage its telecommunications operations in the State of New Jersey. Petitioner has submitted the professional biographies of its key personnel, who, according to ADAS, are well qualified to execute its business plans and have extensive managerial and technical experience in the telecommunications industry.

By letter dated May 17, 2012, the Division of Rate Counsel submitted comments with the Board stating that it does not object to Board approval of the Verified Petition.

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(c).

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 ADAS' Petition and the information supplied in support thereof, as well as Rate Counsel's comments, the Board FINDS that the Petitioner is in compliance with the Board's filing requirements to provide telecommunications services in New Jersey. Accordingly, the Board HEREBY AUTHORIZES the Petitioner to provide local exchange and interexchange telecommunications services throughout the State of New Jersey.

The Board also FINDS that in accordance with N.J.S.A. 48:2-59 and 48:2-60 and N.J.S.A. 52:27EE-52, the Petitioner is subject to an annual assessment by both the Board and the Division of Rate Counsel, respectively. The Board notes that the 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.

The Board HEREBY ORDERS that:

- 1) Petitioner shall file its tariff with the Board.
- 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 1st of each year, the 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 the 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 the Petitioner's responsibility to ensure timely filing of these reports.

Regarding the Petitioner's request for waiver 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 in accordance with USOA. Therefore, subject to the 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 the Petitioner's request for the exemptions from maintaining its books and records in accordance with USOA.

DATED: 8/15/12

BOARD OF PUBLIC UTILITIES
BY:

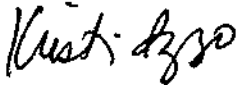

ROBERT M. HANNA
PRESIDENT


JEANNE M. FOX
COMMISSIONER

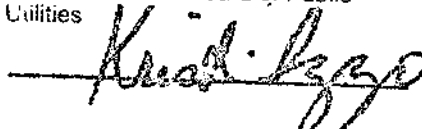

JOSEPH L. FIORDALISO
COMMISSIONER


NICHOLAS ASSELTA
COMMISSIONER


MARY-ANNA HOLDEN
COMMISSIONER

ATTEST:

KRISTI IZZO
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 VERIFIED PETITION OF AMERICAN DAS NETWORKS, LLC FOR
AUTHORITY TO PROVIDE LOCAL EXCHANGE AND INTEREXCHANGE
TELECOMMUNICATIONS SERVICES IN THE STATE OF NEW JERSEY

DOCKET NO. TE12050366

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