



**STATE OF NEW JERSEY**  
**Board of Public Utilities**  
44 South Clinton Avenue, 9<sup>th</sup> Floor  
Post Office Box 350  
Trenton, NJ 08625-0350  
[www.nj.gov/bpu/](http://www.nj.gov/bpu/)

TELECOMMUNICATIONS

IN THE MATTER OF THE PETITION OF BARR TELL ) ORDER  
USA, INC FOR AUTHORITY TO PROVIDE LOCAL )  
EXCHANGE AND INTEREXCHANGE )  
TELECOMMUNICATIONS SERVICES THROUGHOUT )  
THE STATE OF NEW JERSEY ) DOCKET NO. TE12040307

**Parties of Record:**

**Murray E. Bevan, Esq.**, Bevan, Mosca, Giuditta & Zarillo, P.C. 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 April 9, 2012, Barr Tell USA, Inc. ("Petitioner" or "BTU") filed a Verified Petition with the New Jersey Board of Public Utilities ("Board") requesting authority to provide resold and facilities-based local exchange and interexchange telecommunications services throughout the State of New Jersey.

BTU is a privately held company organized under the laws of the State of New York. Yisrael Spitz is its Chief Executive Officer and has 100% ownership interest in the company. Teleboard, LLC, a Telecommunications Service Provider in the State of New York is owned and/or controlled by the principal owner of BTU. Petitioner's principal offices are located at 266 Broadway, Suite 602, Brooklyn, New York 11211.

BTU initially filed a Certificate of Incorporation with the State of New York as Barr Bell of NY, Inc. on January 9, 1998. The company filed a Certificate of Amendment to the Certificate of Incorporation changing its name to Barr Bell USA, Inc. on January 21, 1998. The company again filed a Certificate of Amendment to the Certificate of Incorporation changing its legal name to BTU on March 10, 1999.

Petitioner has submitted copies of its Certificate of Incorporation and Amendment to Certificate of Incorporation from the State of New York and its New Jersey Certificate of Authority to Operate as a Foreign Corporation. Petitioner currently is providing telecommunications services in the State of New York. Petitioner has a master services agreement with Verizon New York

that allows for the resale of Digital Subscriber Line ("DSL"), Voice Service and Internet and, BTU will amend the said agreement to extend into New Jersey upon its approval for authority.

Petitioner seeks authority to provide facilities-based and resold local exchange and interexchange telecommunications services to residential, small and medium business customers throughout New Jersey. Its service includes, but is not limited to, Dial Tone, DSL Lines, Internet, Dedicated Private Lines, Local and Long Distance Service, T-1 PRI Circuits and Toll-Free Services and all origination and terminations of voice telephone calls to and from all points in the State of New Jersey. Petitioner plans to offer both local exchange and interexchange services through an interconnection agreement and master services agreement with Verizon New Jersey that allows for the resale of DSL, Voice and Internet Services. Petitioner will file its initial tariff upon approval. Petitioner maintains a Toll-Free number for customer service inquiries.

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.S.A. 48:3-7.8 and N.J.A.C. 14:1-4.3, which requires 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. Petitioner requests permission to maintain its books and records in accordance with Generally Accepted Accounting Principles 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 located in Brooklyn, New York. 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 and will pay any reasonable expenses for examination of records.

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, BTU 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 BTU, are well qualified to execute its business plans and have extensive managerial and technical experience in the telecommunications industry.

By letter dated May 15, 2012, the Division of Rate Counsel submitted comments with the Board stating that it does not object to Board approval of the 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 BTU's 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 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 1<sup>st</sup> 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 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 maintains its books and records in accordance with USOA and within New

Jersey. 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 and in New Jersey.


DATED: 6/18/12

BOARD OF PUBLIC UTILITIES  
BY:

  
ROBERT M. HANNA  
PRESIDENT


  
JEANNE M. FOX  
COMMISSIONER

  
JOSEPH L. FIORDALISO  
COMMISSIONER

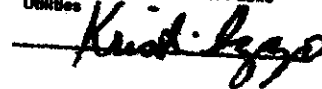
  
NICHOLAS ASSELTA  
COMMISSIONER

  
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 BARR TELL USA, INC. FOR  
AUTHORITY TO PROVIDE LOCAL EXCHANGE AND INTEREXCHANGE  
TELECOMMUNICATIONS SERVICES THROUGHOUT THE STATE OF NEW JERSEY

DOCKET NO. TE12040307

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