



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

TELECOMMUNICATIONS

IN THE MATTER OF THE PETITION OF INTERNAP )  
CONNECTIVITY, LLC FOR AUTHORITY TO PROVIDE ) ORDER  
LOCAL EXCHANGE AND INTEREXCHANGE )  
TELECOMMUNICATIONS SERVICES IN THE STATE )  
OF NEW JERSEY ) DOCKET NO. TE13040340

**Parties of Record:**

**Ross A. Lewin, Esq.**, Drinker Biddle & Reath LLP 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 April 18, 2013, Internap Connectivity LLC ("Petitioner" or "Internap") filed a Petition with the New Jersey Board of Public Utilities ("Board") requesting authority to provide both resold and facilities-based local exchange and interexchange telecommunications services throughout the State of New Jersey.

Internap is a limited liability company organized under the laws of the State of Delaware with principal offices located at One Ravinia Drive, Suite 1300, Atlanta, Georgia 30346.

Internap is a wholly owned subsidiary of Voxel Holdings, Inc. ("VH"). VH is a wholly owned subsidiary of Internap Network Services Corporation ("INSC"). VH was acquired by INSC in 2011 and is a provider of scalable hosting and cloud services for enterprise customers. INSC is the ultimate parent of Internap. INSC provides high-performance information technology infrastructure services that enable customers to focus on their core business, improve service levels and lower the cost of information technology operation. It also provides colocation, connectivity and managed hosting solutions with high levels of performance, availability and support.

Petitioner has submitted copies of its Certificate of Formation from the State of Delaware and its New Jersey Certificate of Authority to operate as a Foreign Limited Liability Company. Petitioner has authority to provide telecommunications services in California, Massachusetts, New York and Texas. Petitioner states that it has not been denied authority to provide telecommunications services, its authority has not been revoked in any jurisdiction and it has not been the subject of any civil or criminal proceedings.

Petitioner currently has no plans to provide outbound dial tone services to end users. Petitioner may choose to enter into an interconnection agreement with any Incumbent Local Exchange Carriers ("ILECs"), if demand and market conditions warrant such an agreement.

Petitioner seeks authority to provide both resold and facilities-based local exchange and interexchange telecommunications services to business customers and other certified carriers throughout the State of New Jersey. Petitioner will provide services through a combination of its own facilities and either unbundled network elements or facilities obtained from ILECs. In addition, Petitioner may offer resold ILECs telecommunications services. Initially, Petitioner plans to offer private line Metro Ethernet and similar high speed data services to New Jersey customers in conjunction with INSC's opening of a new data center in Secaucus, New Jersey. Metro Connect services enable businesses to interconnect multiple customer locations as if they were a segment of the same local area network using a facility-based private line Metro Ethernet fiber via interconnect layer 2 data application through facilities-based, resold local exchange services; and intrastate exchange services. The services include a port on the Ethernet network and the bandwidth that will be used across the network. Petitioner currently has no plans to construct access lines or buy fiber outside the confines of the data center. The Company maintains a toll-free number for customer service inquiries. Petitioner will file a proposed tariff with the Board.

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, 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 Atlanta, Georgia, in accordance with N.J.A.C. 14:1-5.15.

By letter dated May 7, 2013, the Division of Rate Counsel submitted comments with the Board recommending that the Board approve 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 Internap's Petition and the information supplied in support thereof, 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 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.

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 the 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.
- 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, 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 keep its books and records 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

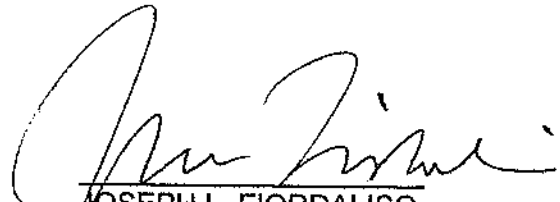
**APPROVES** the Petitioner's request for the exemptions from keeping its books and records in New Jersey.

DATED: 5/31/13

BOARD OF PUBLIC UTILITIES  
BY:

  
ROBERT M. HANNA  
PRESIDENT

  
JEANNE M. FOX  
COMMISSIONER

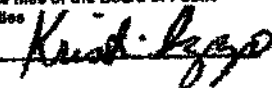
  
JOSEPH L. FIORDALISO  
COMMISSIONER

  
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



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FOR AUTHORITY TO PROVIDE LOCAL EXCHANGE AND INTEREXCHANGE  
TELECOMMUNICATIONS SERVICES IN THE STATE OF NEW JERSEY  
DOCKET NO. TE13040340

SERVICE LIST

John D. Maggard  
Manager and Regulatory Contact  
Internap Connectivity, LLC  
One Ravinia Drive, Suite 1300  
Atlanta, Georgia 30346

Ross A. Lewin, Esq.  
Drinker Biddle & Reath, LLP  
105 College Road East  
Post Office Box 627  
Princeton, New Jersey 08542

Stefanie A. Brand, Esq., Director  
Division of Rate Counsel  
140 East Front Street, 4<sup>th</sup> Floor  
Post Office Box 003  
Trenton, New Jersey 08625

Ayelet Hirschhorn, DAG  
Department of Law & Public Safety  
Division of Law  
124 Halsey Street  
Post Office Box 45029  
Newark, New Jersey 07101

Kristi Izzo  
Secretary of the Board  
Office of the Secretary  
Board of Public Utilities  
44 South Clinton Avenue, 9<sup>th</sup> Floor  
Post Office Box 350  
Trenton, New Jersey 08625

Dennis J. Moran, Director  
Division of Audits  
Board of Public Utilities  
44 South Clinton Avenue, 9<sup>th</sup> Floor  
Post Office Box 350  
Trenton, New Jersey 08625

Anthony Centrella, Director  
Division of Telecommunications  
Board of Public Utilities  
44 South Clinton Avenue, 9<sup>th</sup> Floor  
Post Office Box 350  
Trenton, New Jersey 08625

Valerie Haynes, Bureau Chief  
Office of the Secretary  
Board of Public Utilities  
44 South Clinton Avenue, 9<sup>th</sup> Floor  
Post Office Box 350  
Trenton, New Jersey 08625