



Agenda Date: 3/03/21  
Agenda Item: LSA

**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/)

OFFICE OF CABLE TELEVISION  
AND TELECOMMUNICATIONS

IN THE MATTER OF THE BUSINESS )  
AUTOMATION TECHNOLOGIES, INC. D/B/A/ DATA )  
NETWORK SOLUTIONS V. VERIZON NEW )  
JERSEY, INC. )  
)  
) DOCKET NO. TC17091015  
) OAL DOCKET NO. PUC 01597-2018

**Parties of Record:**

**Andrew M. Klein, Esq.** on behalf of Business Automation Technologies, Inc, d/b/a Data Network Solutions  
**Richard C. Fipphen, Esq.** for Verizon New Jersey, Inc.

BY THE BOARD:

This matter is before the New Jersey Board of Public Utilities ("Board") by way of letter filed on March 1, 2021, by Petitioner, Business Automation Technologies Inc. d/b/a Data Network Solutions ("DNS") seeking a thirty (30) day extension of time to comply with the Board's Order issued on January 27, 2021 in response to the Petitioner's Motion for Interlocutory Review in the present matter.

**BACKGROUND AND PROCEDURAL HISTORY**

On September 26, 2017, DNS filed a petition with the Board disputing bills rendered by Verizon New Jersey ("VNJ") for charges incurred pursuant to multiple billing disputes arising out of several agreements between the parties.<sup>1</sup> This matter was transmitted to the Office of Administrative Law ("OAL") for adjudication on January 29, 2018. Thereafter the case was assigned to ALJ Caliguire and set for hearing on December 22, 2020.

On December 30, 2020, DNS filed a Motion for Interlocutory review of various rulings made by ALJ Caliguire during the course of the proceedings held in this matter on December 22, 2020.

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<sup>1</sup> The parties' Interconnection Agreement was approved by the Board on February 11, 2004. In re the Joint Application of Verizon New Jersey, Inc. and Data Net Systems, LLC for Approval of an Interconnection Agreement Under Section 252 of the Telecommunications Act of 1996, BPU Docket No. TO03100837, Order dated February 11, 2004.

The Petitioner contended that ALJ Caliguire erred in denying admission of testimony and evidentiary material, striking material and limiting cross examination. Petitioner argued the ALJ did not provide for cross of VNJ's witness regarding various topics claimed to be relevant to the case, including but not limited to customer disputes, and did not allow the admission of emails the Petitioner argues are germane to the case.

In its motion, DNS additionally claimed ALJ Caliguire improperly excluded exhibits, namely but not limited to, Exhibits P-124 and 125, proffered by the Petitioner. The DNS witness in this matter is visually impaired, and Petitioner contended the Zoom hearing platform inhibited the witness' ability to view documents. However, counsel for DNS did not notify ALJ Caliguire nor the OAL of the need of an accommodation for the DNS witness due to a disability until after the witness had already completed his testimony. Documents were struck during the course of the proceedings, and various testimony excluded which Petitioner opposed. Further, the Petitioner contended it was denied the ability to question VNJ's witness regarding specific subject areas.

VNJ did not object or respond to Petitioner's Motion for Interlocutory Review.

On January 27, 2021, the Board issued an order granting in part and denying in part the motion filed by the Petitioner. While the Board deemed it unnecessary to review the merits of the ALJ's decision in the matter prior to the issuance of the Initial Decision, the Board granted Petitioner's motion with respect to the contention that Exhibits 124 and 125 were improperly excluded and testimony was improperly struck as a result of the witness for DNS needing an accommodation due to a visual impairment.

Accordingly, as summarized below, the Board ordered modified relief as follows:

1. The Petitioner shall inform the OAL what accommodation the DNS witness needs for his visual impairment with respect to reviewing Exhibits 124 and 125 within ten (10) days of the effective date of the Order (February 6, 2021);
2. DNS will be permitted to recall the Witness to testify on the limited topic of Exhibits 124 and 125 with reasonable accommodation. VNJ will be permitted to cross-examine the DNS Witness; and
3. The limited scope of testimony take place within thirty (30) days of the effective date of this Order (March 8, 2021).

With respect to the remainder of the Petitioner's Motion for Interlocutory Relief the Board denied review.

As stated above, the limited scope testimony was ordered to be conducted by March 8, 2021.

On March 1, 2021, the Petitioner filed a request with the Board seeking a thirty (30) day extension of the March 8, 2021 deadline for taking the limited scope testimony. Petitioner states that its witness underwent cataract surgery on February 18, 2021 to address his visual impairment described in the previous Motion, and now requests an additional 30 days to reschedule the witness' testimony by April 7, 2021, to allow for recuperation.

VNJ responded via email on March 3, 2021 that it did not object to the request for extension currently before the Board.

**DISCUSSION AND FINDINGS**

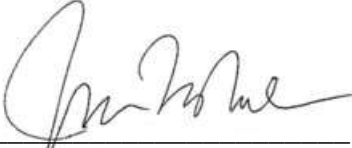
Based upon a review of the documentation provided by the Petitioner, the Board **HEREBY FINDS** good cause shown for an extension of thirty (30) days to comply with the provisions of the Board's January 27, 2021 Order permitting Petitioner to recall its Witness to testify on the limited topic of Exhibits 124 and 125 with reasonable accommodation and permitting VNJ cross-examination.

The Board **HEREBY GRANTS** the request of the Petitioner to allow the limited scope testimony to take place within thirty (30) days of the effective date of this Order (April 7, 2021).

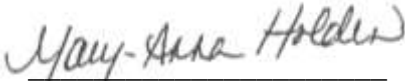
The Order shall become effective on March 8, 2021.

DATED: March 3, 2021

BOARD OF PUBLIC UTILITIES  
BY:



JOSEPH L. FIORDALISO  
PRESIDENT



MARY-ANNA HOLDEN  
COMMISSIONER



DIANNE SOLOMON  
COMMISSIONER

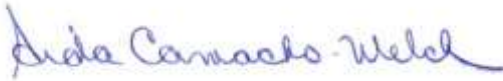


UPENDRA J. CHIVUKULA  
COMMISSIONER



ROBERT M. GORDON  
COMMISSIONER

ATTEST:



AIDA CAMACHO-WELCH  
SECRETARY

**IN THE MATTER OF THE BUSINESS AUTOMATION TECHNOLOGIES D/B/A DATA  
NETWORK SOLUTIONS VS. VERIZON NEW JERSEY, INC.**

**BPU DOCKET NO. TC17091015  
OAL DKT. NO. PUC 01597-2018**

**SERVICE LIST**

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