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State of New Jersey
DIVISION OF RATE COUNSEL
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CHRIS CHRISTIE
Governor

KIM GUADAGNO
Lt. Governor

STEFANIE A. BRAND
Director

Via Electronic and Regular Mail

June 22, 2016

Irene K. Asbury - Board Secretary
New Jersey Board of Public Utilities
44 South Clinton Avenue, 3rd Fl., Ste. 314
P.O. Box 350
Trenton, New Jersey 08625-0350

Re: I/M/O the Petition of Media Three Corporation d/b/a/ Empire One Telecommunications for an Order of Approval to Provide Competitive Facilities-Based Local Exchange and Interexchange Telecommunications Services Throughout the State of New Jersey.
BPU Docket No. TE16050441

Dear Ms. Asbury:

The New Jersey Division of Rate Counsel ("Rate Counsel") has reviewed the above-captioned filing and submits the within comments for consideration by the New Jersey Board of Public Utilities ("Board") on this matter. Enclosed with this original please find ten copies, as kindly return a date/stamped copy to Rate Counsel.

Media Three Corporation d/b/a/ Empire One Telecommunications ("Petitioner" and or "EOT"), is a Delaware corporation headquartered in Brooklyn, New York, and is authorized to do business in New Jersey. Petitioner requests the Board's authority to provide facilities-based competitive local exchange, switched exchange access, and interLATA/IntraLata interexchange telecommunications services to wholesale carriers in New Jersey.¹ In addition, Petitioner makes the following requests: confidential treatment of financial information contained in the filing and its' exhibits, waiver from certain accounting and record-keeping Board regulations.² Upon review of this filing, Rate Counsel is satisfied that the Verified Petition meets the regulatory requirements and is consistent with the public interest, convenience, and necessity, and does not oppose Petitioner's request for confidential treatment of its

¹/ Petition at paragraphs 3-5. Petitioner also notes that it has Eligible Telecommunications Carrier (ETC") status in New York and provides lifeline (wireline) services to disadvantaged communities in New York State. *Id.*, at paragraph 4.

²/Petitioner has requested confidential treatment of the financial information provided in its Petition and supporting documents under Exhibit D. *See* Motion for Confidentiality, signed by Petitioner's Chief Operating Officer, Theodore Flomenhaft, filed with the Verified Petition and dated May 20, 2016. Petitioner has provided a redacted public copy of the Petition and exhibits in compliance with the Open Public Record Act *N.J.S.A. 47:1A-1 et seq.*. Rate Counsel does not oppose Petitioner's request for confidential treatment of financial information marked "confidential" inclusive of attached confidential exhibits in accordance with *N.J.A.C. 14:1-12 et seq.* and further notes that such information does not constitute a government record under the New Jersey Open Public Records Act, P.L. 2001, c. 404 (*N.J.S.A. 47:1A-1 et seq.*), and is not subject to release or disclosure at the request of a third party.

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financial and other information, or waiver requests connected to accounting and record-keeping methods in this matter by the Board.

In support of the Verified Petition, Petitioner has annexed a copy of its Articles of Incorporation, and Certificate of Authority to conduct business as a foreign corporation in New Jersey, under [Exhibit A and B] respectively. Petitioner intends to conduct business from Brooklyn, New York and maintains a toll-free telephone number for customer service.³ Petitioner represents that it has sufficient managerial and technical experience necessary to provide adequate service and has the financial capability to do so.⁴


Petitioner requests waiver of *N.J.S.A.* 48:3-7.8 and *N.J.A.C.* 14:1-5.15(a), which requires that they maintain books, records, accounts, documents, and other writings incident to its business within New Jersey. Petitioner represents it would produce books for Board review upon request.⁵ Rate Counsel does not object to a grant of the waivers requested by Petitioner herein nor opposes Petitioner's request to treat Petitioner's financial information under Exhibit D as confidential and filed under "Seal".⁶

The Telecommunications Act of 1996 states that "[n]o State or local statute or regulation, or other State or local requirement, may prohibit or have the effect of prohibiting the ability of any entity to provide interstate or intrastate telecommunications service" pursuant to 47 U.S.C. ' 251(a). Further, the New Jersey Legislature has declared that it is the policy of the State to provide diversity in the supply of telecommunications services, and has found that competition will "promote efficiency, reduce regulatory delay . . . 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) and *N.J.S.A.* 48:2-21.16(b)(1), (3). Accordingly, the Board is required to grant the Petition if Petitioner meets all statutory requirements and Board-imposed conditions, including, but not limited to, demonstration of managerial, financial, and technical capability.⁷

Rate Counsel supports the introduction and expansion of competition in the New Jersey telecommunications market because competition encourages lower prices and technological development and deployment, and provides consumers with a greater number of alternatives. Accordingly, Rate Counsel submits that the Petition meets the regulatory requirements and is consistent with the public interest, convenience, and necessity. Rate Counsel does not oppose a grant of authority or approval of Petitioner's request to provide facilities-based and resold local exchange telecommunications services to carrier customers throughout the State of New Jersey.

Very truly yours,

STEFANIE A. BRAND, DIRECTOR
NEW JERSEY DIVISION OF RATE COUNSEL



Maria T. Novas-Ruiz, Esq.
Assistant Deputy Rate Counsel

MNR/lid
cc: Service List

RPAPROD-#93768

³/ Petition, p. 4. Toll free number: 1(877) 999-7070, available 24/7.

⁴/ *Id.*, at pp.1 and 3-5. See also Exhibit E, and Exhibits F and Confidential Exhibit D.

⁵/*Id.* at pp. 7-8. Rate Counsel notes that Petitioner is not an incumbent local exchange carrier ("ILEC") and as a non-dominant carrier is relieved from the federal regulatory book keeping requirements under the Uniform System of Accounts ("USOA"), pursuant to 47 CFR Part 32.11(a) and *N.J.A.C.* 14:10-1A.16.

⁶/ See *fn 2 supra.*

⁷/ *In Re: MFS Intelenet of New Jersey, Inc.*, Docket No. TT95010031, Slip. Op. (June 19, 1996), *Re: AT&T Communications of New Jersey, Inc.*, Docket No. TE95120653, Slip Op. (June 20, 1996), and *Re: Teleport Communications New York*, Docket No. TX95100501, Slip Op. (June 20, 1996), setting forth standards for approval.

**Media Three Corporation d/b/a
Empire One Telecommunications
Petition to Provide Comp Local
Exchange Svcs.
BPU Docket No.
TE16050441**

Doc #93511

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