

**BOROUGH OF HILLSDALE**  
**RESOLUTION 19278**

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**RESOLUTION APPROVING RIGHT-OF-WAY USE TO CROSS RIVER FIBER**

**WHEREAS**, Cross River Fiber LLC ("Cross River Fiber"), seeks to place its telecommunication facilities aerially on existing utility poles or in an underground conduit in the Public Rights-of-Way within the Borough of Hillsdale for the purpose of owning, constructing, installing, operating, repairing and maintaining a telecommunications system; and

**WHEREAS**, Cross River Fiber was approved by the New Jersey Board of Public Utilities to provide local exchange and interexchange telecommunications services throughout the State; and

**WHEREAS**, N.J.S.A. 48:3-19 requires Cross River Fiber to obtain the consent of the Borough of Hillsdale for the joint use of any existing utility poles; and

**WHEREAS**, N.J.S.A. 54:30A-124(a) provides that a municipality may not impose any fees, taxes, levies or assessments in the nature of a local franchise, right of way, or gross receipts fee, tax, levy or assessment against telecommunications companies but that a municipality may impose reasonable fees for actual services made by any municipal, regional or county governmental agency; and

**WHEREAS**, it is in the best interests of the Borough of Hillsdale and its citizens to grant consent to Cross River Fiber; and

**WHEREAS**, the consent granted is for the non-exclusive use of the Public Rights-of-Ways for the purpose of owning, constructing, installing, operating, repairing and maintaining a telecommunications system subject to the terms and conditions of the attached Use Agreement with Cross River Fiber.

**NOW THEREFORE BE IT RESOLVED**, by the Mayor and Council of the Borough of Hillsdale, that Borough of Hillsdale is hereby authorized to grant Cross River Fiber a non-exclusive use of the Public Rights-of-Ways for the purpose of owning, constructing, installing, operating, repairing and maintaining a telecommunications system; and

**BE IT FURTHER RESOLVED**, that the Mayor and Clerk are hereby authorized to execute any and all documents necessary to effectuate this Resolution.

| Council member  | Motion | Second | Yes | No | Absent | Abstain | Recuse |
|-----------------|--------|--------|-----|----|--------|---------|--------|
| DeRosa, Anthony |        |        | X   |    |        |         |        |
| Escobar, John   |        |        | X   |    |        |         |        |
| Horvath, Zoltan |        | X      | X   |    |        |         |        |
| Lundy, Abby     | X      |        | X   |    |        |         |        |
| Pizzella, Frank |        |        | X   |    |        |         |        |
| Segalas, Steven |        |        | X   |    |        |         |        |
| Ruocco, John    |        |        |     |    |        |         |        |

Adopted: November 12, 2019

Attest: Denise Kohan  
Denise Kohan  
Municipal Clerk

John Ruocco  
John Ruocco  
Mayor



October 30, 2019

Denise Kohan  
Borough Clerk/Registrar  
Borough of Hillsdale  
380 Hillsdale Avenue  
Hillsdale, NJ 07642

**Re: Request for Municipal Consent**

Dear Denise,

I am writing to request municipal consent from the Borough of Hillsdale for our company, Cross River Fiber to use the public right-of-way in order to attach or install our telecommunications fiber optic cable to existing utility poles or conduits. Enclosed you will find copies of a sample resolution, our BPU approval as well as a copy of applicable federal and state statutes that govern our industry.

As a telecommunications utility, we have been authorized by the Board of Public Utilities to provide local telecommunications services throughout the State of New Jersey. Pursuant to such authority, we may locate, place, attach, install, operate and maintain fiber optic facilities within the municipal, county and state right-of-way for the purpose of providing telecommunications services. As such, in accordance with N.J.S.A. 48:3-19, we request the consent of the Borough of Hillsdale to locate, operate and maintain fiber optic cable within the municipal right-of-way throughout the Borough for us by our commercial customer. We are respectfully requesting that this permission be granted within 60 days of receipt of this letter.

Our efforts to expand our existing fiber optic infrastructure throughout the State of New Jersey and through the Borough of Hillsdale will allow us to offer additional competitive services of all commercial and municipal customers. Our customers include other telecommunications carriers, enterprise and commercial businesses, municipal governments, hospitals and local school districts. We provide our customers with a network infrastructure which aggregates voice, internet and private data on high bandwidth fiber optic cable that spans from corporate campuses to metropolitan and inner-city networks

My office will be contacting you to follow up on your receipt of this information and to discuss the next steps to receive your municipal consent. In the meantime, should you have any questions, do not hesitate to contact me at 732-643-0115. We will be happy to make an informal presentation to you and your board at an appropriate upcoming meeting and to answer any questions they may have at that time.

Sincerely,

Fred Brody,  
Government Affairs  
732-643-0115



**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 CROSS )  
RIVER FIBER, INC FOR AUTHORITY TO PROVIDE )  
LOCAL EXCHANGE AND INTEREXCHANGE )  
TELECOMMUNICATIONS SERVICES THROUGHOUT )  
THE STATE OF NEW JERSEY ) ORDER  
  
DOCKET NO. TE12040297

**Parties of Record:**

**William K. Mosca, Jr.**, 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 2, 2012, Cross River Fiber, Inc. ("Petitioner" or "Cross River") filed a Verified 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.<sup>1</sup> 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.

Cross River is a privately held company organized under the laws of the State of Delaware. Vincenzo Clemente is the President and Chief Executive Officer of the company and holds a majority ownership interest in Cross River whose principal offices are located at 33 Wood Avenue South, Suite 600, Iselin, New Jersey 08830.

Petitioner has submitted copies of its Certificate of Incorporation from the State of Delaware and its New Jersey Certificate of Authority to operate as a Foreign Corporation. Petitioner plans initially to install and lease dark fiber facilities to enterprise customers throughout New Jersey.

<sup>1</sup> Cross River Fiber, LLC, which holds a certificate of authority to operate as competitive local exchange carrier in New Jersey under Docket No TE11050320 issued on July 14, 2011, plans to surrender its authority within a reasonable time after Cross River receives the requested authority to provide Telecom Service throughout New Jersey. This will permit Cross River Fiber, LLC sufficient time to transfer and wind down its operations in favor of Cross River.

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 plans to enter into an interconnection agreement with New Jersey Incumbent Local Exchange Carriers ("ILECs") as necessary to support its initial provision of dark fiber services and its future provision of lit fiber services and resold ILECs services.

Petitioner seeks authority to provide both resold and facilities-based local exchange and interexchange telecommunications services to enterprise and carrier customers requiring fiber optic connectivity between business operations and data centers throughout the State of New Jersey by utilizing its owned facilities and facilities leased from New Jersey ILECs. Petitioner plans to offer dark fiber, fractional dark fiber and interconnection to third party carriers in the State of New Jersey. The Petitioner is engaged in the installation of fiber optic technology for the communications industry, both in the public and private sector. Its operation includes, but is not limited to, activities as a contractor in the Northeast Region. Petitioner's plans include construction of forty-five (45) fiber optic route miles to connect to strategic datacenters, enterprise, government, healthcare and education facilities. Petitioner expects its current facilities construction plan to be completed by the fourth quarter of 2012, and depending upon customer's acceptance of Petitioner's offer, Petitioner will consider further expansion of its fiber optic facilities to include more of the above mentioned facilities throughout New Jersey. Petitioner further states that after its dark fiber services are established, Petitioner may extend its service offering to include lit fiber service which includes, but is not limited to, private lines, end-user voice and data applications, including a full range of vertical features and functions such as call waiting and forwarding, conference calling, emergency services, etc., and full array resold ILEC services over its own facilities and facilities leased from New Jersey ILECs. Petitioner 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.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, Cross River 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 Cross River, are well qualified to execute its business plans and have extensive managerial and technical experience in the telecommunications industry.

By letter dated April 24, 2012, the Division of Rate Counsel submitted comments with the Board recommending that the Board approve 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 Cross River'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 notes that the Petitioner will not be permitted to offer dark fiber, fractional dark fiber and lit fiber telecommunications services until a tariff is filed with the Board. However, Petitioner won't be relieved from its responsibility to file an Annual Report and a Statement of Gross Intrastate Revenues from Operations form for the preceding calendar year and payment of annual assessment to both the Board and the New Jersey Division of Rate Counsel.

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.

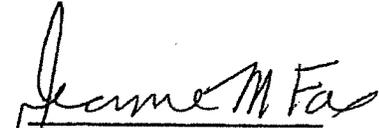
Regarding the Petitioner's request for waiver of the Board rules, the Board FINDS that the Petitioner has demonstrated good cause why the Board should grant relief from its requirements that the Petitioner maintains its books and records in accordance with USOA.

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 exemption from maintaining its books and records in accordance with USOA.

DATED: 6/18/12

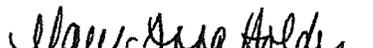
BOARD OF PUBLIC UTILITIES  
BY:

  
ROBERT M. HANNA  
PRESIDENT

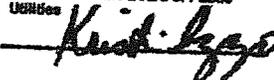
  
JEANNE M. FOX  
COMMISSIONER

  
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 PETITION OF CROSS RIVER FIBER, INC FOR  
AUTHORITY TO PROVIDE LOCAL EXCHANGE AND  
INTEREXCHANGE TELECOMMUNICATIONS  
SERVICES IN THE STATE OF NEW JERSEY

DOCKET NO. TE12040297

SERVICE LIST

1. **Petitioner's Contact Person:**  
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2. **Petitioner's Attorney:**  
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5. **Deputy Attorney General:**  
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