



STATE OF NEW JERSEY
Board of Public Utilities
44 South Clinton Avenue, 9th Floor
Post Office Box 350
Trenton, New Jersey 08625-0350
www.nj.gov/bpu/

TELECOMMUNICATIONS

IN THE MATTER OF THE VERIFIED JOINT)
PETITION OF BUSINESS TELECOM, INC., CTC) ORDER
COMMUNICATIONS CORP., CONVERSENT)
COMMUNICATIONS OF NEW JERSEY, LLC,)
EARTHLINK BUSINESS, LLC AND LIGHTSHIP)
TELECOM, LLC FOR APPROVAL TO)
PARTICIPATE IN VARIOUS FINANCING)
TRANSACTIONS) DOCKET NO. TF13010047

Parties of Record:

Dennis C. Linken, Esq., Scarinci & Hollenbeck, LLC, on behalf of Petitioners
Stefanie A. Brand, Esq., Director, New Jersey Division of Rate Counsel

BY THE BOARD:

On January 17, 2013, Business Telecom, Inc. ("BTI"), Conversent Communications of New Jersey, LLC ("Conversent"), CTC Communications Corp. ("CTC"), EarthLink Business, LLC ("ELink Biz") and Lightship Telecom, LLC ("Lightship") (collectively, the "Petitioners"), filed a petition pursuant to N.J.S.A. 48:3-9 and N.J.S.A. 48:3-7 requesting approval from the New Jersey Board of Public Utilities ("Board"), to the extent necessary, to participate in proposed financing arrangements (Financing) contemplated by EarthLink, Inc. ("EarthLink"), the ultimate corporate parent of the Petitioners. Petitioners explain that the proposed financing arrangements will be primarily used to retire and replace existing financing arrangements of EarthLink and ITC^DeltaCom, Inc. ("ITCD"), the direct parent company of BTI.

EarthLink is a publicly traded Delaware corporation with a principal business office in Atlanta, Georgia and is a provider of network, communications and IT services to other telecommunications carriers, businesses, enterprise organizations and individual customers across the United States. BTI, Conversent, CTC, ELink Biz and Lightship are non-dominant carriers authorized to provide resold and/or facilities-based telecommunications services in New Jersey. In addition, EarthLink has another subsidiary, DeltaCom, LLC that provides resold telecommunications services in New Jersey.

The existing financing arrangements of EarthLink were approved by the Board on April 27, 2011, in Docket No. TF11030153. On May 17, 2011, EarthLink issued 8 7/8% Senior Secured Notes due May 15, 2019 in the aggregate amount of \$300 million (the "Existing EarthLink Notes") and (2) on May 20, 2011, EarthLink entered into a credit agreement providing for a revolving credit facility in the aggregate amount of \$150 million (the "Existing EarthLink Revolver") (together, the "Existing EarthLink Financing"). Pursuant to the Board's approval, Conversent, CTC, ELink Biz and Lightship executed documents under which they each provided a guaranty and related pledge of assets as security for the Existing EarthLink Financing. BTI and DeltaCom have not yet executed documents to provide a guaranty and related pledge of assets as security for the Existing EarthLink Financing, but are expected to execute such documents for the Existing EarthLink Notes upon closing of the New Financing. Petitioners explain that the Existing EarthLink Revolver, which EarthLink has not drawn upon, will be terminated and replaced by a revolving facility(ies) under the New Financing.

The existing financing arrangements of ITCD were approved by the Board on August 4, 2010 in Docket No. TF10030203. On April 9, 2010, ITCD, now an indirect subsidiary of EarthLink and direct parent company of BTI and DeltaCom, completed a private offering of \$325 million aggregate principal amount of 10.5% Senior Secured Notes due in 2016 (the "Existing ITCD Financing") and a \$30 million Revolving Credit Facility which has since been terminated. Pursuant to the Board's approval, each of ITCD's subsidiaries, including BTI and DeltaCom, provided a guaranty and related pledge of assets as security for the Existing ITCD Financing. Currently, the outstanding principal for the Existing ITCD Financing is \$292 million. Petitioners explain that the proceeds from the New Financing will be primarily used to repay the Existing ITCD Financing and to replace the Existing EarthLink Revolver.

Petitioners assert that, in order to repay the Existing ITCD Financing and to replace the Existing EarthLink Revolver, EarthLink intends to enter into new company-wide financing arrangements in a maximum aggregate amount of \$500 million (the "New Financing"). Petitioners further explained that the specific amounts and terms of the proposed New Financing, which may be completed in multiple issuances and tranches, will not be priced or otherwise finalized until the specific arrangement(s) have been completed shortly before closing, and will reflect market conditions then existing with some terms, such as the interest rate, possibly fluctuating during the term of the financing due to changes in market conditions. Furthermore, the New Financing may include a hedging component with respect to such interest rates. Petitioners therefore supplied the core terms expected for the New Financing and the purpose for which the proceeds will be used. Those terms are as follows.

Borrower(s): Currently EarthLink is expected to be the sole or primary borrower under the New Financing. Some or all of EarthLink's subsidiaries, including Petitioners, may be co-borrowers under some or all of the debt instruments comprising the New Financing.

Funding Providers: The funding providers may be banks, financial institutions, private lending institutions, private individuals, and/or other institutions, either individually or as a syndicate or other type of consortium. The funding group may change over the term of the financing arrangements.

Amount: The New Financing is expected to be in an aggregate amount of \$400-450 million but depending on market conditions may be as high as up to \$500 million (including an incremental loan). In order to maintain flexibility, Petitioners requested approval to participate in the New Financing in an aggregate amount of up to \$500 million.

Debt Instruments: EarthLink expects that the New Financing will consist of a term loan(s) and a revolving credit facility(ies), which can be re-borrowed during the term of the commitment. Since the precise debt structure will not be known until the marketing process has proceeded, EarthLink maintains that it is important to retain the flexibility to address market requirements. Accordingly, Petitioners seek approval to participate in indebtedness in the form of notes or debentures (including notes convertible into equity and private notes that may be exchanged for public notes); conventional credit facilities, such as revolving credit facilities and term loans; letters of credit; and bridge loans; or a combination thereof.

Maturity: The specific maturity date for any debt instruments issued in connection with the financing will be subject to negotiation and will depend on credit conditions at the time they are priced and issued. EarthLink anticipates that the New Financing will consist solely of long-term indebtedness. In the event that EarthLink incurs bridge loans as a "bridge" to long-term indebtedness, the bridge loans will likely mature one (1) year after issuance. EarthLink expects any long-term indebtedness incurred as part of the New Financing to mature between five (5) and eight (8) years after issuance depending on the type of facility. In order to maintain flexibility, Petitioners requested approval to participate in New Financing arrangements with a maturity date of up to eight (8) years after issuance.

Interest: The interest rate will likely be the market rate for similar financings and will not be determined until the financing arrangements are finalized. Depending on the type of debt securities, credit facility(ies) or other arrangements, the interest rate(s) could be a fixed rate (typically set at signing or closing based on a then current rate index such as LIBOR or Federal Funds Rate, along with an applicable margin rate) or a floating rate (consisting of a base rate, which will float with a rate index such as LIBOR or Federal Funds Rate, plus an applicable margin), or a combination of fixed rates and floating rates. Initially, the margins are expected to range from 4.00% to 6.00% depending on the type of facility and rate index used.

Security: Some and perhaps all of the New Financing is expected to be secured by a security interest in substantially all of the assets of EarthLink and its subsidiaries, including the equity held by EarthLink and its current and future subsidiaries in their respective subsidiaries. It is expected that each Petitioner (in addition to some or all of the other subsidiaries of EarthLink) will provide guarantees of a portion or all of EarthLink's obligations under the New Financing or may be borrowers or co-borrowers under the New Financing. The security documents will contain appropriate provisions indicating that exercise of certain rights thereunder may be subject to obtaining prior regulatory approval. Petitioners requested approval to provide guarantees and related pledges of substantially all of their assets, including any equity of their subsidiaries, as security for the New Financing.

BTI and DeltaCom also requested approval to provide guarantees and related pledges of assets as security for the Existing EarthLink Notes, which the Board previously authorized in Docket No. TF11030153.

Use of Proceeds: The proceeds of the New Financing are expected to repay the Existing ITCD Financing, to replace the Existing EarthLink Revolver and for general corporate purposes. In order to maintain flexibility, Petitioners seek approval to participate in the New Financing, which may be used for any purpose permitted by law, including but not limited to: refinancing or repaying the debt of EarthLink and its current and future subsidiaries; funding capital expenditures or future acquisitions, including paying for the capital stock (or other equity interests) or assets of any acquired business and/or to refinance the debt of the acquired business in connection with the acquisition, as well as pay for transaction costs; financing working capital; and other general corporate purposes.

Petitioners state that the New Financing will allow EarthLink to replace the Existing ITCD Financing with financing arrangements that are more favorable and the refinancing of the Existing EarthLink Revolver will extend the maturity date of the Existing EarthLink Revolver. For instance, the Petitioners expect that the New Financing will have an interest rate lower than the Existing ITCD Financing, thus reducing the costs of servicing the company's debt. Petitioners also state that the New Financing will simplify the capital structure of EarthLink, thus permitting the elimination of cumbersome covenants under the Existing ITCD Financing restricting business arrangements between ITCD and its subsidiaries, on the one hand, and EarthLink and its other subsidiaries, on the other. Further, Petitioners state that upon completion of the New Financing, ITCD will no longer be required to file reports with the SEC, thereby reducing the reporting costs to the company as a whole. Petitioners anticipate that their participation in the financing arrangements will enhance the respective competitive position of Petitioners in the New Jersey telecommunications marketplace, ultimately benefiting their respective New Jersey customers and other New Jersey enterprise entities that may choose Petitioners as their service provider in the future.

Petitioners' participation in the financing arrangements described herein will not involve a transfer of authorizations, assets or customers of either Petitioner. Petitioners' participation will be transparent to their respective customers in New Jersey. Petitioners will continue to provide services to their respective New Jersey customers with no changes in the rates or terms and conditions of service as currently provided.

The Division of Rate Council has reviewed this matter and, by letter dated February 6, 2013 favors Board approval of this petition.

After careful review of this matter, the Board **FINDS** that the proposed transaction will not have a negative impact on competition, the rates of current customers, or on employees. Therefore, the Board, after investigation, having considered the record and information submitted in this proceeding, **FINDS** the financing transaction is in accordance with law and the public interest, and **HEREBY AUTHORIZES** Petitioners to participate in the financing arrangements described herein and to take those actions necessary to effectuate participation in the financing arrangement.

This Order is issued subject to the following provisions:


1. This Order shall not affect or in any way limit the exercise of the authority of the Board or the State of New Jersey in any future petition or in any proceeding regarding rates, costs of service, franchises, service, financing, accounting, capitalization, depreciation or any other matters affecting Petitioners.
2. This Order shall not be construed as directly or indirectly fixing, for any purpose whatsoever, any value of the tangible or intangible assets now owned or hereafter to be owned by Petitioners.
3. Notwithstanding anything to the contrary in the documents executed pursuant to the financing transactions or other supporting documents, a default or assignment under such agreement shall not constitute automatic transfer of Petitioners' assets. Board approval must be sought pursuant to N.J.S.A. 48:1-1 et seq. where applicable.

This Order shall be effective on March 1, 2013.

DATED: 2/20/13

BOARD OF PUBLIC UTILITIES
BY:


ROBERT M. HANNA
PRESIDENT


JEANNE M. FOX
COMMISSIONER

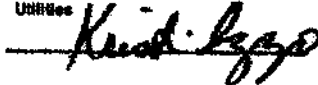

JOSEPH L. FIORDALISO
COMMISSIONER


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



SERVICE LIST

In The Matter of the Verified Joint Petition of Business Telecom, Inc., EarthLink Business, LLC, CTC Communications Corp., Conversent Communications of New Jersey, LLC and Lightship Telecom, LLC for Approval to Participate in Various Financing Transactions

Docket No. TF13010047

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