



Agenda Date: 9/30/14
Agenda Item: IVC

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 BLOCK LINE SYSTEMS, LLC, ASSIGNEE, AND)
LINE SYSTEMS, INC., MAGELLAN HILL)
TECHNOLOGIES, LLC AND INFINITE)
COMMUNICATIONS, LLC, ASSIGNORS, FOR)
APPROVAL FOR ASSIGNEE TO ACQUIRE THE)
CUSTOMERS AND CERTAIN ASSETS OF)
ASSIGNORS AND FOR APPROVAL FOR ASSIGNEE)
TO ISSUE EVIDENCE OF INDEBTEDNESS IN)
CONNECTION WITH CERTAIN FINANCING)
ARRANGEMENTS)

ORDER OF APPROVAL

DOCKET NO. TM14070752

Parties of Record:

Dennis C. Linken, Esq., Scarinci Hollenbeck LLC, for Block Line Systems, LLC
Stefanie A. Brand, Esq., Director, New Jersey Division of Rate Counsel
Steven A. Augustino, Kelley Drye & Warren LLP, for Assignors

BY THE BOARD:

On July 17, 2014, Block Line Systems, LLC ("Assignee" or "Block") and Line Systems, Inc., Magellan Hill Technologies, LLC, and Infinite Communications, LLC ("Assignors") (collectively, "Petitioners") filed a verified petition with the New Jersey Board of Public Utilities ("Board"), pursuant to N.J.S.A. 48:3-7 and N.J.S.A. 48:3-9, for approval or such authority as may be necessary to consummate a transaction (Agreement) between Assignee and Assignors through which Assignee will acquire the customers and certain assets of Assignors and to issue evidence of indebtedness in connection with certain financing arrangements. As a result of the transaction, Assignors' customers will be transferred to Assignee, which will become the service provider for those customers. Petitioners state that the transaction will be virtually transparent to customers of Assignors in terms of the services that those customers receive and the rates and terms of those services.

BACKGROUND

Block Line Systems, LLC is a newly formed Ohio limited liability company with a principal office located at 405 Madison Ave., Suite 2100, Toledo, OH 43604. Block is a wholly owned

subsidiary of Block Communications, Inc., an Ohio Corporation. In New Jersey, Block was authorized to provide resold and facilities based local exchange, exchange access and Interexchange services. See I/M/O the Verified Petition of Block Line Systems, LLC for Authorization to Provide Local Exchange Telecommunications Services throughout the State of New Jersey, Docket No. TE14070751, Order dated August 20, 2014. According to the Petition, on June 26, 2014, Petitioners entered into an Asset Purchase Agreement pursuant to which Block will purchase certain assets, customer accounts, contracts, vendor agreements, equipment and certain intellectual property from Assignors.

Line Systems, Inc. is a Pennsylvania Corporation and has a principal place of business located at 1645 West Chester Pike, Suite 200, West Chester, Pennsylvania, 19382. Line Systems is authorized by the Board to provide competitive local exchange telecommunications services in New Jersey. Line Systems, Inc. received its authority in Docket No. TE00080619, Order dated January 9, 2002. Line Systems, Inc. has one employee in New Jersey who will remain an employee of Line Systems, Inc. in New Jersey as a result of this transaction.

Magellan Hill Technologies, LLC is a New Jersey limited liability company and has a principal place of business located at 1020 Laurel Oak Roads, Suite 201, Voorhees, NJ 08043. Magellan is authorized by the Board to provide local exchange and interexchange services in New Jersey. Magellan received its authority in Docket No. TE06050393, Order dated July 19, 2006.

Infinite Communications, LLC is a Pennsylvania limited company and has a principal place of business located at 1645 West Chester Pike, Suite 200, West Chester, Pennsylvania 19382. Infinite is authorized by the Board to provide local exchange and interexchange service in New Jersey. Infinite received its authority in Docket No. TE07020139, Order dated August 1, 2007.

DISCUSSION

According to the petition, on June 26, 2014, petitioners entered into a transaction pursuant to which Assignee will acquire certain assets, certain customer accounts, contracts and agreements, certain vendor agreements and contracts, certain equipment and certain intellectual property from Assignors. According to the petition, Assignee will be acquiring approximately 1686 customers that currently receive Assignors' local exchange and interexchange services in New Jersey. After consummation of the transaction, Assignee will provide Assignors' customers with the same rates, terms and conditions as before. Assignee will also adopt Assignors' existing tariffs upon assignment of the New Jersey assets.

Block requests approval to participate in certain financing arrangements anticipated in connection with the consummation of the Transaction. Block may fund all or a portion of the purchase price relating to the Transaction utilizing cash on hand. In the alternative, Block is considering funding all or a part of the Transaction through an existing \$75 million revolving credit facility (Revolver). The facility has a maturity date of December 2, 2016. Interest for the promissory notes is to be priced at LIBOR plus a margin.

Pursuant to the terms of the Revolver, all of Block's existing and future operating subsidiaries are required to act as guarantors and to pledge their assets as security for the Revolver. In addition, Block is required to pledge its ownership interests in its existing and future operating subsidiaries. Accordingly, Block requests permission to act as guarantor of the Revolver and to pledge its assets in support thereof. Authorization is also requested with respect to a pledge of the membership interest of Block as security for the Revolver.

Staff's review indicates that the financing transactions and the use of the proceeds associated therewith are appropriate. While there is no guarantee in this regard, especially given the competitive environment in which Petitioners operate, the Board is satisfied that the transactions will not have an adverse impact on Petitioners' operations in New Jersey.

According to the petition, Assignors provide service only to business and enterprise customers. Future changes in the rates terms and conditions of service to the affected customers will be undertaken pursuant to customer contracts and the applicable federal and state notice and tariff requirements. As a result, the proposed transaction will be transparent to customers and will not have a negative impact on the public interest and services to New Jersey customers.

Petitioners have also complied with Mass Migration guidelines at N.J.A.C. 14:10-12.1 et seq., and will provide customers a 60-day notification. This notice would inform customers of the transfer and that they have the right to choose another carrier. Petitioners have requested six modifications/waivers of certain sections of the mass migration guidelines.

The New Jersey Division of Rate Counsel ("Rate Counsel") has reviewed this matter and, by letter dated August 12, 2014, stated that it does not oppose approval of the asset transfer to the Assignee from the Assignors, nor does it oppose the financial arrangement involving the transaction. However, Rate Counsel did object to two of the six requests for waivers by Petitioners involving the mass migration of customers under N.J.A.C. 14:10-12 et seq.

Petitioners requested a waiver from the requirement of N.J.A.C. 14:10-12.5(c) and (e), which requires the departing telephone service providers to provide notice to the Board and each incumbent local exchange carrier (ILEC) and network service provider (NSP) that provides service in the areas served by Assignors. Petitioners state that the purpose of this requirement is to ensure continuity of service for the affected customer by informing ILECs and NSPs of a pending discontinuance so that ILECs and NSPs have time to provision service to the affected customers prior to the actual discontinuance. In this case, no customer is in danger of losing continuity of service and applying these requirements would place additional expense on the parties with no benefit to customers. Rate Counsel objected and argued that because the parties are seeking a waiver of the 90-day notice requirement as required by N.J.A.C. 14:10-12.3(b) thereby shortening a customer's time to search for an alternative service provider and select a new carrier if they so choose.

The second waiver request is from the requirement under N.J.A.C. 14:10-12.8(c), which requires Assignors to provide the Board with progress reports at 60, 30 and 10 days prior to the planned departure date. Petitioners asserted that because all of Assignors' New Jersey customers will be transferred to Block immediately following closing, the information requested in the progress reports will have no relevance. Petitioners request the requirement should be modified with respect to the progress report due 60 days prior to the planned departure date. Rate Counsel objected and argued that mass migration regulations were enacted to protect customers and ensure that the provision of services remain safe, adequate and reasonable. According to Rate Counsel, in this instance, the benefits of progress reports at 60, 30 and 10 days prior to the mass migration of customers ensure to the Board and Rate Counsel that customers have been properly notified and given the opportunity to switch to another provider if they so choose. Also, this far outweighs the administrative burdens that it may impose on the parties and is an inherent and expected cost of doing business. Id. at 3.

Petitioners responded on August 13 that the Assignors will forego their requests for a waiver of N.J.A.C. 14:10-12.5(c) and (e) and N.J.A.C. 14:10-12.8(c) and comply with said regulations.

FINDINGS AND CONCLUSION

After a thorough review of the petition and all related documents, the Board concludes that there will be no negative impact on service quality to New Jersey customers or the rates they pay. Nor will there be a negative impact on competition. The Board also **FINDS** that the proposed financing transaction is consistent with the applicable law and is in the public interest. The Board therefore approves the purposes thereof. The Board also concludes that a modification of mass migration rules as proposed by Petitioners is in the best interest of the parties.

Accordingly, after careful review of this matter, the Board **FINDS** that the transaction will have no negative impact on competition, employees, or the rates to customers. The Board also **FINDS** that the asset transfer, customer transfer and financing arrangements will have no negative impact on the provision of safe, adequate and proper service and will positively benefit competition. Furthermore, the Board **FINDS** that the transfer will likely have a net positive benefit to the customers in the State.

Therefore, the Board, after investigation, having considered the record and exhibits submitted in this proceeding, **FINDS** that the asset transfer, customer transfer and financing arrangements are in accordance with the law and in the public interest. The Board **HEREBY APPROVES** the request by Petitioners for the transaction. The Board **HEREBY AUTHORIZES** the petitioners to enter into the proposed financing agreements in connection with the consummation of the merger and include Block's existing and future operating subsidiaries to act as guarantors and to pledge their assets as security to provide necessary guarantees and related pledges of assets as security for the new financing arrangements.

Also, because sufficient circumstances so warrant, the Board **HEREBY GRANTS** the requested modification and/or waiver of the applicable sections of the Board's mass migration rules. Finally, the Board **FURTHER ORDERS** that the approval in this Order shall become null and void and of no effect to the extent that the approved transaction has not been effected prior to August 30, 2015. The Board **HEREBY ORDERS** Petitioners shall notify the Board of the closing of the proposed transaction within ten (10) days of consummation of the transfer. This Order shall become effective upon the service thereof, in accordance with N.J.S.A. 48:2-40.

This Order is 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 of the State in any future petition with respect to rates, franchises, services, financing, accounting, capitalization, depreciation, or any other matters affecting the Petitioners.
2. 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 does not constitute an automatic transfer of Petitioners' assets. Board approval must be sought pursuant to N.J.S.A. 48:1-1 et seq. where applicable.
3. This Order shall not be construed as directly or indirectly fixing for any purpose whatsoever any value of tangible or intangible assets now owned or hereafter to be owned by Petitioners.

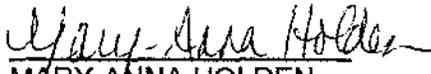
4. Petitioners shall notify the Board, within five business days, of any material changes in the proposed financing, and shall provide complete details of such transactions, including any anticipated effects upon service in New Jersey.

DATED: 9/30/14

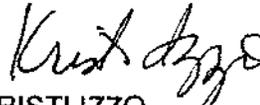
BOARD OF PUBLIC UTILITIES
BY:


DIANNE SOLOMON
PRESIDENT

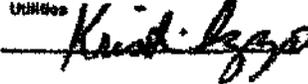

JOSEPH L. FIORDALISO
COMMISSIONER


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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APPROVAL FOR ASSIGNEE TO ISSUE EVIDENCE OF INDEBTEDNESS IN CONNECTION
WITH CERTAIN FINANCING ARRANGEMENTS

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