



Agenda Date: 05/16/11
Agenda Item: IVB

STATE OF NEW JERSEY
Board of Public Utilities
Two Gateway Center, Suite 801
Newark, NJ 07102
www.nj.gov/bpu/

TELECOMMUNICATIONS

IN THE MATTER OF THE VERIFIED JOINT)	ORDER OF APPROVAL
PETITION OF ZAYO GROUP, LLC, AND ZAYO)	
BANDWIDTH, LLC, FOR APPROVAL OF A PRO)	
FORMA INTRA-CORPORATE TRANSACTION)	DOCKET NO. TM11020067

Dennis C. Linken, Esq., Stryker, Tams & Dill LLP, Two Penn Plaza East, Newark NJ 07102 for the Petitioners

BY THE BOARD¹:

On February 11, 2010, Zayo Group, LLC ("Zayo"), Zayo Bandwidth, LLC ("ZB" and together with Zayo, the "Petitioners") by their counsel, filed a petition pursuant to N.J.S.A. 48:2-51.1, and the rules of the New Jersey Board of Public Utilities ("Board"), requesting approval of an intra-corporate merger that would result in ZB merging with and into Zayo with Zayo surviving. Upon consummation of the transfer, Zayo will offer services to current customers of ZB at existing terms, rates and conditions.

BACKGROUND

Zayo and ZB are Delaware limited liability companies. ZB is a wholly owned direct subsidiary of Zayo. Zayo is a direct subsidiary of Zayo Group Holdings, Inc. ("Holdings"), a Delaware corporation which is wholly owned by Communications Investment, LLC ("CII") which has no majority owner. Zayo and ZB have their corporate headquarters located in Louisville, Colorado. According to the petition, ZB currently provides Private Line, Ethernet, Wavelength, Dedicated Internet Access and Collocation services to wholesale and large enterprise customers. In New Jersey, ZB was granted authority to provide local exchange and interexchange telecommunications services in New Jersey on February 10, 2010. See Order, I/M/O the Verified Petition of Zayo Bandwidth, LLC, for a Certificate of Public Convenience and Necessity to Provide Local Exchange, Interexchange, Exchange Access Telecommunication Services Throughout the State of New Jersey, Docket No. TE09120992. Additional information and qualifications of ZB can be found in that Order. The Petitioners state that ZB currently has approximately 30 customers and 12 employees in New Jersey. According to the Petitioners, Zayo Group, through its operating subsidiaries, provides

¹ Commissioner Nicholas Asselta did not participate in this matter.

bandwidth, voice, collocation and interconnection, and managed services to carrier, enterprise and government customers. In a separate filing, Zayo was granted authority to provide local exchange and interexchange telecommunications services in New Jersey on April 27, 2011. See Order I/M/O the Verified Petition of Zayo Group, LLC for Authorization to Provide Resold and Facilities-Based Local Exchange, Interexchange, Exchange Access and Private Line Telecommunications Services Throughout the State of New Jersey, Docket No. TE11020049. Additional information and qualifications of Zayo can be found in that Order.

DISCUSSION

According to the Petitioners, over the past few years, Holdings has acquired a number of existing communications businesses. As a result of these acquisitions, the corporate structure of Holdings has become increasingly complex, with numerous operating entities, many of whose services overlap. In an effort to streamline its corporate structure and to operate more efficiently, ZB will merge with and into Zayo, with Zayo as the surviving entity. ZB will cease operations in New Jersey, and will surrender its authority to provide services within the State upon notification to the Board that the transaction has been completed. This merger will result in the customers of ZB becoming customers of Zayo. Petitioners state that the merger will not result in a change to any aspect of their services, including the rates, terms and conditions. Further, since the all operating entities of Zayo share the same corporate officers and certain other technical, managerial and operational personnel, and the same "Zayo" Bandwidth name and logo on all marketing materials, correspondence and billing statements, Petitioners point out that the transaction will be virtually transparent to customers.

The petition asserts that the proposed transaction is in the public interest because it will create efficiencies for Zayo and its business units by reducing the accounting, reporting, managerial, and operating complexities. The petition states that there will be no change in the provider's service, billing, personnel or contact information. Petitioners also indicate that there will be no harm to employees associated with this transaction.

FINDINGS AND CONCLUSIONS

After careful review of this Petition and all related documents, the Board FINDS that the transaction will have no negative impact on competition, the rates of current customers, or on employees. The Board also FINDS that the transactions will have no negative impact on the provision of safe, adequate and proper service, and, moreover, a positive benefit may be expected from the strengthening of Zayo Group's competitive posture in the telecommunications market. Therefore, the Board, after investigation, having considered the record and exhibits submitted in this proceeding, FINDS that the transfer is in accordance with the law and in the public interest.

The Board also FINDS that, in accordance with N.J.S.A. 48:2-59 and 48:2-60 and N.J.S.A. 52:27E-52, following the closing Zayo is responsible for the filing of ZB's final annual report with the Board, and for the payment of any outstanding assessment liabilities to the Board and to the Division of Rate Counsel. Zayo shall also fill a tariff with the Board that will mirror the tariff of ZB with its new name, and following the closing and once all customers have been transferred to Zayo, ZB shall surrender its authority to the Board.


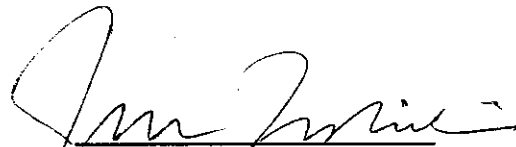
The Board HEREBY ORDERS that Petitioners shall notify the Board of the closing of the proposed transaction within ten (10) days of consummation of the transfer. The Board FURTHER ORDERS that this approval will expire if the transaction is not fully consummated on or before April 30, 2012.

DATED: 5/16/11

BOARD OF PUBLIC UTILITIES
BY:



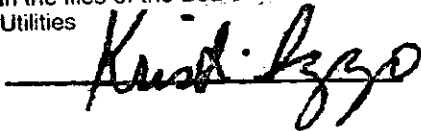
LEE A. SOLOMON
PRESIDENT


JEANNE M. FOX
COMMISSIONER
JOSEPH L. FIORDALISO
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 Verified Joint Petition of Zayo Group, LLC and Zayo Bandwidth LLC,
for Approval of a Pro Forma Intra-Corporate Transaction.

Service List

Docket No. TM11020067

Dennis C. Linken
Stryker, Tams & Dill LLP
Two Penn Plaza East
Newark, NJ 07105
dlinken@strykertams.com

Jean L. Kiddoo
Brett P. Ferenchak
Bingham McCutchen LLP
2020 K Street, N.W.
Washington, D.C. 20006-1806
jean.kiddoo@bingham.com
brett.ferenchak@bingham.com

Scott E. Beer
General Counsel
Zayo Group, LLC
400 Centennial Parkway, Suite 200
Louisville, CO 80027
sbeer@zayo.com

Stephanie A. Brand
Director, Division of Rate Counsel
Department of the Public Advocate
31 Clinton Street, 11th Floor
P.O. Box 46005
Newark, NJ 07101
njratepayer@advocate.state.nj.us

James F. Murphy
Rocco Della Serra
Board of Public Utilities
Suite 801
Division of Telecommunications
Two Gateway Center
Newark, NJ 07102
james.murphy@bpu.state.nj.us
rocco.della-serra@bpu.state.nj.us

Alex Moreau
Department of Law & Public Safety
Division of Law
124 Halsey Street – 5th Floor
P.O. Box 45029
Newark, New Jersey 07102
alex.moreau@dol.lps.state.nj.us