



Agenda Date: 10/13/11
Agenda Item: IVD

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 PETITION OF) ORDER
FIRST COMMUNICATIONS, LLC FOR APPROVAL TO)
PARTICIPATE IN A FINANCING ARRANGEMENT) DOCKET NO. TF11070435

Parties of Record:

Dennis C. Linken, Esq. Scarinci Hollenbeck for the Petitioner
Stefanie A. Brand, Esq., Director, New Jersey Division of Rate Counsel

BY THE BOARD:

On July 22, 2011, First Communications, LLC ("FCL" or "Petitioner") filed a petition with the New Jersey Board of Public Utilities pursuant to N.J.S.A. 48:3-7, N.J.S.A. 48:3-9 and N.J.A.C. 14:1-5.9 requesting approval to act as guarantor for a financing arrangement of up to \$80,000,000 entered into by its parent company, First Communications, Inc. ("FCI") (hereinafter, the "Financing"). In addition, Petitioner requests approval to pledge existing and future jurisdictional assets in support of the financing arrangement.

FCL was formed on July 1, 1998 under the laws of the State of Ohio and is a wholly owned subsidiary of FCI. FCI, through its operating subsidiaries, FCL, First Telecom Services, LLC, Globalcom, Inc.¹ and Xtension Services, Inc.², is authorized to provide local, private line, and/or long distance services to both business and residential customers in 49 states and holds domestic and international Section 214 authorizations from the Federal Communications Commission ("FCC"). Its services include, in addition to traditional local and long distance services, toll-free services, conference calling packages, calling cards, prepaid calling cards,

¹Globalcom, Inc. is authorized to provide resold interexchange telecommunications services in New Jersey pursuant to its Authorized Resale Carrier Letter of Acknowledgement, filed and accepted on March 31, 1997.

²Xtension Services, Inc. is authorized to provide resold local exchange and interexchange telecommunications services in New Jersey pursuant to its Authorized Resale Carrier Letter of Acknowledgement, filed and accepted on March 19, 2002.

Internet access and dedicated and private line services. FCL's telecommunications services are provided primarily on a resale basis using facilities and switches that are owned and operated by other telecommunications carriers. In New Jersey, FCL is authorized to provide local exchange and interexchange telecommunications services pursuant to the Board's Order in Docket No. TE04030220, issued on May 12, 2004.

FCL has incurred long-term debt obligations, consisting of a term loan of up to \$65,000,000 and a revolving credit facility of up to \$15,000,000 issued on July 15, 2011, that will mature in 2015. The debt carries an interest rate equal to the London Interbank Offered Rate (LIBOR) plus 4.0%. The financing arrangement allows FCL to increase the term loan, revolving credit facility, or some combination thereof up to \$25,000,000, resulting in an aggregate principal amount of \$105 million. Petitioner has stated that it will seek Board approval prior to acting as guarantor should the Financing be increased above \$80 million.

The amount of outstanding principal at this time is \$65 million. FCL will use the proceeds of the financing to refinance existing indebtedness and to provide working capital and for other general corporate purposes.

Petitioner states that participation in the Financing will not result in a change in its management or day-to-day operations, and will not adversely affect Petitioner's operations in New Jersey. Furthermore, Petitioner asserts that the Financing will be entirely transparent to the public and will not alter the rates, terms and conditions under which Petitioner provides service in New Jersey.

The Division of Rate Counsel has reviewed this matter and by letter dated September 16, 2011 does not object to Board approval of this petition.

Staff's review indicates that the financing arrangement, as described herein, is in accordance with law and is not expected to directly affect rates or services of the Petitioner, or result in any change in control. Staff's review also indicates that the action requested, by allowing the Petitioner greater access to capital, may strengthen the Petitioner's ability to bring competitive telecommunications services to consumers in the State of New Jersey.

After review of the petition and supporting documents, and after giving consideration to the recommendations of Staff and the Division of Rate Counsel, the Board FINDS that the financing arrangement described herein is consistent with applicable law and in the public interest. Therefore, the Board HEREBY AUTHORIZES the Petitioner to enter into a subsidiary guarantee and pledge existing and future jurisdictional assets in support of the Financing.

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 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 the Petitioner.
2. The Petitioner shall notify the Board, within ten (10) business days, of any material changes in the terms of the Agreement and shall provide complete details of such changes to the Board including any anticipated effects upon service in New Jersey, and where applicable, seek Board approval pursuant to N.J.S.A. 48:2-1 et seq.

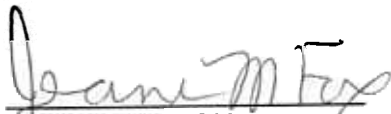
3. The Petitioner shall notify the Board of any material default in the terms of the Credit Agreement within ten (10) business days of such occurrence.
4. Notwithstanding anything to the contrary in the documents executed pursuant to the financing transactions or other supporting documents, a default or assignment under such agreement shall not constitute automatic transfer of Petitioner's assets. Board approval must be sought pursuant to N.J.S.A. 48:2-1 et seq. where applicable.
5. 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 the Petitioner.
6. Petitioner shall file semiannual statements required pursuant to N.J.A.C. 14:1-5.9(b) regarding the Financing.

This Order shall become effective upon the service thereof, in accordance with N.J.S.A. 48:2-40.

DATED: 10/13/11

BOARD OF PUBLIC UTILITIES
BY:


LEE A. SOLOMON
PRESIDENT


JEANNE M. FOX
COMMISSIONER

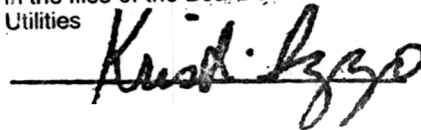

JOSEPH L. FIORDALISO
COMMISSIONER


NICHOLAS ASSELTA
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 Petition of First Communications, LLC for Approval to Participate in a Financing Arrangement

SERVICE LIST

Docket No. TF11070435

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