

RECEIVED
Fwd 4/16/15
APR 13 2015
BY Case Mgmt

RECEIVED

APR 13 2015

BOARD OF PUBLIC UTILITIES
MAIL ROOM

1250 CONNECTICUT AVE N.W.
SUITE 200
WASHINGTON, DC 20036
202.289.6955

ALBANY, NEW YORK
518.336.4300

Andrew M. Klein
AKlein@KleinLawPLLC.com

Admitted in New York, New Jersey
and the District of Columbia

April 9, 2015

Via Overnight Mail
Records Custodian
Attn: Robert Wojciak
Office of the Economist
New Jersey Board of Public Utilities
44 South Clinton Avenue, 9th Floor
Trenton, New Jersey 08625-0350

Re: BPU Docket No. TF15030378 – Response of ACN Communications Services, Inc.
and Motion for Confidential Treatment

Records Custodian:

Enclosed for filing please find the following documents:

- (1) Confidential Response of ACN Communications Services, Inc. to New Jersey Board of Public Utilities Information Request, and
- (2) Motion for Confidentiality, which seeks confidential treatment of certain information within the Response of ACN Communications Services, Inc. to New Jersey Board of Public Utilities Information Request

Please kindly stamp and return the extra copy of this transmittal letter in the self-addressed, postage-paid envelope provided herewith.

Should there be any questions or concerns with regard to this matter, please do not hesitate to contact the undersigned.

Respectfully submitted,



Andrew M. Klein
Counsel for ACN Communications Services, Inc.

Enclosures

Case Mgmt - Conf
E. Best (2)
C. Ortolano
R. Wojciak



RECEIVED

APR 13 2015

BEFORE THE
NEW JERSEY BOARD OF PUBLIC UTILITIES

BOARD OF PUBLIC UTILITIES
MAIL ROOM

_____)	
In the Matter of Petition of)	
)	
ACN Communication Services, Inc.)	
)	BPU Docket No. TF15030378
for Approval to Participate in a)	
Financing Arrangement)	
_____)	

MOTION FOR CONFIDENTIAL TREATMENT

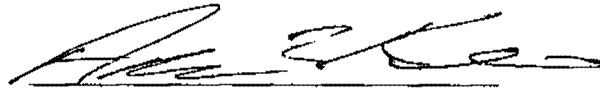
ACN Communication Services, Inc. (“Petitioner”), by its undersigned counsel, respectfully requests that the Board of Public Utilities (“Board”) grant confidential treatment of the Pro-Forma Financials, the leverage ratio, and the proposed term sheet and other business and financial information requested by Board staff (“Confidential Information”). In accordance with *N.J.A.C. 14:1-12 et. seq.*, Petitioner respectfully submits that such Confidential Information is confidential, proprietary and non-public financial information, does not constitute a government record under the New Jersey Open Public Records Act (“OPRA”), P.L. 2001, c. 404 (*N.J.S.A. 47:1A-1 et seq.*), and therefore is exempt from public disclosure.

Petitioner respectfully requests that the Board accord confidential treatment to the Confidential Information due to the confidential and proprietary information contained therein. The entirety of the Confidential Information subject to this Motion is being provided to Board staff on a cooperative basis, in response to a staff request. Such Confidential Information is not made available to the public, and general dissemination of the information would harm the position of Petitioner in the marketplace as it would provide its competitors or potential competitors with financial and other data critical to Petitioner’s ability to compete in the marketplace. Further,

Petitioner requests that the Confidential Information be perpetually held as confidential due to the presumed perpetual existence of Petitioner's business. To substantiate this confidentiality claim and in accordance with *N.J.A.C. 14:1-12.8(b)*, Petitioners rely on the enclosed affidavit of Rick Dunn, Treasurer of LKN Communications, Inc., the parent company of ACN Communications Services, Inc..

In accordance with *N.J.A.C. 14:1-12.4*, please direct all custodian communications to the undersigned.

Respectfully submitted,



Andrew M. Klein (NJ Bar No. 03677-1992)
KLEIN LAW GROUP ^{PLLC}
1250 Connecticut Ave NW, Suite 200
Washington, D.C. 20036
(202) 289-6955
AKlein@KleinLawpllc.com

Dated: April 6, 2015

**AFFIDAVIT OF RICK DUNN
IN SUPPORT OF MOTION FOR CONFIDENTIALITY**

STATE OF COLORADO §
 §
COUNTY OF CABARRUS §

Rick Dunn, being duly sworn according to law, deposes and says:

1. I am Treasurer of LKN Communications, Inc., the parent company of ACN Communications Services, Inc. (the "Company" or "Petitioner"). As such, I am fully familiar with the facts set forth herein.

2. I certify that I have the authority to make this affidavit on the Company's behalf.

3. Petitioner is filing with the Board Pro-Forma Financials, the leverage ratio, and the proposed term sheet and other business and financial information requested by Board staff ("Confidential Information"), which information is confidential, proprietary, non-public business, commercial and financial information, and does not constitute a "government record" under *N.J.S.A. 47:1A-1.1*.

4. I make this affidavit in accordance with *N.J.A.C. 14:1-12 et seq.* to substantiate Petitioner's assertion that the Confidential Information is and must remain confidential.

5. The Confidential Information contains information that is critical, commercially sensitive and competitively significant. This information is not available to the general public. Given the level of competition for communications services, Petitioner believes that disclosure of this information would place it at a significant competitive disadvantage, impede full and fair competition, and undermine its business plans. Unrestricted availability of the details of this information would provide competitors and/or potential competitors with information regarding Petitioner's financing arrangements, revenue, financial condition and projections, upon which competitors could evaluate and possibly exploit Petitioner's business strategies to Petitioner's detriment. Such availability would result in a competitive disadvantage to Petitioner. In contrast, confidential treatment will not adversely affect any interested party. Confidential treatment of this data is therefore required to avoid commercial and competitive injury.

6. The Confidential Information is protected by the Petitioner by making it available only to either senior management of the Petitioner or such other management or employees who have a need to know such information in order to perform their functions on behalf of the Petitioner. The Confidential Information may also be made available to the Petitioner's lenders or outside accounting and legal professionals. However, to the extent that the Confidential Information has been or may be disclosed to others, the Petitioner has done so or will do so by way of a confidentiality agreement, whereby it is or will be agreed by the parties thereto that the Confidential Information: (i) shall be used solely for purposes relating to the matter specified therein, and (ii) shall be maintained in secure files, separate from public information.

7. The Confidential Information is not contained in materials that are routinely available to the general public, including items such as Board Orders, press releases, and promotional or educational materials.

8. This specific Confidential Information has not previously been subject to a confidentiality determination by the Board or any other State or federal agency or court of competent jurisdiction.

9. Petitioner requests that the Confidential Information being provided to the Board shall continue to be treated as confidential before, during and after the proceedings in the above-captioned matter, unless the information or documents are adjudicated by the Board or a court of competent jurisdiction to be non-confidential.

10. Due to the sensitive nature of this Confidential Information, Petitioner respectfully submits that it is appropriate for the Board to limit access to such information. The Confidential Information being provided is for the use of the Board in the exercise of its governmental function. There is no legitimate purpose to be served in disclosing this Confidential Information to Petitioner's competitors or potential competitors, or to any person.

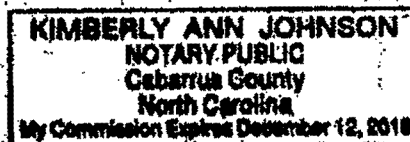
11. Petitioner therefore respectfully requests that the Board issue a determination that the Confidential Information is confidential and as such exempt from public disclosure and that the availability of such information will be limited accordingly.

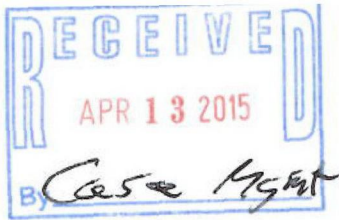

Rick Dunn

Sworn and subscribed before me this 3rd day of April, 2015.


Notary Public

My commission expires 12-12-2018





RECEIVED

APR 13 2015

BOARD OF PUBLIC UTILITIES
MAIL ROOM

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
ORDER

IN THE MATTER OF THE PETITION OF)
ACN COMMUNICATIONS SERVICES, INC. FOR)
APPROVAL TO PARTICIPATE IN A FINANCING)
ARRANGEMENT)

DOCKET NO. TF15030378

Parties of Record:

Andrew M. Klein, Esq., KLEIN LAW GROUP ^{PLLC}, on behalf of Petitioner

BY THE BOARD:

On March 24, 2015, ACN Communications Services, Inc. ("ACN") 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 a financing arrangement.

Petitioner is a corporation incorporated under the laws of the State of Michigan on April 30, 1999, and headquartered at 1000 Progress Place, Concord, NC 28025. Petitioner has been authorized in the State of New Jersey to offer resold local exchange and interexchange services to residential and business customer pursuant to registration and authority granted in Docket No. TE030403113 (the "Regulated Service").

Petitioner is a wholly-owned subsidiary of Parent, a corporation incorporated under the laws of the State of Michigan on November 24, 1992. Parent, through the Company and the Parent's other subsidiaries, markets a variety of telecommunications and other essential home and business products in all 50 States and in 23 other countries around the world, generating consolidated annual revenues in excess of \$500 million. Additional information concerning ACN's legal, technical, managerial and financial qualifications has been submitted to the Board with prior submissions with respect to Petitioner's certification and is therefore a matter of public record. The Board therefore takes official notice of these descriptions of ACN's qualifications and incorporates them herein by reference.

Petitioner requests Board approval to participate in a financing arrangement in connection with the issuance of senior secured debt in the aggregate amount of up to \$135 million by ACN's immediate parent company, LKN Communications, Inc. ("Parent"). Specifically, Petitioner seeks approval to pledge its assets as security and act as a guarantor in support of the Financing. Loans under that credit facility will be provided by a syndicate of financial institutions (the "Lenders"). Each of the Parent's domestic subsidiaries, including Petitioner, will guaranty Parent's obligations under the credit facility and grant a security interest to the Lenders in substantially all of the subsidiary's assets. The Company's Regulated Service assets are a small fraction of the total assets supporting the Credit Facility. The Company's annual revenues derived from the Regulated Service represent less than 1% of the Parent's annual consolidated revenues.

Petitioner asserts that approval of the financing arrangement will serve the public interest. First, the proposed Financing is expected to provide the ACN companies with greater financial resources which will allow ACN to compete more effectively for customers in New Jersey, as well as to ensure that ACN can continue to provide high-quality telecommunications services to existing customers. Proceeds from the Financing will be used, among other things, to support strategic growth and for ongoing working capital. Second, the Financing will be conducted in New Jersey in a manner that will be transparent to customers, and will not result in any negative changes to ACN services received by customers. Petitioner expects to continue to provide high-quality telecommunications services without any interruption, reduction, loss or impairment of services and without any changes to the rates, terms or conditions of service to customers.

After careful review of this matter, the Board **FINDS** that the transaction will have no negative impact on competition, the rates of current customers, or employees. Therefore, the Board after investigation, having considered the record and exhibits submitted in this proceeding, **FINDS** that the financing transactions are in accordance with law and in the public interest, and **HEREBY AUTHORIZES** Petitioner to participate in the financing arrangements described herein.

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 matter affecting Petitioner.
2. Petitioner 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.
3. Petitioner shall notify the Board of any material default in the terms of the proposed financing within five business days of such occurrence.
4. Notwithstanding anything to the contrary in the documents executed pursuant to the financing transactions or other supporting documents (the "Agreement"), a default or assignment under such Agreement does not constitute an automatic transfer of Petitioner's assets. Board approval must be sought pursuant to N.J.S.A. 48:1-1 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 Petitioner.

This Order shall become effective upon the earlier of (a) five (5) days after the date hereof, or (b) the receipt by the Board of a Certification by or on behalf of Petitioner that (i) it has received a copy of this Order and that (ii) a copy of this Order has been hand-delivered to Rate Counsel or delivered to Rate Counsel via overnight delivery service.

DATED:

BOARD OF PUBLIC UTILITIES
BY:

SERVICE LIST