



State of New Jersey
DIVISION OF RATE COUNSEL
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BOARD OF PUBLIC UTILITIES
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CHRIS CHRISTIE
Governor

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STEFANIE A. BRAND
Director

April 22, 2015

Via Electronic and Regular Mail

Kenneth Sheehan, Board Secretary
New Jersey Board of Public Utilities
44 South Clinton Avenue, 9th Floor
P.O. Box 350
Trenton, New Jersey 08625-0350

**Re: I/M/O the Verified Petition of ACN Communications Services, Inc., for
Approval to Participate in a Financing Arrangement
BPU Docket No. TF15030378**

Dear Board Secretary:

The New Jersey Division of Rate Counsel ("Rate Counsel") has reviewed the above referenced Verified Petition of ACN Communications Services, Inc., ("Petitioner" or "ACN"), for a grant of authority by the New Jersey Board of Public Utilities ("Board") to serve as guarantor of financing arrangements in the aggregate amount up to \$135 million, entered into by its parent company, LKN Communications, Inc., ("Parent" or "LKN"). Rate Counsel submits the within comments on this matter for the Board's consideration. Enclosed with this original please find ten copies. Kindly return a date/stamped "Received" and/or "Filed" copy to Rate Counsel. For the reasons that follow, Rate Counsel does not oppose the Board's grant of Petitioner's request in its Verified Petition.

Petitioner is a Michigan corporation headquartered at 1000 Progress Place, Concord, NC 28025. Petitioner is authorized to offer resold local exchange and interexchange services to residential and business customer in New Jersey under Docket No.:TE030403113.¹ 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.² The additional financing is intended to strengthen the parent company and enable

¹/ Verified Petition at Section II, p. 2.

²/ *Id.*, at Section IV, p.3. Petitioner also notes 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.

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Petitioner to continue to provide quality services to customers and strengthen competition for these services in New Jersey. Petitioner anticipates that funds generated will be used by Petitioner for a variety purposes, including expansion of Petitioner's networks and services that will allow New Jersey ratepayers to benefit from its expanded product line and competitive services.³

Prior Board approval of any encumbrance or mortgage of a telecommunications service provider is required; otherwise, the transaction is void under New Jersey law.⁴ As the Petitioner's assets will secure the debt, in part, the Board's approval must be based on its satisfaction that the debt is made according to law and that the debt serves a beneficial purpose.⁵ Petitioner states that the financing arrangement will strengthen its ability to compete in the telecommunications market and will assist in bringing more competitive telecommunications services to consumers in the State of New Jersey. Petitioner has provided all the information required by *N.J.S.A. 48:3-9* and *N.J.A.C. 14:1-5.9* regarding a petition for approval of debt. Petitioner asserts that the various financing contemplated is not contrary to the public interest and will serve a beneficial purpose and will enable them to provide safe, adequate and proper service to subscribers in New Jersey under the same rates, terms and conditions of service as currently provided.⁶

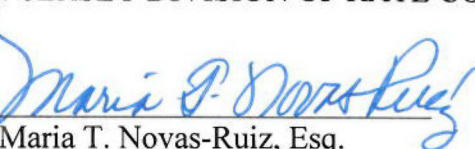
Rate Counsel anticipates that the funds generated by the agreements will in fact enable Petitioner to continue providing innovative, high quality telecommunications services to the public and thereby promote increased competition in the New Jersey telecommunications market hopefully for the benefit of both residential and business customers in this state. Accordingly, Rate Counsel does not oppose the Board's grant of Petitioner's requests under the Verified Petition.

Thank you for your attention to this matter.

Very truly yours,

STEFANIE A. BRAND,
DIRECTOR
NEW JERSEY DIVISION OF RATE COUNSEL

MNR/rk

By: 
Maria T. Novas-Ruiz, Esq.
Assistant Deputy Rate Counsel

c: Service list

³/ Verified Petition at Section V, at pp. 3-4.

⁴/ *N.J.S.A. 48:3-9, et seq.* If the Board finds that after investigation there is doubtful benefit to the petitioner, the Board may withhold approval. See, *Interstate Telephone & Telegraph Co. v. Board of Public Utility Commissioners*, 84 NJL 184 (Sup. Ct. 1913), wherein the court interpreted the 'approval of the purpose' provision to empower the Board with the authority to withhold approval if in its judgment the purpose of the debt incurred will have doubtful benefit to the applicant.

⁵/ *Id.* See also, the Verified Petition at Section V.

⁶/ *Id.*, at fn 4 *supra*.

IMO Verified Petition of ACN
Communications Services Inc.
For Approval to Participate in
Financing Transactions Docket
No. TF15030378

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