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MAR 21 2016
Clyde

Keefe B. Clemons
General Counsel – Northeast Region

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March 18, 2016

MAR 21 2016

By E-File

BOARD OF PUBLIC UTILITIES
MAIL ROOM

Irene Kim Asbury, Secretary
New Jersey Board of Public Utilities
44 South Clinton Avenue, 3rd Floor, Suite 314
Trenton, NJ 08625-0350

TM16030248

**Re: Verified Petition of XO Holdings, XO Communications Services, LLC, and
Verizon Communications Inc. for Approval of a Proposed Transaction –
Docket No. _____**

Dear Secretary Asbury:

Enclosed please find the Verified Petition of XO Holdings, XO Communications Services, LLC, and Verizon Communications Inc. for Approval of a Proposed Transaction Pursuant to N.J.S.A. §48:2-51.1, §48:3-10, and N.J.A.C. §14:1-5.14.

Exhibits 2 and 3 to the Verified Petition contain CONFIDENTIAL information that is exempt from public disclosure under the New Jersey Open Public Records Act. The exhibits will be filed with the Board in a separate envelope marked "Confidential." In accordance with N.J.A.C. §14:1-12.8, Petitioners submit herewith the Affidavits of Keefe B. Clemons, General Counsel, Northeast Region, Verizon Communications Inc., and Jake Heinz, Senior Vice President, Product and Marketing, XO Holdings, XO Communications, LLC and XO Communications Services, LLC in support of the confidentiality claim.

CMS
LEGAL
DAG
RPA
M. Beyer
TELEC
H. Bond

Respectfully submitted,

Keefe B. Clemons

cc: Stefanie A. Brand, Director, Rate Counsel (By Email)
Maria Novas-Ruiz, Asst. Deputy Rate Counsel (By Email)

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BOARD OF PUBLIC UTILITIES
MAIL ROOM

NEW JERSEY
BOARD OF PUBLIC UTILITIES

Verified Petition of XO Holdings, XO Communications Services, LLC, and Verizon Communications Inc. for Approval of a Proposed Transaction

Docket No. _____

VERIFIED PETITION OF XO HOLDINGS, XO COMMUNICATIONS SERVICES, LLC, AND VERIZON COMMUNICATIONS INC. FOR APPROVAL OF A PROPOSED TRANSACTION

Petitioners XO Holdings, XO Communications Services, LLC (“XO Communications Services”), and Verizon Communications Inc. (“Verizon Communications”) (collectively hereinafter referred to as “Petitioners”) request that the New Jersey Board of Public Utilities (“Board”) approve, pursuant to N.J.S.A. §48:2-51.1, §48:3-10, and N.J.A.C. §14:1-5.14, a transfer to Verizon of XO Holdings’ indirect 100% ownership interest in XO Communications Services. As a result of the transaction, XO Communications Services (the XO operating company certificated in New Jersey) will become a wholly-owned indirect subsidiary of Verizon Communications.

I. PARTICIPANTS IN THE TRANSACTION

A. XO COMMUNICATIONS SERVICES AND XO HOLDINGS

XO Communications Services is a Delaware limited liability company with a principal place of business at 13685 Sunrise Valley Drive, Herndon, Virginia, that has been certified by the Board to provide intrastate telecommunications services in New Jersey.¹ It is a wholly-owned direct subsidiary of XO Communications, LLC (“XO Communications”), which in turn is

¹ See *In the Matter of the Verified Joint Petition of XO New Jersey Inc., Allegiance Telecom of New Jersey, Inc. and XO Communications Services, Inc. for Approval of an Internal Corporate Reorganization and for Approval As Necessary of Related Transactions*, Order of Approval, Docket No. TMO4070686, September 14, 2004.

a wholly-owned direct subsidiary of XO Holdings, a Delaware general partnership also headquartered at 13685 Sunrise Valley Drive, Herndon, Virginia. XO Holdings, through various intermediate holding companies, is wholly-owned and controlled by Carl C. Icahn.

XO Communications Services is the principal operating company for XO Communications' wireline business, which controls and operates an IP and Ethernet network that extends coast-to-coast. That network includes an inter-city network of approximately 20,000 fiber route miles and more than 5,600 owned metro fiber route miles.² In New Jersey, XO Communications Services offers local and long distance voice, Internet access, cloud connectivity, security, private line, Ethernet, and other private data and network transport services for small and medium-sized companies, enterprises, national and government customers, and other carriers, both on a managed and wholesale basis. Certain of those services are subject to regulation by the Board. XO Communications Services does not offer or provide mass-market retail services to consumers.

B. VERIZON COMMUNICATIONS

Verizon Communications, a publicly traded Delaware corporation with its headquarters at 1095 Avenue of the Americas, New York, New York, is a holding company with operating subsidiaries that provide a wide range of communications services in New Jersey and throughout the United States and the world. Verizon Communications' subsidiaries provide communications services to consumers, business, and government customers, as well as to other carriers.³ The wireline business conducted by Verizon Communications' subsidiaries provides

² These are not last-mile, fiber-to-the-home assets. XO Communications Services does not offer residential consumer services. A small portion of XO Communications Services' network utilizes copper, which usually is connected to a nearby node that is in turn connected to XO Communications Services' fiber facilities.

³ References to Verizon's services and network herein refer to those of its wholly-owned operating subsidiaries.

voice, data, and video communications products and enhanced services, including broadband video and data, corporate networking solutions, data center and cloud services, security and managed network services, and local and long distance voice services.

II. DESCRIPTION OF THE PROPOSED TRANSACTION

Under the proposed transaction, XO Holdings will sell all of its interests in XO Communications (the parent company of XO Communications Services) to Verizon Communications.⁴ Upon completion of the transaction, XO Communications Services (the XO operating company certificated in New Jersey) will become a wholly-owned indirect subsidiary of Verizon Communications.⁵ As a result of this parent-level transaction, XO Communications Services will be transferred as an entity to Verizon Communications, with no change in the identity or assets of XO Communications Services and therefore no associated customer or asset transfers. The legal status of Verizon Communications, its operating subsidiaries in New Jersey, including Verizon New Jersey Inc., and XO Communications Services will remain unchanged following the transaction, and the entities currently regulated by the Board will remain subject to the Board's authority to the same extent following the transaction as before it.

III. THE PROPOSED TRANSACTION IS IN THE PUBLIC INTEREST

A. THE PROPOSED TRANSACTION WILL ENHANCE VERIZON'S FIBER AND BENEFIT XO CUSTOMERS

By expanding the depth and breadth of its fiber assets, Verizon will make America's best networks even better. The transaction will benefit enterprise and wholesale business customers

⁴ Diagrams showing the pre-closing and post-closing ownership structure are attached as Exhibit I.

⁵ Verizon Communications is a 100% owner of Verizon Business Global LLC (a Delaware limited liability company), which is a 100% owner of MCI Communications Corporation (a Delaware corporation), which is a 100% owner of Verizon Business Network Services Inc. (a Delaware corporation). XO Communications will become a direct subsidiary of Verizon Business Network Services Inc.

by increasing, expanding, and improving Verizon's fiber facilities. It will also support Verizon's goal of enhancing the capacity and reliability of its wireless networks, and will enable Verizon to offer XO customers services not currently available to them.

Businesses today require advanced and innovative technologies and comprehensive solutions, and bandwidth requirements are growing rapidly as online and online-enabled activities increase the reliance on IP-based services. The transaction will advance Verizon's ability to deploy and maintain innovative offerings, benefiting business customers and serving the public interest, convenience, and necessity. Verizon will also be able to offer existing XO Communications Services customers additional products and services not currently available through XO Communications Services or its affiliates.

The additional capacity and expanded footprint will also help Verizon stay competitive and further drive competition among other market participants. In areas where there is concentrated demand for business data services, the enterprise and wholesale markets are competitive with sophisticated and knowledgeable customers. The additional nationwide fiber assets will enable Verizon to more effectively compete with leading national and regional high-capacity service providers — especially cable companies, but also traditional incumbent and competitive telephone companies, and other non-traditional players, particularly in central business districts. To succeed in this competitive space, Verizon must ensure it can meet growing demand for bandwidth and reliability — two increasingly important competitive factors in the global enterprise market. This transaction is part of the company's continuing investment in its networks to meet that demand, and will help it advance its position as a provider of choice to enterprise customers.

Verizon will also be able to better serve its wireless customers by improving the efficiency and capacity of the networks it uses to serve them. The majority of XO

Communications Services' fiber is unlit, or "dark," and this transaction affords Verizon the opportunity to put that unlit fiber to use to better connect its expanding cell network. As Verizon executives have explained, "Getting dark fiber out there, getting the small cells in there, that's the direction we're headed. That's what's going to give us our ability to deliver to our customers on the promise of reliability."⁶

B. THE PROPOSED TRANSACTION WILL FOSTER OPERATIONAL AND ECONOMIC EFFICIENCIES

Acquiring XO Communications Services will result in multiple operational and economic efficiencies that benefit customers by increasing Verizon's ability to compete effectively to meet their demand for the latest technology and service developments. Verizon's fiber network consists of facilities that it has constructed, leased, or acquired through transactions, depending on the efficiencies of the individual circumstances. Post-closing, enterprise and wholesale customers will gain access to a more expansive Verizon-owned facilities-based network and receive more efficient and economical services.

Combining XO Communications Services' business with Verizon's will provide the financial resources to support and promote better and more intensive use of XO Communications Services' fiber network. The years following XO Communications Services' emergence from bankruptcy in 2003 "were a bumpy road," as the company "reckoned with major network over capacity and other issues caused by overly optimistic projections and capital expenditures made by previous owners."⁷ Additional capital had to be injected several times just "to keep [the

⁶ Joey Jackson, *Dark Fiber Key to Future of Small Cells, Backhaul*, RCR WIRELESS NEWS, Dec. 21, 2015 (quoting Brian Mecum, Vice President of Network for the West Area, Verizon).

⁷ XO Communications Press Release, *Verizon to Acquire XO Communications' Fiber Business*, Feb. 22, 2016, available at <http://www.xo.com/verizon-acquires-xo/>.

company] operating.”⁸ Verizon has the economy of scale to invest in and support these networks, including through achieving synergies as part of this transaction.

C. THE TRANSACTION WILL HAVE NO ADVERSE EFFECTS

The market for mass-market services to consumers will be unaffected by the transaction because XO Communications Services does not serve any residential customers. And the transaction poses no risks to XO Communications Services’ business, government, and wholesale customers, who will gain access to Verizon’s more extensive product family and its highly reliable network with its greater geographic coverage.

As a subsidiary of Verizon, XO Communications Services will continue to meet all of its contractual and regulatory obligations, so that the transaction will be seamless to its customers. And the transaction will not harm competition for business, government, or wholesale customers. As discussed above, a wide range of providers and new entrants have deployed facilities and are investing further to meet demand and thus competition should continue to intensify. Current and potential competitors offering a wide array of high-capacity services include cable companies, CLECs, wireless companies, and other non-traditional players. Cable companies in particular have expanded their networks and services to provide high-capacity broadband services to businesses of all sizes as well as to other providers, and will likely continue to do so in light of the growing demand for such services.

IV. CONTACT INFORMATION

The designated contacts for the Petitioners for any correspondence or inquiries regarding this Petition are:

⁸ *Id.*

For Verizon Communications:

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Vice President, State Government Relations
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For XO Holdings and XO Communications Services:

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V. REQUIREMENTS AND APPLICABILITY OF N.J.A.C. 14:1-5.14

1. A copy of the agreement of merger, consolidation, acquisition and/or change in control

A copy of the Equity Purchase Agreement and attachments, designated as Exhibit 2, will be provided on a confidential basis, pursuant to the Board's confidentiality rules.

2. Copies of corporate resolutions of the stockholders of each of the corporations authorizing the transaction

No responsive documents exist. XO Communications Services does not have stockholders, and the transaction did not require a resolution by Verizon Communications' stockholders.

3. Copies of recent balance sheets of each company and a pro forma balance sheet of the continuing company

A copy of XO Communications' Consolidated Financial Statements, including its most recent balance sheet, is designated as Exhibit 3 and will be provided on a confidential basis, pursuant to the Board's confidentiality rules. (XO Communications is the parent company of Petitioner XO Communications Services.) Verizon Communications' most recent balance sheet is available at <http://www.verizon.com/about/investors/sec-filings>. Verizon Communications is not required to prepare a pro forma balance sheet for this transaction, which is immaterial to Verizon Communications' financial position under Securities and Exchange Commission rules.

4. Copies of recent income statements of the operation of each of the companies involved and a pro forma income statement of the continuing corporation, in sufficient detail

A copy of XO Communications' Consolidated Financial Statements, including its most recent income statement, is designated as Exhibit 3 and will be provided on a confidential basis, pursuant to the Board's confidentiality rules. (XO Communications is the parent company of Petitioner XO Communications Services.) Verizon Communications' most recent income statement is available at <http://www.verizon.com/about/investors/sec-filings>. Verizon Communications is not required to prepare a pro forma income statement for this transaction, which is immaterial to Verizon Communications' financial position under Securities and Exchange Commission rules.

5. Copies of certificates of incorporation of each corporation to be merged, consolidated, acquired and/or changed and amendments thereto, if not heretofore filed with the Board

Attached as Exhibits 4, 5 and 6 are the certificates of incorporation for XO Communications, XO Communications Services and Verizon Communications.

6. The total number of shares of each of the various classes of capital stock proposed to be issued, if any, by the surviving corporation; the par or stated value per share; and the total amount of new capital stock to be issued

Not applicable. Verizon Communications will not issue stock to effect the transaction.

7. The percentage, and the manner in which, if any, the presently outstanding capital stock of the corporations involved will be exchanged for the new stock of the surviving corporation

Not applicable. No stock will be exchanged to effect the transaction.

8. Whether any franchise cost is proposed to be capitalized on the books of the surviving corporation, and, if so, the reasons therefor, and in what manner and over what period the items are proposed to be amortized

No franchise cost is proposed to be capitalized on the books of the surviving corporation because XO Communications Services does not have a franchise. Verizon Communications will account for the transaction using generally accepted accounting principles ("GAAP").

9. The names and addresses of the new officers, directors and principal stockholders and the number of shares to be held by each in the surviving corporation

Not applicable. Verizon Communications has not determined the officers or directors of the acquired company.

10. The various benefits to the public and the surviving corporation which will be realized as the result of the merger, consolidation, acquisition and/or change in control

See application.

11. Proposed changes, if any, by the surviving corporation, in company policies with respect to finances, operations, accounting, rates, depreciation, operating schedules, maintenance and management affecting the public interest

None. Post-closing, Verizon Communications will continue to apply the same accounting and financial principles.

12. Proof of service of notice of the proposed merger, consolidation, acquisition and/or change in control to the public, the municipalities being served by the companies to be merged, consolidated, acquired and/or changed, and the public utilities serving in the area, pursuant to *N.J.A.C. 14:1-4.5*

Not applicable. No service of notice is required under applicable law.

13. Proof of compliance with rules, regulations and statutes requiring approval from other State and Federal regulatory agencies having jurisdiction in the matter

Petitioners filed for approval by the Federal Communications Commission on March 4, 2016 (available at <http://apps.fcc.gov/ecfs/document/view?id=60001528257>). No other state approval filings are required in New Jersey.

14. A statement of the fees and expenses to be incurred in connection with the merger, consolidation, acquisition and/or change in control and the accounting disposition to be made thereof on the books of the surviving corporation


Not applicable. Verizon Communications will account for the transaction under generally accepted accounting principles.

VI. CONCLUSION

For the foregoing reasons, Petitioners request that the Board approve the above-described transaction pursuant to N.J.S.A. §48:2-51.1, §48:3-10, and N.J.A.C. §14:1-5.14.

Respectfully submitted,

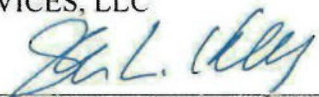
VERIZON COMMUNICATIONS INC.



By: _____

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XO HOLDINGS AND XO COMMUNICATIONS
SERVICES, LLC



By: _____

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March 18, 2016

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Docket No. _____

VERIFICATION

1. I am an officer of the Petitioner Verizon Communications Inc.
2. To the best of my knowledge, information and belief, based on information provided by employees of Verizon Communications Inc. and its affiliates, the foregoing Petition is true and correct.

I declare under penalty of perjury that the foregoing is true and correct to the best of my information and belief.


DANA C. KAHNEY

Dated: March 17, 2016

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Docket No. _____

VERIFICATION

1. I am an officer of Petitioners XO Holdings and XO Communications Services, LLC.

2. To the best of my knowledge, information and belief, based on information provided by employees of XO Holdings and XO Communications Services, LLC and their affiliates, the foregoing Petition is true and correct.

I declare under penalty of perjury that the foregoing is true and correct to the best of my information and belief.



JAKE HEINZ

Dated: March 13, 2016

