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OCT 26 2016
By: CNS



State of New Jersey
DIVISION OF RATE COUNSEL
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OCT 26 2016
BOARD OF PUBLIC UTILITIES
MAIL ROOM

CHRIS CHRISTIE
Governor

KIM GUADAGNO
Lt. Governor

STEFANIE A. BRAND
Director

Via Electronic & Regular Mail

October 25, 2016

Irene K. Asbury, Board Secretary
New Jersey Board of Public Utilities
44 South Clinton Avenue, 3rd Fl., Ste. 314
P.O. Box 350
Trenton, New Jersey 08625-0350

**Re: Amended Filing to Correct Original Filing Date of October 21, 2015
I/M/O the Verified Petition of Zayo Group, LLC for Approval to Expand its
Financing Arrangements. BPU Docket No. TF16100937**

Dear Secretary Asbury:

The New Jersey Division of Rate Counsel (“Rate Counsel”) has reviewed the above referenced Verified Petition of Zayo Group, LLC (“Petitioner” or “Zayo”) for approval by the New Jersey Board of Public Utilities (“Board”) to expand its existing financing by an additional \$2.28 billion for a total aggregate amount of \$7.5 billion in financial arrangements. 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 object to the Board’s approval of the Petitioner’s requests in the Verified Petition.

Petitioner a wholly owned subsidiary of Zayo Holdings, Inc., a publicly traded Delaware corporation, is a Delaware limited liability company headquartered in Boulder, Colorado and is a Board authorized provider of telecommunications services in New Jersey over regional and metropolitan fiber networks using bandwidth infrastructure.¹ Petitioner seeks Board approval to expand current financing through a secured credit facilities involving conventional credit facilities including but not limited to revolving lines of credit and term loans maturing at a maximum of 10 years from the closing date depending on the type of facility.² Petitioner notes that stocks may be pledged for some or all of the aggregate financed amount by Petitioners and/or its subsidiaries.³ The financing arrangements are intended to strengthen the company by enabling Petitioner to become a more effective competitor to larger incumbent

^{1/} Verified Petition at Section I. *See also*, Board Order under Docket No. TE11020049 for Board certification, Order dated May 16, 2011.

^{2/} *Id.*, at Section III.

^{3/} *Id.* In addition, the Board has previously authorized Zayo to enter into similar financial arrangements, most recently under Docket No. TF16010087, Order dated April 27, 2016.

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telecommunications providers and will be transparent to customers, will not disrupt service or cause customer confusion or inconvenience.⁴

Prior Board approval of any encumbrance or mortgage of a telecommunications service provider is required; otherwise, the transaction is void under New Jersey law.⁵ 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.⁶ Petitioner has provided all the information required by *N.J.S.A. 48:3-7*, *48:3-9* and *N.J.A.C.14:1-5.9* regarding a petition for approval of debt. Petitioner asserts that the 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 and will not adversely affect Petitioner's ability to continue to provide high-quality service to its customers without interruption, change in rates, terms and conditions and will not adversely affect Petitioner's ability to fulfill its employee pension obligations.⁷

Rate Counsel supports innovative, high quality telecommunications services to the public and thereby will 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 has no objection to the Board's grant of Petitioner's requests contained in the Verified Petition. Thank you for your attention to this matter.

Very truly yours,

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

By: _____



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

MNR/ld
c: Service List

RPAPROD-#94962

⁴/ Verified Petition at Section IV.

⁵/ *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.

⁶/ *Id.* See also, the Verified Petition at Sections IV. and V.

⁷/ Verified Petition at Section III.

**I/M/O the Verified Petition of Zayo
Group, LLC, for Approval to
Expand its Financing Arrangements**

**BPU Docket No.:
TF16100937**

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