



BOARD OF PUBLIC UTILITIES

JUN 07 2017

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Governor

State of New Jersey
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KIM GUADAGNO
Lt. Governor

STEFANIE A. BRAND
Director

Via Electronic & Regular Mail

June 5, 2017

Irene K. Asbury, 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: I/M/O the Verified Joint Petition of Broadview Networks Holdings, Inc., and Broadview Networks, Inc., Broadview NP Acquisitions Corp., BridgeCom International, Inc., ATX Licensing, Inc., A.R.C. Networks, Inc., Eureka Telecom, Inc., and TruCom Corporation and Windstream Holdings, Inc., for Approval to Transfer Control of the Broadview Licensees.
BPU Docket No. TM17040433**

Dear Secretary Asbury:

The New Jersey Division of Rate Counsel ("Rate Counsel") has reviewed the above referenced Verified Joint Petition of Broadview Networks, Inc., ("Broadview Networks"); Broadview NP Acquisitions Corp., ("Broadview NP"); BridgeCom International, Inc., ("BridgeCom"); ATX Licensing, Inc., ("ATX"); A.R.C. Networks, Inc., ("A.R.C."); Eureka Telecom, Inc., ("Eureka"); and TruCom Corporation ("TruCom") (collectively, the Broadview Licensees); Broadview Networks Holdings, Inc. ("Broadview Holdings"); and Windstream Holdings, Inc., ("Windstream") (together with Broadview Holdings and Broadview Licensees, "Petitioners") for approval by the New Jersey Board of Public Utilities ("Board") of a transfer of indirect control of Broadview Licensees to Windstream. For the reasons that follow, Rate Counsel does not object to approval of the Petitioners' requests in this matter and recommends the Board mirror the condition imposed in the Verizon/XO matter in connection with potential future employment attrition in New Jersey.¹ 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.

Petitioners

Windstream is a publicly traded (NASDAQ: WIN) Fortune 500 Delaware corporation headquartered in Little Rock, Arkansas, which provides wholesale advanced network

¹ I/M/O the Verified Petition of XO Holdings, XO Communications Services, LLC and Verizon Communications, Inc. for Approval of a Proposed Transaction, Docket No TM16030248, ("Verizon/XO") Order dated July 29, 2016, at p. 4.

*Case Mgmt
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communications services to consumers, businesses, enterprise organizations and wholesale customers through its subsidiaries throughout New Jersey, through approximately 2.1 million access lines and approximately \$5.39 billion in annual revenues and collectively have 105 employees in New Jersey.² Broadview Holdings is a privately owned Delaware corporation, headquartered in Rye Brook, New York. While Broadview Holdings does not provide telecommunications services or hold any telecommunications licenses in its own stead, its subsidiaries provide a broad range of communications and telecommunications services domestically and internationally and Broadview Holding's subsidiaries hold numerous New Jersey authorizations and have 63 employees in New Jersey.³

The Transaction

Under the Plan of Merger, Broadview Networks Holdings, Inc., will merge into Merger Sub ("Beethoven Merger Subsidiary, Inc.") with Broadview Networks Holdings, Inc., as the surviving company as an indirect wholly-owned subsidiary of parent, Windstream Holdings, Inc.⁴ See Petition Exhibit A. Petitioners assert that the transaction will be seamless and transparent to customers who will continue to receive the same services under the same rates, terms and conditions as before the merger. Petitioners advise that the only possible change would be a name-change for the companies down the road to "reflect the 'Windstream' brand in their names."⁵ Petitioners assert the merger does not threaten competition and will only strengthen their collective ability to successfully compete in the marketplace enabling them to provide better service and enhanced service offerings and thus is in the public interest.⁶

Lastly, Petitioners assert they will fulfill pension obligations pursuant to statutory requirements and state there are no current plans with regards to New Jersey employees as of yet.⁷ Rate Counsel notes that collectively, Petitioners currently have 168 employees in New Jersey. Rate Counsel is concerned for the potential for diminished service, service quality and customer service capability based on attrition in employment post the transaction which would not be in the public interest. Hence, Rate Counsel respectfully urges that the Board require Petitioners to notify the Board and Rate Counsel providing an explanation if there is a net loss of jobs in New Jersey that is greater than fifteen percent (15%) for four (4) years post-issuance of the Board's Order as a condition of approval of this merger transaction. This would mirror the condition imposed by the Board in the Verizon/XO merger matter.

² Windstream New Jersey licensed companies include: Cavalier Telephone Mid-Atlantic (TE01060370); Intellifiber Networks, Inc., (TE01090594); Paetec Communications, Inc., (TE02060319); Talk America, Inc., (TE00100767); and US LEC of Pennsylvania, Inc., (TE99030180); EarthLink Business, LLC (TE00010014); Business Telecom, LLC (TE01070416); CTC Communications Corp., (TE99100808); Conversent Communications of New Jersey, LLC (TE00020073); and Lightship Telecom, LLC (TE00010014). Petition at pp. 2-3.

³ Broadview companies include: Broadview Networks, Inc. (TE99120912); Broadview Network Acquisition, Corp. (TE02040253); BridegCom International, Inc., (TE01010040); ATX Licensing, Inc., (TE99070467); A.R.C. Networks, Inc., (TM0030170); Eureka Telecom, Inc., (TE00100817) and TruCom Corporation (TE99070467). Petition at pp. 3-4.

⁴ Petition at pp. 6-8.

⁵ Petition at p. 6.

⁶ Id., at p. 8

⁷ Id.

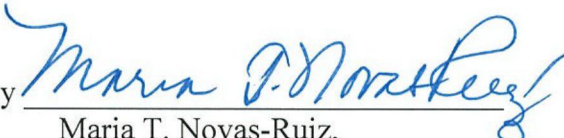
Kim Asbury, Board Secretary – Ltr. Filing
Windstream/Broadview Merger
BPU Docket No. TM17040433
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Board approval must be based on its satisfaction that the transaction is in the public interest and provide all of the information required by *N.J.S.A. 48:2-51.1 et seq.* Petitioners assert and have provided information which supports that the purpose of the Transaction is to increase the Licensees' ability to continue to grow and compete in the telecommunications marketplace in New Jersey with enhanced service offerings. The Transaction will not negatively affect Licensees' customers who will continue to receive the same services under the same terms, rates and conditions by Licensees.⁸ The only concern as noted by Rate Counsel herein is the potential for diminished service, service quality and customer service capability based on attrition in employment post the transaction and would not be in the public interest.

Rate Counsel supports the contemplated continued provision of innovative, high quality telecommunications services to the public for the benefit of both residential and business customers in this state. Accordingly, Rate Counsel respectfully recommends Board approval of the proposed acquisition conditioned on the recommendations discussed herein. 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,
Assistant Deputy Rate Counsel

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c: Service List

⁸/ Id., at pp. 6-8.

**Verified Joint Petition of
Broadview Networks Holdings,
Inc., and Windstream Holdings,
Inc., et al.**

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