



STATE OF NEW JERSEY
Board of Public Utilities
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Trenton, New Jersey 08625-0350
www.nj.gov/bpu/

TELECOMMUNICATIONS

VERIFIED JOINT PETITION OF BROADVIEW)
NETWORKS HOLDINGS, INC., AND BROADVIEW)
NETWORKS., BROADVIEW NP ACQUISITION 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 BROADVIEW LICENSEES)

ORDER

DOCKET NO. TM17040433

Parties of Record:

James H. Laskey, Esq., Norris, McLaughlin & Marcus, P.A., on behalf of Petitioners
Stefanie A. Brand, Esq., Director, New Jersey Division of Rate Counsel

BY THE BOARD:

On April 21, 2017, Broadview Networks, Inc. ("Broadview Networks"), Broadview NP Acquisition 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") submitted a Joint Verified Petition to the New Jersey Board of Public Utilities ("Board") pursuant to N.J.S.A. 48:2-51.1 and N.J.S.A. 48:3-10 requesting Board approval of a proposed transaction to transfer to Windstream indirect control of the Broadview Licensees. Following consummation of the transaction, the Broadview Licensees will continue to offer the same services in New Jersey at the same rates, terms, and conditions.

BACKGROUND

Windstream, a Delaware corporation headquartered at 4001 Rodney Parham Road, Little Rock, Arkansas, is a holding company focused on enhancing local broadband services primarily in

rural areas. Windstream Services, the wholly-owned subsidiary of Windstream and also a Delaware limited liability company with addresses at the same location, owns and operates licensed telecommunications providers in all states and the District of Columbia. There are ten subsidiaries of Windstream that operate in New Jersey, including Paetec Communications, Inc., Talk America, Inc. (f/k/a The Phone Company), Cavalier Telephone Mid-Atlantic, LLC, Intellifiber Networks, Inc., US LEC of Pennsylvania, Inc., EarthLink Business, LLC, Business Telecom, LLC, (f/k/a Business Telecom, Inc.), CTC Communications Corp., Conversent Communications of New Jersey, LLC, and Lightship Telecom, LLC. In New Jersey, these Windstream subsidiaries are authorized to provide local and/or interexchange telecommunications services pursuant to authority granted by the Board.¹ Collectively, Windstream and its subsidiaries employ 105 persons in New Jersey.

¹ See I/M/O the Petition For an Order Authorizing PAETEC Communications, Inc. to Provide Local Exchange and Interexchange Telecommunication Services Throughout New Jersey, Docket No. TE02060319 (February 5, 2003), In the Matter of the Petition for an Order Authorizing Talk.com Holding Corp., d/b/a The Phone Company to Provide Local Exchange and Interexchange Telecommunications Services Throughout New Jersey, Docket No. TE00100767 (January 10, 2002), I/M/O the Petition for An Order Authorizing Cavalier Telephone Mid-Atlantic, LLC to Provide Local Exchange Telecommunications Services throughout New Jersey, Docket No. TE01060370 (September 27, 2001), Intellifiber Networks, Inc. (f/k/a Elantic) operates in New Jersey pursuant to Board authority originally granted to Dominion Telecom, Inc. on October 6, 2002. See I/M/O the Petition for an Order Authorizing Dominion Telecom, Inc. to Provide Local Exchange Telecommunications Services Throughout New Jersey, Docket No. TE01090594 (October 31, 2002), which was later transferred to Elantic on May 12, 2004, See I/M/O the Joint Petition of Dominion Telecom, Inc., Dominion Fiber Ventures, LLC and Elantic Networks, Inc. for Approval of a Change of Control, Docket No. TM0403019, Order dated May 12, 2004, I/M/O the Petition of US LEC Pennsylvania Inc. for Authorization to Provide Resold and Facilities Based, Local Exchange and Interexchange Telecommunication Services Throughout New Jersey, Docket No. TE99030180 (August 18, 1999), EarthLink Business, LLC (formerly known as New Edge Network, Inc.) obtained it's authorization to provide facilities based, local exchange and interexchange telecommunications services when it assumed the operating authority of New Edge Network, Inc. See Order, I/M/O the Petition for an Order Authorizing New Edge Network, Inc. D/B/A New Edge Networks to Provide Switched and Dedicated Resold and Facilities-Based, interexchange and Local Exchange Telecommunications Services Throughout New Jersey, Docket No. TE99100774 (March 9, 2000), Business Telecom, LLC, (f/k/a Business Telecom, Inc. is authorized to provide facilities-based local exchange and interexchange telecommunications services. See Order, I/M/O the Petition for an Order Authorizing Business Telecom, Inc. d/b/a BTI to Provide Local Exchange and Interexchange Telecommunications Services Throughout New Jersey, Docket No. TE01070416 (December 19, 2012), CTC is authorized to provide facilities based intrastate telecommunications. See Order I/M/O the Petition For an Order Authorizing CTC Communications Corp. d/b/a CT Communications Corp. to Provide Local Exchange and Interexchange Telecommunication Services Throughout New Jersey, Docket No. TE99199808 (May 10, 2000), Conversent Communications of New Jersey, LLC (authorized to provide facilities-based local and interexchange telecommunications service). See, I/M/O the Petition For an Order Authorizing Conversent Communications of New Jersey, LLC to Provide Facilities-Based Local Exchange and Interexchange Telecommunications Throughout New Jersey, Docket No. TE00020073 (September 12, 2000) and Lightship Telecom, LLC (authorized to provide facilities based local and interexchange telecommunications service). See, I/M/O the Petition For an Order Authorizing Lightship Telecom, LLC to Provide Local Exchange and Interexchange Telecommunications Throughout New Jersey, Docket No. TE00010014 (August 17, 2000).

Broadview Holdings, a privately held Delaware corporation with principal offices in Rye Brook, New York, owns and operates telecommunications providers in the District of Columbia and in all states except the District of Columbia. Broadview Holdings, together with its subsidiaries (collectively, "Broadview"), is a network-based electronically integrated communications provider which serves small and medium-sized businesses. In New Jersey, seven subsidiaries provide local and/or interexchange telecommunications services pursuant to authority granted by the Board.² Collectively, Broadview employs 63 persons in New Jersey.

The proposed transaction is a transfer to Windstream of indirect control of the Broadview Licensees pursuant to an April 13, 2017 merger agreement involving Windstream and Broadview Holdings. Following consummation of the transaction, Windstream will become the new ultimate parent company of Broadview Holdings and the Broadview Licensees. As a result, Broadview Licensee customers will continue to receive services under the same rates, terms and conditions but for a potential brand name change to Windstream. Petitioners state any future changes in rates, terms and conditions of service will be made pursuant to applicable Board rules and notice requirements.

Petitioners assert that the proposed transaction will enable the Broadview Licensees to continue to offer and expand a broad range of high quality services, including hosted cloud voice and a variety of other cloud services, to small and medium sized business customers as well as the deployment and maintenance of innovative and advanced telecommunications offerings benefitting New Jersey consumers. Petitioners additionally argue the transaction will result in greater efficiencies and economies of scale to strengthen the quality of its competitive services. Petitioners contend Windstream has the technical, managerial and financial qualifications to assume ownership of the Broadview Licensees. While Broadview Holdings and its subsidiaries do not offer an employee pension plan, Petitioners maintain existing employee retirement plans will be retained post-transaction.

The New Jersey Division of Rate Counsel ("Rate Counsel") submitted comments to the Board on June 5, 2017, stating that it did not object to approval of the proposed transaction. However, Rate Counsel did raise a concern regarding the potential for diminished service, service quality and customer service capability based on post-transaction employment attrition which would not

² Broadview Networks, Inc., See, I/M/O the Petition for an Order Authorizing Broadview Networks, Inc. to Provide Local Exchange and Interexchange Telecommunications Services Throughout the State of New Jersey, Docket No. TE99120912 (August 12, 2000), Broadview NP Acquisition Corp., See, I/M/O the Petition for an Order Authorizing Broadview NP Acquisition Corp. d/b/a Broadview Net Plus to Provide Local Exchange Telecommunications Services Throughout New Jersey, Docket No. TE02040253 (August 8, 2002), BridgeCom International, Inc. See, I/M/O the Petition for an Order Authorizing BridgeCom International, Inc. to Provide Local Exchange and Interexchange Telecommunications Services Throughout New Jersey, Docket No. TE01010040 (February 6, 2001), ATX Licensing, Inc., See, In the Matter of the Application of ATX Telecommunications Services LTD. For Authority to Provide Local Exchange and Interexchange Telecommunications Services in New Jersey, Docket No. TE99070467 (March 29, 2000), A.R.C. Networks, Inc., See, I/M/O the Petition for an Order Authorizing A.R.C. Networks Inc. d/b/a/ INFOHIGHWAY to provide Local Exchange and Intrastate Toll Telecommunications Services, Docket No. TM00030170 (July 28, 2000), Eureka Telecom, Inc., (previously known as Gillette Global Network, Inc.), See, I/M/O the Petition for an Order Authorizing Gillette Global Network, Inc. to Provide Local Exchange Telecommunications Services Throughout New Jersey, Docket No. TE0010817 (June 28, 2001) and TruCom Corporation, See, I/M/O the Petition for an Order Authorizing TruCom Corporation to Provide Local Exchange and Interexchange Telecommunications Services Throughout New Jersey, Docket No. TE00090630 (March 15, 2001).

be in the public interest. Rate Counsel, therefore, recommends that any approval be conditioned upon a notification and explanation requirement to the Board and Rate Counsel if there is any net loss of jobs in New Jersey, greater than fifteen percent (15%), for a four-year period post-issuance of an order.

FINDINGS AND CONCLUSIONS

In considering a transfer of control request, the Board shall evaluate the impact of acquisition on competition, on the rates of ratepayers affected by the acquisition of control, on the employees of the affected public utility or utilities, and on the provision of safe and adequate utility service at just and reasonable rates. N.J.S.A. 48:2-51.1(a). The Board must be satisfied that positive benefits will flow to customers and the State of New Jersey and, at a minimum, that there are no adverse impacts on any of the criteria delineated in N.J.S.A. 48:2-51.1. N.J.A.C. 14:1-5.14(c). Also, pursuant to N.J.S.A. 48:3-7 and N.J.S.A. 48:3-10, the Board must determine whether the public utility, or a wholly-owned subsidiary thereof, may be unable to fulfill its pension obligations to any of its employees.

After a careful review of this matter, the Board is satisfied that positive benefits will flow to customers based upon the record, and that the combined enterprise would not be able to exercise market power to raise prices above competitive levels or exclude competitors from the marketplace. The Board therefore **FINDS** that the proposed transaction will have little impact on competition. The Board additionally **FINDS** that there will be no negative impact on rates or the present provision of safe, adequate and proper service since Petitioners' New Jersey customers will continue to receive the same services at the same rates and under the same terms and conditions. However, the Board shares the concern of Rate Counsel to avoid the potential for diminished service, service quality and customer service capability based on post-transaction employment attrition. The Board notes that Petitioners collectively currently employ 168 persons in New Jersey. Petitioners note that there are no immediate plans with respect to these employees. The provision of service quality on competitive offerings is in the public interest. The Board, therefore, requires Petitioners to notify the Board, providing an explanation if there is a net loss of New Jersey employees of Petitioners that is greater than fifteen percent (15%) for three (3) years post-issuance of this order. As Petitioners have assured that existing employee retirement plans will be retained, the Board is persuaded, consistent with N.J.S.A. 48:3-7 and N.J.S.A. 48:3-10, that Petitioners are not unable to fulfill pension obligations.

Accordingly, the Board **FINDS** that the proposed transaction is consistent with applicable law and is not contrary to the public interest. Therefore, after investigation, having considered the record and exhibits submitted in this proceeding, the Board **HEREBY AUTHORIZES** Petitioners to complete the proposed transaction.

The Order is issued subject to the following provisions:

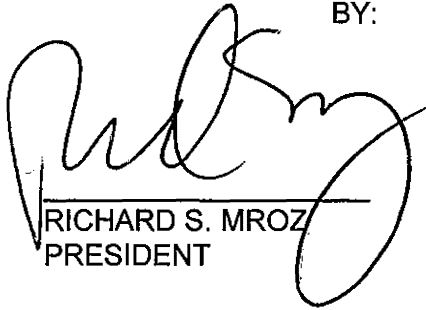
1. For three (3) years from the issuance of this Order, if there is any net loss of jobs in New Jersey, greater than (15%), Petitioners shall notify the Board of such change and provide an appropriate explanation.

2. The Order is subject to Petitioners notifying the Board Secretary and the Office of Cable Television and Telecommunications, in writing, within five (5) days of the date of the closing of the proposed transaction.
3. Following the closing, Petitioners are directed to file with the Board proposed tariff pages reflecting name changes to any of the Broadview Licensees.

This Order shall be effective July 10, 2017.

DATED: 6/30/17

BOARD OF PUBLIC UTILITIES
BY:



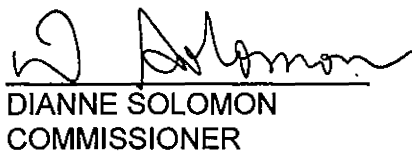
RICHARD S. MROZ
PRESIDENT



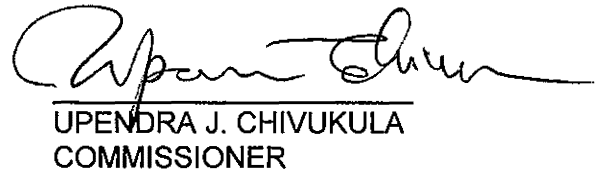
JOSEPH L. FIORDALISO
COMMISSIONER



MARY-ANNA HOLDEN
COMMISSIONER

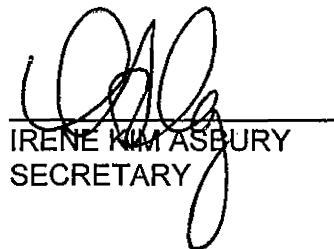


DIANNE SOLOMON
COMMISSIONER



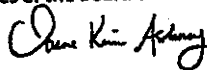
UPENDRA J. CHIVUKULA
COMMISSIONER

ATTEST:



IRENE KIM ASBURY
SECRETARY

I HEREBY CERTIFY that the within
document is a true copy of the original
in the files of the Board of Public Utilities



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BROADVIEW NETWORKS., BROADVIEW NP ACQUISITION CORP., BRIDGECOM
INTERNATIONAL, INC., ATX LICENSING, INC., A.R.C. NETWORKS, INC., EUREKA
TELECOM, INC., AND TRUCOM CORPOATION AND WINDSTREAM HOLDINGS, INC. FOR
APPROVAL TO TRANSFER CONTROL OF BROADVIEW LICENSEES
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