



BOARD OF PUBLIC UTILITIES

DEC 27 2017

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CHRIS CHRISTIE  
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Lt. Governor

*Handwritten:* Jand  
12/28/17

STEFANIE A. BRAND  
Director

Via Electronic and Regular Mail

December 21, 2017

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

Re: I/M/O the Joint Petition of Zayo Group, LLC and Northeastern ITS, LLC for Approval to for Northeastern ITS, LLC to Participate in Certain Financing Arrangements. **BPU Docket No. TF17121282**

Dear Secretary Asbury:

The New Jersey Division of Rate Counsel (“Rate Counsel”) has reviewed the above referenced Petition of Zayo Group, LLC (“Zayo” or “Transferee”) and Northeastern ITS, LLC (“Northeastern” or “Licensee”) (together, “Petitioners”) seeking the New Jersey Board of Public Utilities’ (“Board”) approval for Northeastern to participate in financing arrangements following the transfer Transaction currently under review for approval under Board docket TM17121281. 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 Board approval of Petitioner’s request.

Petitioners and Financial Transaction

Zayo is a direct wholly owned subsidiary of Zayo Group Holdings, LLC (“Holdings”) a publicly traded Delaware company (NYSE:ZAYO) headquartered in Colorado. Zayo provides telecommunications services including high-capacity bandwidth over regional and metropolitan fiber networks, is authorized to provide local exchange and interexchange telecommunications services throughout New Jersey and has 41 employees in New Jersey.<sup>1</sup> Northeastern is a Pennsylvania limited liability company headquartered in Mississippi and provides facilities-based and resold local exchange, interexchange and carrier exchange telecommunications services in New Jersey.<sup>2</sup> Spread Holdings is a Mississippi limited liability company and the holding company for its subsidiaries including Northeastern, (collectively, “Spread Networks”) headquartered in Mississippi providing its customers with fiber networks and has four employees in New Jersey.<sup>3</sup>

<sup>1</sup>/ Verified petition at pp. 2-3, citing to TE11020049 (order dated May 16, 2011).

<sup>2</sup>/ Id., at pp. 3-4, citing to TE09030225 (Order dated April 27, 2009).

<sup>3</sup>/ Id., at p. 4. Spread Holdings is majority-owned by Barksdale Communications, LLC (“Barksdale”). Neither Spread Holdings nor Barksdale provide telecommunications services. Id., a p. 4.

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Upon completion of the transfer Transaction Northeastern will enter into new financing arrangements in the aggregate principal amount \$7.5 billion.<sup>4</sup> The Financing Arrangements take advantage of favorable market conditions and restructures existing credit facilities and long-term debt.<sup>5</sup> Petitioners state there is no negative impact on employee pension plans, customer service and the financing arrangements will enable Petitioners to continue to provide expansion of networks and enhanced quality services to customers and strengthen competition for these services in New Jersey.<sup>6</sup>

### Conclusion

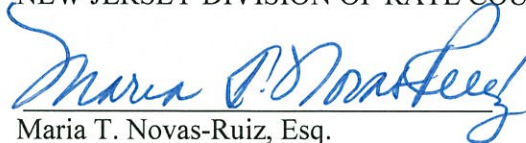
Prior Board approval is required in order to effectuate a transfer of assets, a sale or merger and/or approval of any encumbrance or mortgage of a telecommunications service provider as contemplated in the Petition pursuant to *N.J.S.A. 48:3-7, -9 and -10, N.J.S.A. 48:2-51.1, and N.J.A.C. 14:1-5.9*. Otherwise, the transaction is void under New Jersey law.<sup>7</sup> The Board is required to evaluate the impact of the transaction on rates and employees of the utilities involved. In addition, because the Petitioners' assets will secure the debt, in part, the Board's approval must also be based on its satisfaction that the debt is made according to law and that the debt serves a beneficial purpose.<sup>8</sup> Petitioners have provided information required under the statute and the Board's regulations in support of their assertion that the financing contemplated is not contrary to the public interest and will serve a beneficial purpose for New Jersey customers.

Rate Counsel supports action which promotes increased competition and innovation in the New Jersey telecommunications market for the benefit of both residential and business customers in this state. Petitioners have asserted that the funding will allow Petitioners to better compete in the telecommunications market without harming Petitioner's financial situation or jeopardizing customer services. Accordingly, Rate Counsel does not oppose the Board's grant of Petitioners' requests under the Verified Petition.

Thank you for your attention in this matter.

Very truly yours,

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



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

c: Service List

RPA Doc# 99424

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<sup>4</sup> Petition at Section IV, at pp. 5-6, and at fn. 3, at p. 5.

<sup>5</sup> *Id.*

<sup>6</sup> *Id.* at pp. 6-7.

<sup>7</sup> The *N.J.S.A. 48:3-9, et seq.* states that 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.

<sup>8</sup> Petition at Section V., p. 7, titled Public Interest Considerations.



I/M/O the Verified Joint Petition of Zayo Group, LLC, and Northeastern ITS, LLC for Approval for Northeastern ITS, LLC to Participate in Financial Arrangements  
BPU Docket No.: TF17121282

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