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JUL 30 2019

BOARD OF PUBLIC UTILITIES
TRENTON, NJ

PHIL MURPHY
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JUL 30 2019

BOARD OF PUBLIC UTILITIES
TRENTON, NJ
STEFANIE A. BRAND
Director

Via Electronic and Regular Mail

July 26, 2019

Ms. Aida Camacho-Welsh, Board Secretary
New Jersey Board of Public Utilities
44 South Clinton Avenue, 3rd Fl., Rm 314
P.O. Box 350
Trenton, New Jersey 08625-0350

Re: I/M/O the Verified Joint Petition of Zayo Group, LLC and Front Range TopCo, Inc. for Approval for Zayo Group, LLC to Participate in Certain Financing Arrangements **BPU Docket No.:TF19060751**

FORWARD
CASE MANAGEMENT
2019 JUL 30 P 09:08
BOARD OF PUBLIC UTILITIES
TRENTON, NJ

Dear Ms. Camacho-Welsh:

The New Jersey Division of Rate Counsel (“Rate Counsel”) has reviewed the above referenced Joint Petition of Zayo Group, LLC (“ZGL”) and Front Range TopCo, Inc. (“Transferee” or “Front Range”) (together, “Petitioners”), filed with the New Jersey Board of Public Utilities (“Board”), requesting Board approval ZGL to participate in financing arrangements in connection with a companion proposed transfer of indirect control Petition involving Petitioners and filed concurrently with the Board.¹ Rate Counsel submits the within comments for the Board’s consideration and has enclosed with this original 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 Petitioners’ requests in the Joint Petition.

Petitioners and Financing

ZGL a direct wholly-owned subsidiary of Zayo Group Holdings, LLC is a Delaware limited liability company that provides high-capacity bandwidth over regional and metropolitan fiber networks to predominantly wireless service providers as well as enterprise and government customers throughout New Jersey pursuant to a Certificate of Authority approved under Board docket TE11020049 as of May 16, 2011.² Front Range is a Delaware corporation and holding

¹ Petition, pp. 1-2 and p. 5. The pending companion indirect transfer of control/merger matter captioned *I/M/O the Verified Petition of Zayo Group, LLC and Front Range TopCo, Inc., for Approval of the Transfer of Indirect Control of Zayo Group, LLC to Front Range TopCo, Inc.* BPU Docket No.: TM19060749. On July 19, 2019, Petitioners provided additional financial information as required under the Board’s regulations in response to Board Staff’s discovery requests.

² Id., p. 5.

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company created for this Transaction to aggregate ownership of various vehicles managed by (i) affiliates of WQT AB (“EQT”) a leading alternative investment firm founded in 1994 in Sweden with approximately 61 billion EURs in raised capital across 29 funds with sales in excess of 40 billion EURs and 110,000 employees, headquartered in New York, NY c/o EQT Partners and (ii) affiliates of Digital Colony GP, LLC (“Digital Colony”) a Delaware limited liability company dedicated to global investments in digital infrastructure, launched in 2018 by Digital Bridge Holdings, LLC (“Digital Bridge”) a leading investor of next generation mobile and internet connectivity and Colony capital, Inc. (NYSE:CLNY) a global and real estate investment firm.³ Petitioners request Board approval, for ZGL to enter into new financial arrangements to amend existing financing up to the aggregate amount of \$11 billion in connection with the companion acquisition of and transfer of indirect control transaction of ZGL and Front Range as well as to maintain financial flexibility to continue to provide quality telecommunications services to customers and take advantage of other potential investment opportunities.⁴ Petitioners further assert that the financing will not be detrimental to New Jersey customers nor diminish existing services, rates and conditions of service and is consistent with and will further the public interest by strengthening the company and thus promote robust competition among telecommunications carriers in New Jersey.⁵ In addition, Petitioners note that ZGL is currently authorized to participate in Financial Arrangements with an aggregate amount of \$7.5 billion approved under Board docket TF16100937 (Nov. 30, 2016).⁶

Prior Board approval of any encumbrance or mortgage of a telecommunications service provider is required; otherwise, the transaction is void under New Jersey law.⁷ 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.⁸ Petitioners have provided information as required under *N.J.S.A. 48:3-9* and *N.J.A.C. 14:1-5.9* regarding a petition for approval of debt.⁹ Petitioners assert that the financing contemplated is not contrary to the public interest and will serve a beneficial purpose increasing Petitioners ability to effectively compete in the market by providing enhanced services and service quality.¹⁰

³ Petition, pp. 2-4.

⁴ Id., pp 4-8.

⁵ Id., p. 8.

⁶ Id., at *fn* 4, p.6.

⁷ *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.

⁸ Id., and Petition, p. 8.

⁹ Id., and see Petitioner responses to Board Staff requests for further information submitted to the Board with copy to Rate Counsel on July 19, 2019.

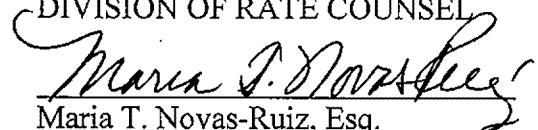
¹⁰ Petition, pp. 6 and 8.

Rate Counsel anticipates that the funds generated by the agreements will in fact enable Petitioners to continue providing innovative, high quality telecommunications services to the public and thereby 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 should the Board at the conclusion of its financial review determine that approval of Petitioner's request under the Verified Joint Petition is prudent and warranted.

Thank you for your attention to this matter.

Very truly yours,

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


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

MNR/td
c: Service List

I/M/O the Verified Joint Petition of Zayo Group, LLC and Front Range TopCo, Inc. for Approval of Zayo Group, LLC to Participate in Certain Financing Arrangements

**BPU Docket No. TF19060751
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