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Director

Via Electronic Mail Only

April 28, 2020

Ms. Aida Camacho-Welsh, Board Secretary
New Jersey Board of Public Utilities
44 South Clinton Avenue, 9th Floor
P.O. Box 350
Trenton, New Jersey 08625-0350

Re: I/M/O the Verified Petition of PEG Bandwidth NJ, LLC for Approval to Participate
in Certain Financing Arrangements **BPU Docket No.: TF20030257**

Dear Board Secretary:

The New Jersey Division of Rate Counsel (“Rate Counsel”) has reviewed the above referenced Petition of PEG Bandwidth NJ, LLC (“PEG NJ” or “Petitioner”), filed with the New Jersey Board of Public Utilities (“Board”), requesting Board approval to obtain additional debt financing.¹ Rate Counsel submits the within comments for the Board’s consideration. Rate Counsel at this time is only filing electronically and is not providing ten copies of this filing. Kindly, acknowledge receipt of this filing electronically for Rate Counsel’s records. For the reasons discussed below, Rate Counsel does not oppose Board approval of Petitioner’s requests as stated in the Verified Petition.

Discussion

Petitioner is a Delaware limited liability company headquartered in Mobile, Alabama, that provides facilities based and resold telecommunications services under Board certification dated August 15, 2012 under BPU Docket TE12040317 and an indirect subsidiary of Uniti Group Inc., a publicly traded Maryland real estate investment trust (NASDAQ: UNIT).² In New

¹ Petition, pp. 1-2. The Board previously approved financing in connection with *I/M/O the Verified Petition of PEG Bandwidth NJ, LLC For Approval to Participate in Certain Financing Arrangements*, Order dated December 20, 2019 under Board docket TF19091212.

² Id. In addition, Petitioner noted prior Board docketed matters, TM19050575, TF19091212 and TM19121534 public records that attest to Petitioner’s technical, managerial and financial qualifications.

Jersey Petitioner is a carrier's carrier.³ Petitioner, its Parent and affiliates seek approval to serve as guarantors on secured liens pledging its' assets for an aggregate amount up to \$2.25 billion at 7.875% , intended to mature in 2025, to refinance senior secured notes totaling \$2.05 billion.⁴ The additional financing will fund the purchase of future acquisitions to support strategic growth initiatives, cover operating expenses in the provision of telecommunications services in and out of New Jersey by PEG and its affiliates.⁵ The additional financing is intended to strengthen the company and enable Petitioner to continue to provide quality services to customers and strengthen competition for these services in New Jersey. Petitioner further notes that the financing arrangements will not adversely affect PEG NJ's operations in New Jersey and will not disrupt service or cause customer confusion or inconvenience.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 *N.J.S.A. 48:3-9* and *N.J.A.C. 14:1-5.9* Petitioners assert that the financing contemplated is not contrary to the public interest, will not affect customer service, and will serve a beneficial purpose increasing Petitioners' ability to effectively compete.⁹

Rate Counsel relies on the assertions provided by Petitioner that the funds generated by the enhanced financing will promote increased service offerings and competition in the New Jersey telecommunications market ultimately for the benefit of both residential and business

³ Petition, p. 2.

⁴ Id., pp. 2-3.

⁵ Id., p. 4.

⁶ Id.

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 *N.J.L.* 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. See also, Petition, pp. 2-4.

⁹ Id. In addition, on April 14, 2020, Petitioners provided responses to Board Staff's data requests in connection with the financing and Petitioner's current financial state.

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customers in this state. Accordingly, Rate Counsel has no objection should the Board determine after its financial review that approval is prudent and warranted. Thank you for your attention to this matter.

Very truly yours,

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

/s/ María T. Novas-Ruiz

MNR/td
c: Service List

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