

May 28, 2020

VIA E-FILING

Aida Camacho-Welch, Secretary
Board of Public Utilities
44 South Clinton Avenue, 9th Floor
Trenton, New Jersey 08625

Re: In the Matter of Verified Joint Petition of Cavalier Telephone Mid-Atlantic, LLC, and Intellifiber Networks, LLC, Sellers, and Uniti Group Finance Inc. and Uniti National LLC, Purchasers, for Approval for Sellers to Transfer Certain Assets to Purchasers
Docket No.

Dear Secretary Camacho-Welch:

Enclosed for filing on behalf of the parties listed above please find attached a Verified Joint Petition for approval of a transaction that will result in a transfer of assets from Sellers to Purchasers.

Please acknowledge receipt of this cover letter and petition in accordance with the e-filing procedures approved by the Board on March 19, 2020.

Very truly yours,

NORRIS McLAUGHLIN, P.A.



James H. Laskey

Enclosures

cc: Lawanda Gilbert, Esq.
Rocco Della Serra
Stefanie A. Brand, Esq.
Maria Novas-Ruiz, Esq.

**STATE OF NEW JERSEY
BOARD OF PUBLIC UTILITIES**

I/M/O Verified Joint Petition of

**Cavalier Telephone Mid-Atlantic, LLC, and
Intellifiber Networks, LLC, Sellers**

and

**Uniti Group Finance Inc. and
Uniti National LLC, Purchasers,**

For Approval for Sellers to Transfer Certain
Assets to Purchasers

Docket No. _____

JOINT PETITION

Cavalier Telephone Mid-Atlantic, LLC (“Cavalier”) and Intellifiber Networks, LLC (“Intellifiber”) (together, the “Windstream Licensees” or “Sellers”), Uniti Group Finance Inc. (“Uniti Group Finance”), and Uniti National LLC (“Uniti National” and together with Uniti Group Finance, “Purchasers”) (Purchasers and Sellers collectively, “Petitioners”) respectfully request approval by the Board of Public Utilities (“Board”), to the extent required pursuant to N.J.S.A. 48:3-7, for Sellers to transfer certain fiber optic assets to Purchasers¹ (the “Transaction”).

The Transaction is part of a larger Settlement Agreement between Windstream Holdings, Inc. (ultimate parent company of Windstream Licensees) (“Windstream”) and Uniti Group Inc. to resolve a number of disputes between the two organizations. Windstream and its subsidiaries, including the Windstream Licensees (collectively, the “Debtors”) filed voluntary petitions for

¹ Uniti Group Finance is currently the party that has the right to acquire the fiber optic assets from the Sellers under the Agreement (as defined below). As described below, prior to the consummation of the Transaction, Uniti Group Finance will assign the right to acquire certain of the fiber optic assets to Uniti National.

reorganization under Chapter 11 of the Bankruptcy Code.² On April 20, 2020, Debtors and Uniti Group Inc., along with their relevant subsidiaries, agreed to enter into series of agreements intended to settle all disputes between Windstream and Uniti, including an Asset Purchase Agreement (the “Agreement”). Under the Agreement, Uniti Group Finance will acquire certain assets of Debtors’ competitive telecommunications subsidiaries. Prior to consummation of the Agreement, Uniti Group Finance intends to effect a partial assignment of its rights under the Agreement to its subsidiary, Uniti National, such that Uniti National and United Group Finance will each have the right to acquire specified assets from the Purchasers. Importantly, the transfer of assets will have no effect on the nature, quality, quantity, or price of the services offered in New Jersey by any Windstream subsidiaries. The Settlement Agreement, including the Agreement and Transaction addressed by this Petition, was approved by the Bankruptcy Court in an order issued on May 12, 2020.

The consummation of the Transaction is a necessary component for Debtors to exit Chapter 11.³ Given that Sellers remain under bankruptcy court protection, that the consummation of the Transaction is a necessary component for Debtors to exit Chapter 11 bankruptcy protection, and that the bankruptcy court has approved the Settlement Agreement and Transaction, Petitioners submit that it would serve the public interest to complete the Transaction as quickly as possible, and therefore urge that the Board promptly approve this Petition at the earliest possible date, which will in turn allow the Sellers to emerge from Chapter 11.

In support of this filing, Petitioners provide the following information:

² *In re Windstream Holdings, Inc.*, Chapter 11, Case No. 19-22312, U.S. Bankr. Court (S.D.N.Y.). The website of Debtors’ claims and noticing agent includes a complete list of the debtor entities and is available at <http://www.kccllc.net/windstream>.

³ Debtors will, to the extent required, separately seek approval or otherwise provide notice of their plan to emerge from Chapter 11 and any accompanying change of control or other arrangements that may occur as a result of that activity.

I. DESCRIPTION OF THE PETITIONERS

A. Sellers

Windstream Licensees are wholly owned subsidiaries of Windstream. Windstream is a Delaware corporation headquartered at 4001 Rodney Parham Road, Little Rock, Arkansas 72212, with stock traded in the “Over the Counter” (“OTC”) market under the symbol “WINMQ” and, through its subsidiaries, is a leading provider of advanced network communications and technology solutions for consumers, businesses, enterprise organizations, and wholesale customers across the United States. Windstream’s subsidiaries, including the Windstream Licensees, provide voice and data services that enhance the communication capabilities of consumers and businesses in the United States. In addition, Windstream’s operating subsidiaries supply core transport solutions on a local and long-haul fiber network currently spanning approximately 150,000 route miles.

Windstream does not provide telecommunications services in its own right. Instead, it owns and operates a number of licensed telecommunications providers in the District of Columbia and all states, many of which also hold authority from the Federal Communications Commission to provide domestic interstate and international telecommunications services. In New Jersey, the Windstream Licensees hold the following authority to provide intrastate telecommunications services:

- Cavalier, a Pennsylvania limited liability company, holds authority to provide facilities based local exchange services pursuant to Board authority in Docket No. TE01060370.
- Intellifiber Networks, a Virginia limited liability company, holds authority to provide local exchange services pursuant to Board authority originally granted to Dominion Telecom, Inc. in Docket No. TE01090594.

B. Purchasers

Uniti Group Finance is a Delaware corporation, and Uniti National is a Delaware limited liability company. Both are headquartered at 10802 Executive Center Drive, Suite 300, Little Rock, Arkansas 72211, and each is a subsidiary of Uniti Group Inc. (“Uniti Group” and together with its subsidiaries, “Uniti”), a Maryland corporation headquartered at the same address. Uniti Group is a publicly traded real estate investment trust that engages in the acquisition and construction of infrastructure utilized by the communications industry. Uniti Group does not provide telecommunications services in its own right. It owns and operates a number of licensed telecommunications providers in the District of Columbia and a number of states. As described further below, neither Uniti Group Finance nor Uniti National is currently engaged in the provision of telecommunications services in New Jersey or elsewhere, and as such, neither currently holds a Certificate or other similar authority in New Jersey. To the extent Uniti National (or any other subsidiary of Uniti) plans to begin providing regulated telecommunications services in New Jersey, it will seek authority from the Board at that time.⁴

II. CONTACTS

Questions or any correspondence, orders, or other materials pertaining to this filing should be directed to the following.

⁴ PEG Bandwidth NJ, LLC (“PEG NJ”), an affiliate of Uniti National, is authorized to provide facilities-based and resold telephone service, with authority to provide local exchange service pursuant to authority granted by the Board in Docket No. TE12040317 on August 15, 2012. PEG NJ may utilize some of the fiber assets transferred to Purchasers to provide telecommunications services in New Jersey through intercompany lease arrangements.

James H. Laskey
Norris McLaughlin, PA
400 Crossing Blvd, 8th Floor
Bridgewater, New Jersey 08807-5933
908-252-4221 (tel)
908-722-0755 (fax)
jlaskey@norris-law.com

With a copy to Purchasers:

Ronald W. Del Sesto, Jr.
Brett P. Ferenchak
Stephany Fan
Morgan Lewis & Bockius LLP
1111 Pennsylvania Ave., N.W.
Washington, DC 20004
202-739-3000 (tel)
202-739-3001 (fax)
ronald.delsesto@morganlewis.com
brett.ferenchak@morganlewis.com
stephany.fan@morganlewis.com

And:

Jeffrey R. Strenkowski
Vice President, Deputy General
Counsel of Governmental Affairs
Uniti Group Inc.
10802 Executive Center Drive,
Benton Building, Suite 300,
Little Rock, Arkansas 72211
301-774-0461 (tel)
jeffrey.strenkowski@uniti.com

With a copy to Sellers:

Christopher W. Savage
Davis Wright Tremaine, LLP
1919 Pennsylvania Avenue NW
Suite 800
Washington, DC 20006
202-973-4200 (tel)
202-973-4499
chrissavage@dwt.com

And:

Carol Keith
Nicole Winters
Windstream
4001 N. Rodney Parham Road
Little Rock, Arkansas 72212
501-748-6313 (tel)
carol.keith@windstream.com
nicole.winters@windstream.com

III. BACKGROUND AND DESCRIPTION OF THE TRANSACTION

Windstream and its subsidiaries sought voluntary bankruptcy protection under Chapter 11 of the Bankruptcy Code in the Southern District of New York in February 2019. Beginning in August 2019, Windstream and Uniti engaged in mediation overseen by the Bankruptcy Court to address certain claims the organizations had against one another. On April 20, 2020, Windstream and Uniti entered into a settlement agreement intended to address those claims, which will

ultimately allow Windstream to emerge from Chapter 11. As part of the settlement agreement, the parties have entered into the Agreement, through which Uniti Group Finance will acquire certain Windstream fiber assets currently owned by some of Windstream's competitive local exchange carrier subsidiaries. Specifically, under the Agreement the Sellers and other Windstream subsidiaries will sell roughly 3,966 fiber route miles nationwide to Uniti Group Finance and, pursuant to a partial assignment of the Agreement prior to consummation, to Uniti National. Uniti will then grant an indefeasible right of use ("IRU") to Windstream's subsidiaries having an initial term of 20 years for those fiber assets that Windstream's subsidiaries use to provide services, along with additional fibers to provide Windstream's subsidiaries with spare capacity. Uniti Group Finance and Uniti National will thus have access to sublease or otherwise utilize those fiber assets that are not being granted back to Windstream's subsidiaries.

The Transaction will not interfere with the ability of any Windstream company to provide its services. To the contrary, Windstream's subsidiaries will retain access to the fiber assets they currently use to provide service through an IRU having an initial term of 20 years. Uniti Group Finance and Uniti National will be able to lease to their affiliates or third parties or otherwise utilize those fiber assets that are not granted back to Windstream's subsidiaries.

The net result of the Transaction is that Uniti will purchase certain fiber assets from Windstream's competitive local exchange carrier subsidiaries, including the Windstream Licensees in New Jersey. Uniti will retain access to a substantial portion of the fiber assets that are currently unused, and Windstream's subsidiaries will retain access to those fiber assets currently used in New Jersey to provide services to customers, plus additional fibers to provide Windstream's subsidiaries with spare capacity.

The Transaction will be transparent to Sellers' customers, who will continue to receive services from Windstream's subsidiaries as they do today.

IV. PUBLIC INTEREST CONSIDERATIONS

Petitioners respectfully submit that the proposed Transaction serves the public interest. The Transaction is part of the court-approved resolution of the disputes between Windstream and Uniti Group, and is part of the process of allowing Windstream and its subsidiaries to emerge from Chapter 11. The Transaction is a key component of a settlement between Windstream and Uniti which will maintain access to the fiber assets required by the Windstream Licensees (in New Jersey) and other Windstream entities around the country to serve existing (and potential new) customers. In return, Uniti will receive access to unused fiber assets in New Jersey and elsewhere that it can itself sell, lease, or otherwise utilize. As such, the proposed Transaction will have no adverse impact on the customers of the Windstream Licensees, and will be transparent to its customers. Immediately following the Transaction, Windstream Licensees will continue to provide service to its existing customers at the same rates, terms, and conditions, as governed by its existing contracts.

V. **CONCLUSION**

WHEREFORE, for the reasons set forth above, Petitioners request the Board grant all authority necessary for Sellers to transfer certain fiber assets to Purchasers as described herein.

Respectfully submitted,

James H. Laskey
Norris McLaughlin, PA
400 Crossing Blvd, 8th Floor
Bridgewater, New Jersey 08807-5933
908-252-4221 (tel)
908-722-0755 (fax)
jlaskey@norris-law.com

Counsel for the Petitioners

Dated: May 28, 2020

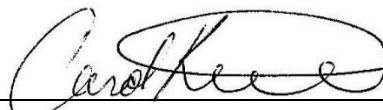
VERIFICATIONS

VERIFICATION

I, Carol Keith, state that I am the Deputy General Counsel of Cavalier Telephone Mid-Atlantic, LLC and Intellifiber Networks, LLC, (collectively “Windstream Licensees”); that I am authorized to make this Verification on behalf of the Windstream Licensees; that the foregoing filing was prepared under my direction and supervision; and that the contents with respect to the Windstream Licensees are true and correct to the best of my knowledge, information, and belief.

I hereby certify that the foregoing statements made by me are true. I am aware that if any of the foregoing statements made by me are willfully false, I am subject to punishment.

Executed this 27th day of May, 2020.

A handwritten signature in black ink, appearing to read "Carol Keith", is written over a horizontal line.

Carol Keith
Deputy General Counsel
Cavalier Telephone Mid-Atlantic, LLC and
Intellifiber Networks, LLC

VERIFICATION

I, Jeffrey R. Strenkowski, state that I am the Vice President and Deputy General Counsel of Governmental Affairs of Uniti Group Inc. ("Uniti"); that I am authorized to make this Verification on behalf of Uniti and its subsidiaries (collectively, the "Company"); that the foregoing filing was prepared under my direction and supervision; and that the contents with respect to the Company are true and correct to the best of my knowledge, information, and belief.

I hereby certify that the foregoing statements made by me are true. I am aware that if any of the foregoing statements made by me are willfully false, I am subject to punishment.

Executed this 19th day of May, 2020.



Jeffrey R. Strenkowski
Vice President, Deputy General Counsel of
Governmental Affairs
Uniti Group Inc.