



State of New Jersey  
DIVISION OF RATE COUNSEL  
140 EAST FRONT STREET, 4<sup>TH</sup> FL  
P.O. BOX 003  
TRENTON, NEW JERSEY 08625

PHIL MURPHY  
*Governor*

SHEILA OLIVER  
*Lt. Governor*

BRIAN O. LIPMAN  
*Director*

December 17, 2021

**Via Electronic Filing Only**

Ms. Aida Camacho-Welch, Board Secretary  
New Jersey Board of Public Utilities  
44 South Clinton Avenue, 9<sup>th</sup> Floor  
P.O. Box 350  
Trenton, New Jersey 08625-0350  
[aida.camacho@bpu.nj.gov](mailto:aida.camacho@bpu.nj.gov)

Re: In the Matter of Verified Petition of PEG Bandwidth NJ, LLC and Uniti National LLC for Approval to Participate in Certain Financing Arrangements.  
**BPU Docket No. TF21101190**

Dear Board Secretary:

The New Jersey Division of Rate Counsel (“Rate Counsel”) submits comments in the above referenced Petition filed by PEG Bandwidth NJ, LLC (“PEG NJ”) and Uniti National LLC (“Uniti National”), jointly (“Petitioners”) with the New Jersey Board of Public Utilities (“Board”) on October 22, 2021, requesting Board approval to participate in a financial arrangement serving as guarantor on the refinancing of Senior Notes totaling \$700 million in the aggregate by its parent company and affiliates (“Issuers”) due in 2024 and financial payments on additional projects.<sup>1</sup> Rate Counsel requests acknowledgment of this electronic filing for its

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<sup>1</sup> Petition, Sections I and III. In addition to refinancing Senior Notes due in 2024, “... any remaining net proceeds will be used to prepay settlement obligations under the settlement agreement Uniti entered into with Windstream Holdings, Inc., in connection with Windstream’s emergence from bankruptcy.” Id., at Section III. Rate Counsel notes that Petitioners provided responses to Board Staff’s information requests in connection with this financing on December 1, 2021. Petitioners under the signed Affidavit of Jeffrey Strenkowski, Vice President, Deputy General Counsel of Government Affairs of PEG Bandwidth NJ and Uniti National LLC provided discovery responses requesting the information provided remain confidential during and after the review process. Rate Counsel has no objections to this request for confidentiality.

<sup>2</sup> Pursuant to e-filing procedures approved by the Board under Docket No. Docket No. EO20030254, dated March

records.<sup>2</sup> For the reasons discussed below, Rate Counsel does not oppose Board approval of Petitioners' new financial arrangement.

### Discussion

PEG NJ and Uniti National are Delaware limited liability companies with principal offices in Mobile, Alabama providing facilities-based and resold telephone service/local exchange service and interexchange telecommunications services in New Jersey since 2012 and 2021 respectively.<sup>3</sup> Petitioners are indirect subsidiaries of Uniti Group Inc., a publicly traded Maryland real estate investment trust (NASDAQ: UNIT). Petitioners additionally note their technical, managerial and financial qualifications are a matter of public record having been submitted to the Board as part of Uniti National's certification application in Docket No.: TE20100663 (Order of Approval January 27, 2021); in PEG NJ's certification application under Docket No.: TE12040317 (Order of Approval August 15, 2012); and in various other transactions filed with the Board under Docket Nos.: TM19050575, TF19091212, and TM19121534.<sup>4</sup>

Petitioners request Board approval to serve as guarantors on \$700 million aggregate principal amount in senior notes due 2030 (the "Financing Arrangements") refinancing at 6.00% senior notes due 2024 at 7.125% by its corporate parent and affiliates: Uniti Group's subsidiaries Uniti Group LP, Uniti Fiber Holdings Inc., Uniti Group Finance 2019 Inc, and CSL Capital, LLC

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19, 2020.

<sup>3</sup> Petition, Section I., noting: *I/M/O Petition of PEG Bandwidth NJ, LLC for Approval to Provide Local Exchange and Interexchange Telecommunications Services throughout the State of New Jersey*, Docket No. TE12040317 (Order of Approval August 15, 2012); and *I/M/O Petition of Uniti National LLC for Approval to Provide Competitive Local Exchange and Interexchange Telecommunications Services throughout the State of New Jersey*, Docket No. TE20100663 (Order of Approval January 27, 2021).

<sup>4</sup> *Id.*, at Section I.

(together, the “Issuers”).<sup>5</sup> Petitioners assert the financing is “necessary and appropriate, will not impair Petitioners’ ability to provide their services, and will promote its corporate purposes;” “will be transparent to their customers, will not disrupt service or cause customer confusion or inconvenience;” and will enable Petitioners to “become more effective competitors in the communications industry.”<sup>6</sup>

Prior Board approval of any encumbrance or mortgage of a telecommunications service provider is required; otherwise, the transaction is void under New Jersey law.<sup>7</sup> 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.<sup>8</sup> *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 service quality, will be transparent to customers, and will serve a beneficial purpose increasing Petitioners’ ability to effectively compete in the market.<sup>9</sup> Petitioners have provided additional information in response to Board Staff’s data requests in connection with the Board’s financial review of the Financial Arrangements.<sup>10</sup>

Rate Counsel relies on the assertions and information provided by Petitioner that the Financial Arrangements will promote quality service offerings and competition in the New

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<sup>5</sup> Petition, Sections I and III, noting *fn* 1 therein.

<sup>6</sup> Petition, Section IV.

<sup>7</sup> *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.

<sup>8</sup> Petition, Section IV.

<sup>9</sup> *Id.*

<sup>10</sup> In addition to the Petition and attached Exhibits, on December 1, 2021, Petitioners provided additional information in response to Board Staff’s data requests in connection with the financing and in support of the filing.

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Jersey telecommunications market ultimately for the benefit of both residential and business 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,

BRIAN O. LIPMAN ESQ.  
DIRECTOR  
NJ DIVISION OF RATE COUNSEL  
*/s/ Maria T. Novas-Ruiz*  
Maria T. Novas-Ruiz, Esq.  
Assistant Deputy Rate Counsel

MNR/td  
c: Service List