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VIA ELECTRONIC MAIL

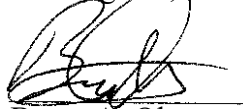
Aida Camacho
Secretary of the Board
New Jersey Board of Public Utilities
44 South Clinton Avenue
3rd Floor, Suite 314
Trenton, NJ 08625

Dear Secretary Camacho:

Please find attached an application of Xchange Telecom LLC (“Xchange Telecom”) and NOVA Infrastructure Capital Advisors, LLC (“NOVA”) requesting authority for the transfer of control of Xchange Telecom to NOVA. Xchange Telecom is authorized to operate as a telecommunications service provider in New Jersey.

Please let us know if you have any questions about this filing.

Best regards,



Bruce A. Olcott

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

Joint Petition of)
)
Xchange Telecom LLC)
)
and)
)
NOVA Infrastructure Capital Advisors, LLC) PSC Docket No. _____
)
for Approval of a Transfer of Control of)
Xchange Telecom LLC to NOVA)
Infrastructure Capital Advisors, LLC)

TO THE HONORABLE COMMISSIONERS OF THE NEW JERSEY BOARD OF PUBLIC UTILITIES:

Pursuant to N.J.S.A. 48:2-51.1 and N.J.S.A. 48:3-10 and the regulations of the Board of Public Utilities (“Board”), Xchange Telecom LLC (“Xchange Telecom” or “the Company”) and NOVA Infrastructure Capital Advisors, LLC (“NOVA”) (collectively, “Petitioners”) respectfully request approval for the transfer of ownership of Xchange Telecom to NOVA. Following the consummation of the proposed transaction, Xchange Telecom will operate as a wholly-controlled, indirect subsidiary of NOVA.

The proposed transaction will enable Xchange Telecom to continue to operate as a competitive provider of broadband and telecommunications services in New Jersey, but will otherwise have no effect on the Company’s operations. Consequently, the proposed transaction will have no adverse impact on New Jersey customers. Petitioners respectfully request that the

Board review this Petition and grant its approval as expeditiously as possible.¹ In support thereof, Petitioners provide the following information:

I. DESCRIPTION OF THE PETITIONERS

A. Xchange Telecom LLC

Xchange Telecom is a telecommunications carrier and broadband access provider through its brand names Skywire Networks and Xchange Telecom. Xchange was granted authority by the Board to operate as a Competitive Local Exchange Carrier in New Jersey on February 20, 2003² and was additionally granted authority by the Board to operate as an Eligible Telecommunications Carrier in New Jersey on May 19, 2021.³ Xchange Telecom serves its customers primarily using a fixed wireless infrastructure, avoiding the need for an expensive buildout of a fiber-based distribution network. Xchange Telecom is owned by Alan Levy and Alfred West, both co-founders of the company (the “Co-Founders”).

B. NOVA Infrastructure Capital Advisors, LLC

NOVA, a Delaware limited liability company, is the ultimate control entity and majority owner of an infrastructure investment firm formed in Delaware and based in New York that targets middle market opportunities in transportation, environmental services, energy and energy

¹ Although not directly relevant to this Petition, on September 15, 2022, NOVA, through its administrative agent, NOVA-Skywire HoldCo, L.P., filed an application with the New Jersey Board of Public Utilities requesting Special Temporary Authority to appoint two independent managers to oversee the management and day-to-day operations of Xchange Telecom. NOVA took this action to preserve the Company and its assets in a way that would ensure its ongoing operations, maintains its value, and protect the interests of its customers. The independent managers assumed their duties on September 15, 2022 and began working cooperatively with the existing inhouse General Counsel and Chief Financial Officer on the management and operation of the Company. Separately, the two Co-Founders agreed to the day-to-day management of the Company by the two independent managers. This agreement effectively negated the indicia of a *de facto* transfer of control event resulting from the appointment of the independent managers. Accordingly, NOVA’s STA application is arguably no longer relevant.

² See Docket No. TE02050299 (Feb. 20, 2003).

³ See Docket No. TO20090615 (May 19, 2021).

transition, communications and other infrastructure sectors primarily in North America. Voting control of NOVA is held by Chris Beall, who is the Managing Partner and Co-Founder of the firm. A majority of the attributable membership interests in NOVA are also held by Beall, with membership holding in excess of 10% also held by Allison Kingsley, a Partner and Co-Founder of NOVA, and Donna Toth, a Partner and the Chief Financial Officer of NOVA. These three individuals are all U.S. citizens.

NOVA is the ultimately indirect controlling entity of three investment funds that hold the debt interests in Xchange Telecom. Details regarding the funds and the manner in which these debt interests would be converted to non-debt interests are provided below.

II. DESIGNATED CONTACT

Questions or any correspondence, orders or other materials pertaining to this Petition should be directed to:

Bruce A. Olcott
Jones Day
51 Louisiana Ave., N.W.
Washington, DC 2001-2113
Tel: (202) 879-3630
bolcott@jonesday.com

III. DESCRIPTION OF THE TRANSACTION

NOVA indirectly controls three investment funds and related entities that entered into a Credit Agreement that initially provided a \$16.15 million loan to Xchange Telecom. The final maturity date for the loan was September 14, 2022, meaning the loan became due and payable in accordance with the Credit Agreement's terms. Xchange Telecom did not make full and timely payment on the loan. In lieu of a formal foreclosure proceeding, the two individuals who are the co-founders and 100% interest holders in Xchange Telecom ("the Co-Founders") have agreed to

transfer their interests in Xchange Telecom to a NOVA-controlled Delaware entity, NOVA-Xchange Investco, L.P. (“NOVA-Xchange”).

Upon consummation of the proposed transaction, Xchange Telecom would be 100% owned and controlled by NOVA-Xchange. The General Partner of NOVA-Xchange is NOVA Infrastructure GP I, L.P. (“NOVA GPI”), which is a Delaware entity. The General Partner of NOVA GPI is NOVA LP General Partner, LLC (“NOVA GP”), which is also a Delaware entity. 100% control of both NOVA GPI and NOVA GP is held by NOVA. The economic partnership interests in NOVA-Xchange are also 100% directly held by NOVA.

As noted above, NOVA is majority owned and controlled by Chris Beall, who is a U.S. citizen. Ownership interests of 10% or more in NOVA are also held by two other U.S. citizens: Allison Kingsley, a Partner and Co-Founder of NOVA, and Donna Toth, a Partner and the Chief Financial Officer of NOVA. The contact information for NOVA and each of the above-identified individuals is as follows:

NOVA Infrastructure Capital Advisors, LLC
400 Madison Avenue
Suite 11B
New York, NY 10017
(646) 889-8100

A chart detailing the relationships between these entities and individuals is included as Exhibit 1 to this Petition.

As noted in the opening section of this Petition, the debt interests in Xchange Telecom are currently held by three NOVA-controlled investment funds: NOVA Infrastructure Fund I, L.P. (“NOVA Fund U.S.”), which is a Delaware entity that holds approximate 73% of the debt interests in Xchange Telecom; NOVA Infrastructure Fund I (Cayman), L.P. (“NOVA Fund Cayman”), which is a Cayman entity that holds appropriately 13.7% of the debt interests in Xchange Telecom;

and NOVA Infrastructure Fund I (Luxembourg), SCSp (“NOVA Fund Lux”), which is a Luxembourg entity that holds appropriately 13.3% of the debt interests in Xchange Telecom. The economic interests in NOVA Fund U.S. are held by a mix of U.S. and non-U.S. investors. The economic interests in the two other funds are held primarily by non-U.S. investors.

To insulate these non-U.S. interests, NOVA-Xchange will issue warrants to NOVA Fund U.S. in equal proportion to its interests in the Xchange Telecom debt. NOVA-Xchange will also issue warrants for the benefit of NOVA Fund Cayman and NOVA Fund Lux that will be held by an intervening Delaware entity, NOVA-Xchange Investco Blocker, LLC (“NOVA Blocker”), again in equal proportion to their respective debt interests in Xchange Telecom. All of these warrants will be automatically convertible to partnership units in NOVA-Xchange if the Federal Communications Commission (“FCC”) approves a future Petition for Declaratory Ruling authorizing Xchange Telecom to have foreign ownership interests in excess of 25% pursuant to Section 310(b) of the Communications Act. Xchange Telecom, however, does not intend to file such a Petition for Declaratory Ruling until after the instant transaction has been consummated.

The parties urge the Commission to consent expeditiously to this Petition to permit NOVA to continue to provide sufficient funding to Xchange Telecom to enable it to maintain its operations as a competitive provider of broadband and telecommunications services serving consumers in the New York metropolitan area.

IV. PUBLIC INTEREST CONSIDERATIONS

The grant of this Petition would greatly benefit the public interest. Xchange Telecom serves a critical role in the New Jersey telecommunications services industry providing a competitive alternative to incumbent wireline service providers using an innovative wireless point-to-multipoint infrastructure. This approach has permitted Xchange Telecom to serve heavily urban

areas where it would be exceedingly expensive and challenging to deploy terrestrial fiber or coaxial infrastructure.

Xchange Telecom's customer base is also reflective of these dense urban conditions. Many of its customers are low income and qualify for subsidies provided by the FCC's Lifeline program or through other government supported mechanisms. Many of these customers would have no competitive options with respect to their access to broadband internet and communications services absent Xchange Telecom's attractive offerings.

Given the important benefits that Xchange Telecom provides its customers, it is critically important that its ongoing operations be preserved, its employees provided with stable management, and its access to financial resources protected. NOVA's proposal to assume control over Xchange Telecom would permit NOVA to invest additional operating capital into the company, thus helping to ensure each of the above-identified goals and therefore should be authorized as highly beneficial to the public interest.

V. CONCLUSION

Based on the foregoing, the Petitioners respectfully submit that the public interest, convenience, and necessity would be furthered by the approval of the proposed transaction

described in this Petition and respectfully request that the Commission approve the proposed transaction as expeditiously as possible.

Respectfully submitted,

/s/ Mordy Gross

Mordy Gross
Senior Vice President of Legal and Finance
Xchange Telecom LLC
(646) 722-7285

/s/ Bruce A. Olcott

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51 Louisiana Ave., N.W.
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Counsel for NOVA Infrastructure Capital
Advisors, LLC

Date: November 15, 2022

Exhibit 1

Post-Transaction Ownership Structure

