



Agenda Date: 2/10/11
Agenda Item: IVA

STATE OF NEW JERSEY
Board of Public Utilities
Two Gateway Center, Suite 801
Newark, NJ 07102
www.nj.gov/bpu/

TELECOMMUNICATIONS

IN THE MATTER OF THE VERIFIED PETITION OF
FIBER TECHNOLOGIES NETWORKS, L.L.C. FOR
APPROVAL OF A MODIFICATION OF FINANCING

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)

ORDER

DOCKET NO. TF10120960

Dennis C. Linken, Esq., Stryker, Tams & Dill for the Petitioners

BY THE BOARD:

Fiber Technologies Networks, L.L.C. ("Fibertech" or "Petitioner") filed a petition with the Board on or about December 15, 2010 ("Petition"), pursuant to N.J.S.A. 48:3-9, for approval to expand the previously approved aggregate amount of its participation in certain financing arrangements of its parent, Firefox Acquisition Corp. ("Firefox"). Fibertech is a New York limited liability company whose parent, Firefox, is a Delaware corporation. Fibertech, with principal offices located at 300 Meridian Centre, Rochester, New York 14618, is a public utility subject to the jurisdiction of the Board.

Fibertech is authorized to provide facilities-based and resold telecommunications services in New Jersey pursuant to the Board's Order of Approval issued in Docket No. TE05080683 on or about September 14, 2005. In addition, Petitioner is authorized by the FCC to provide interstate and international telecommunications services.

Fibertech currently is a guarantor under, and has pledged its assets as security for, certain financing arrangements of Firefox, in the aggregate amount of \$260 million, consisting of a term loan of up to \$235 million and a revolving credit facility ("Revolver") of up to \$25 million ("Existing Financing"). The Board authorized Fibertech to participate in the Existing Financing by its Order of Approval ("Order") dated November 10, 2010 in Docket No. TM10080620.

Petitioner states since the time that the Board Order was issued, Firefox and Petitioner completed the Existing Financing as approved in the Board Order. Petitioner explains, however, that, in the process of completing those arrangements, Firefox determined that favorable financial market conditions support the increase of the amount of the Revolver by \$12.5 million (the "Supplemental Revolver"). Firefox has also been able to negotiate an incremental facility commitment (the "Incremental Commitment") of up to \$50 million, which will

be available to Firefox and Petitioner upon request in minimum increments of \$10 million and in the form of new term loan facilities and an additional increase to the Revolver, with the additional Revolver portion not to exceed \$15 million of the \$50 million Incremental Commitment.

Petitioner therefore seeks Board approval to guarantee and pledge its assets as a condition to its draw down upon the Supplemental Revolver and the Incremental Commitment. Such approval will expand the aggregate amount of the financing that may be guaranteed and secured by Fibertech to \$322.5 million, an increase of \$62.5 million above the aggregate amount of \$260 million approved in the Board Order. Other than the increased amount, the general terms of the financing as set forth in its revised loan agreement dated as of November 30, 2010 ("Revised Loan Agreement"), are the same as apply to the initial \$260 million facility and are therefore consistent with the parameters set forth in and approved by the Board Order.

In addition to general corporate purposes for which the Supplemental Revolver and Incremental Commitment will be used, the additional Revolver amount will be used to enable greater expansion of the Petitioner's fiber optic network, particularly in the "fiber to the tower" business, which provides significant growth opportunities for Petitioner in terms of both revenue and also the scope of its network facilities. Thus, the Petitioner states that the new financing arrangement will therefore serve the public interest. Petitioner further states that approval of the participation of Fibertech in the expanded amount of the financing arrangement as described herein will not adversely affect its current or proposed operations in New Jersey and will strengthen its competitive position in New Jersey to the benefit of the New Jersey telecommunications marketplace.

The Division of Rate Counsel has reviewed this matter and, by letter dated December 21, 2010, has recommended that the Board approve this Petition.

The Staff's review indicates that the additional financing arrangements are in accordance with law and that the use of the proceeds associated therewith is appropriate. While there is no guarantee in this regard, especially given the competitive environment in which Petitioner operates, the Board is satisfied that the transaction will not have an adverse impact on Petitioner's operations in New Jersey.

In accordance with N.J.A.C. 14:1-12 et seq., Petitioner filed a request for confidential treatment of the Revised Loan Agreement submitted to the Board's Staff in conjunction with its review of this matter.

After review, the Board FINDS that the proposed transaction is consistent with the applicable law and the public interest. The Board therefore approves the purposes thereof, pursuant to N.J.S.A. 48:3-9. The Board HEREBY AUTHORIZES Petitioner to participate in the additional financing arrangements described herein. This Order is issued subject to the following provisions:

- 1 This Order shall not affect or in any way limit the exercise of the authority of the Board or the State of New Jersey in any future petition or in any proceeding regarding rates, costs of service, franchises, service, financing, accounting, capitalization, depreciation or any other matters affecting Petitioner.

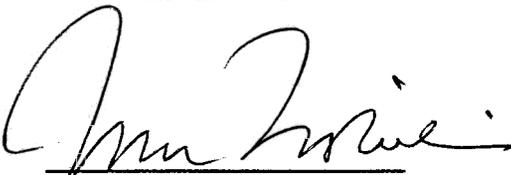
2. Petitioner shall notify the Board, within five (5) business days, of any material changes in the financing arrangements and shall provide complete details of such transactions including any anticipated effects upon service in New Jersey.
3. Petitioner shall notify the Board of any material default on the terms of the financing arrangements within five (5) business days of such occurrence.
4. Notwithstanding anything to the contrary in the documents executed pursuant to the financing transactions or other supporting documents, a default or assignment under such agreement shall not constitute automatic transfer of Petitioner's assets. Board approval must be sought pursuant to N.J.S.A. 48:1-1 et seq. where applicable.
5. This Order shall not be construed as directly or indirectly fixing for any purpose whatsoever any value of tangible or intangible assets now owned or hereafter to be owned by the Petitioner.
6. The Petitioner shall notify the Board in writing of the closing of the proposed transaction within seven (7) days of the consummation thereof.

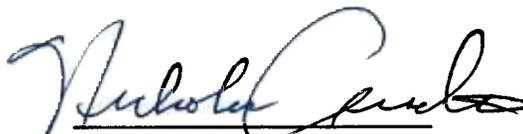
DATED: 2/10/11

BOARD OF PUBLIC UTILITIES
BY:


LEE A. SOLOMON
PRESIDENT


JEANNE M. FOX
COMMISSIONER


JOSEPH L. FIORDALISO
COMMISSIONER


NICHOLAS ASSELTA
COMMISSIONER

ATTEST: 
KRISTI IZZO
SECRETARY

I HEREBY CERTIFY that the within document is a true copy of the original in the files of the Board of Public Utilities



**In The Matter Of The Verified Petition Of Fiber Technologies Networks, L.L.C. For
Approval Of A Modification Of Financing
Docket No. TF10120960**

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