

Agenda Date: 10/03/07

Agenda Item: IVB



**STATE OF NEW JERSEY**

**Board of Public Utilities**

**Two Gateway Center**

**Newark, NJ 07102**

**[www.bpu.state.nj.us](http://www.bpu.state.nj.us)**

TELECOMMUNICATIONS

IN THE MATTER OF THE JOINT PETITION)  
OF NEON CONNECT, INC. AND RCN )  
CORPORATION FOR CHANGE OF )  
CONTROL )

ORDER OF APPROVAL

DOCKET NO. TM07070541

(SERVICE LIST ATTACHED)

**BY THE BOARD:**

On July 19, 2007, RCN Corporation (RCN) and NEON Connect, Inc. (NEON) (collectively, Petitioners), filed a petition pursuant to N.J.S.A. 48:2-51.1, 48:3-7 and 48:3-9 seeking the Board's approval to enable the parties to consummate a transaction whereby RCN will acquire ultimate control of NEON. Following the transfer, NEON will continue to offer services at the same terms, rates and conditions under which it currently offers such services in the State.

**BACKGROUND**

NEON is a Delaware corporation with its principal offices located in Westborough, MA. NEON is a wholly-owned subsidiary of NEON Communications, Inc., which in turn is a wholly-owned subsidiary of NEON Communications Group, Inc. (NEON Group), a publicly-traded Delaware corporation. According to the petition, NEON is a facilities-based communications provider, supplying high bandwidth fiber optic capacity and end-to-end telecom services to communications companies and enterprise customers in the mid-Atlantic and Northeast. NEON and its affiliates are authorized to provide telecommunications service in 12 states and has applied for authority in Virginia. In New Jersey, NEON is authorized to provide interexchange telecommunications services pursuant to authority granted by the Board in Docket No. TE03030230 (June 5, 2003). NEON currently does not have any customers in New Jersey.

RCN is a publicly traded Delaware corporation, with its principal offices located in Herndon, Virginia. According to the Petitioners, RCN has subsidiaries authorized to provide telecommunications services in New Jersey, Delaware, District of Columbia, Illinois, Maine, Maryland, Massachusetts, New York, Pennsylvania, Rhode Island, Vermont, Virginia, and Connecticut. In New Jersey, RCN New York Communications, LLC f/k/a Consolidated Edison Communications, Inc. is authorized to provide facilities-based interexchange and local exchange telecommunications services. See Order, I/M/O the Petition For an Order Authorizing Consolidated Edison Communications, Inc. to Provide Local Exchange and Interexchange Telecommunications Services in the State of New Jersey, Docket No. TE00100802 (October 15, 2001).

## DISCUSSION

Pursuant to an Agreement and Plan of Merger (Agreement), dated June 24, 2007, entered into among RCN and NEON Group, the proposed transaction will be accomplished by a merger between NEON Group and Raven Acquisition Corporation (Raven), a subsidiary of RCN created specifically for the purposes of this transaction. NEON Group will merge into Raven, with NEON Group surviving. As a result, RCN will indirectly control NEON and therefore Petitioners are requesting approval for the ultimate transfer of control of NEON. Following the transfer, NEON will continue to offer services on the same terms, rates and conditions under which they currently offer such services in the State.

Petitioners state that the proposed transactions will serve the public interest and provide benefits to the public in New Jersey. The petition states that the proposed transaction will enable NEON to obtain access additional financial and operational resources from its new parent company, which has 400,000 customers and \$600 million in annual revenue. According to petitioners, these additional resources will allow NEON to strengthen its competitive positions in New Jersey to the benefit of New Jersey's consumers and the State's telecommunications marketplace. Further, joining the operations of RCN and NEON will make both companies' network more diverse. By letter dated August 20, 2007, the Division of Rate Counsel advised the Board that it recommends approval of the petition.

## FINDINGS AND CONCLUSIONS

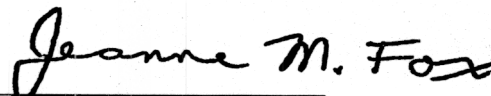
After a thorough review of the petition and all related documents, the Board concludes that there will be no negative impact on rates. NEON will continue to offer the same services at the same rates and under the same terms and conditions as indicated in its filed tariff. Moreover, a positive benefit may be expected from NEON's access to additional resources, which would make NEON a more attractive provider, and allow NEON to better compete in the marketplace.

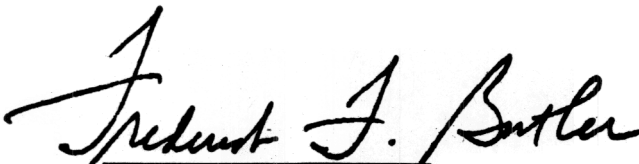
Accordingly, after careful review of this matter, the Board FINDS that the change of control will have no negative impact on rates or on employees. The Board also FINDS that the transfer may positively benefit competition. Therefore, after investigation, having considered the record and exhibits submitted in this proceeding, the Board FINDS that the proposed transfer is in accordance with the law and is in the public interest. The Board HEREBY ORDERS that the Petitioners shall notify the Board of the closing of the proposed transactions within 7 days of the consummation of the transfer.


DATED:

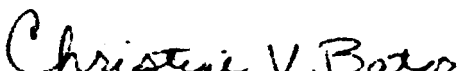
10/3/07

BOARD OF PUBLIC UTILITIES  
BY:

  
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FREDERICK F. BUTLER  
COMMISSIONER

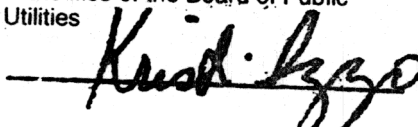
  
JOSEPH L. FIORDALISO  
COMMISSIONER

  
CHRISTINE V. BATOR  
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  
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Docket No. TM07070541

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