



Agenda Date: 3/09/11
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 JOINT PETITION)
OF EARTHLINK, INC. AND ONE COMMUNICATIONS)
CORP., CTC COMMUNICATIONS CORP.,)
CONVERSANT COMMUNICATIONS OF NEW)
JERSEY, LLC, AND LIGHTSHIP TELECOM, LLC FOR)
APPROVAL FOR THE TRANSFER OF INDIRECT)
CONTROL OF CTC COMMUNICATIONS CORP.,)
CONVERSANT COMMUNICATIONS OF NEW)
JERSEY, LLC AND LIGHTSHIP TELECOM, LLC TO)
EARTHLINK, INC.) DOCKET NO. TM10120959

Dennis C. Linken, Esq., Stryker, Tams & Dill LLP, Two Penn Plaza East, Newark NJ 07102 for the Petitioners

BY THE BOARD:

On December 21, 2011 EarthLink Inc. ("EarthLink"), One Communications Corp. ("ONE"), CTC Communications Corp. ("CTC"), Conversant Communications of New Jersey, LLC ("Conversant") and Lightship Telecom, LLC ("Lightship") (CTC, Conversant and Lightship collectively, the "ONE Entities") (EarthLink, ONE and the ONE Entities collectively, the "Petitioners") filed a verified Petition with the New Jersey Board of Public Utilities ("Board") pursuant to N.J.S.A. 48:2-51.1 requesting approval that will result in the transfer of control of the ONE Entities to EarthLink. Following the transfer, the ONE Entities will continue to offer services at the same terms, rates and conditions on which they currently offer such services in the state.

BACKGROUND

The One Entities are wholly-owned subsidiaries of One Communications Corp., a privately held Delaware corporation. According to the petition, through its various operating subsidiaries, ONE owns and manages a high capacity fiber network in 18 states across the Northeast, Mid-Atlantic and Upper Midwest, plus the District of Columbia. ONE, through the ONE Entities, provides telecommunications services and solutions primarily to small, medium and large size businesses as well as a small number of residential customers. In New Jersey, CTC Communications is authorized to provide facilities based intrastate telecommunications service. See, I/M/O the Petition For Order Authorizing CTC Communications Corp. D/B/A CT

Communications Corp. to Provide Local Exchange and Interexchange Telecommunication Services Throughout New Jersey, Docket No. TE99100808, Order dated September 22, 2000. Conversent is authorized to provide facilities-based local and interexchange telecommunications service. See, I/M/O the Petition For an Order Authorizing Conversent Communications of New Jersey, LLC to Provide Facilities-Based Local Exchange and Interexchange Telecommunications Throughout New Jersey, Docket No. TM00020073, Order dated September 12, 2000. Lightship provides facilities based local and interexchange telecommunications service. See, I/M/O the Petition For an Order Authorizing Lightship Telecom, LLC to Provide Local Exchange and Interexchange Telecommunications Throughout New Jersey, Docket No. TM00010014, Order dated August 17, 2000. In New Jersey, the ONE Entities have a total of twenty-nine (29) employees.

EarthLink is a publicly traded Delaware corporation with its principal offices located in Atlanta, Georgia. According to the petition, EarthLink is primarily an Internet service provider, providing nationwide Internet access and related services to individual and small business customers. Its major service offerings are narrowband, broadband, and wireless Internet access service; web hosting; and advertising and related services. The petition states that EarthLink has approximately 1.5 million customers nationwide. EarthLink has three subsidiaries that operate in New Jersey: New Edge Networks, Inc. ("New Edge"), Business Telecom, Inc., ("BTI") and DeltaCom, Inc. ("Deltacom"). New Edge Network, Inc. is authorized to provide facilities based, local exchange and interexchange telecommunications services pursuant to certification in New Jersey. See I/M/O the Petition for an Order Authorizing New Edge Network, Inc. D/B/A New Edge Networks to Provide Switched and Dedicated Resold and Facilities-Based, Interexchange and Local Exchange Telecommunications Services Throughout New Jersey, Docket No. TE99100774, Order dated March 9, 2000. BTI is authorized to provide facilities-based local exchange and interexchange telecommunications services. See I/M/O the Petition for an Order Authorizing Business Telecom, Inc. D/B/A BTI to Provide Local Exchange and Interexchange Telecommunications Services Throughout New Jersey, Docket No. TE01070416, Order dated February 9, 2002. Deltacom operates as a reseller in New Jersey.

DISCUSSION

According to the petition, EarthLink, Egypt Acquisition Corp. ("MergerCo") (an indirect, wholly-owned subsidiary of EarthLink, created for purposes of the transaction), ONE and the Stockholder Representative entered into an Agreement and Plan of Merger dated December 20, 2010 ("Agreement"), whereby MergerCo will merge with and into ONE, with ONE continuing as the surviving entity (the "Merger"). As a result of the Merger, the ONE Entities will become wholly owned indirect subsidiaries of EarthLink. Thus, EarthLink will become the new ultimate parent of company of CTC, Conversant and Lightship.

Petitioners state that following the transaction, the ONE Entities will continue to offer services at the same terms, rates and conditions on which they currently offer such services in the state and as a result, Petitioners claim that the transfer will be seamless and transparent to customers. Moreover, Petitioners state that the proposed transaction will serve the public interest by creating one of the largest nationwide competitive communications service providers serving Internet and business customers and as such the combined company will offer customers an alternative to legacy carriers through the combined footprint of the two companies. Petitioners have also indicated that they have no current plans to make any changes to the employee base located in New Jersey.

In evaluating this petition, the Board must be satisfied that positive benefits will flow to customers and the State of New Jersey and, at a minimum, that there are no adverse impacts on any of the criteria delineated in N.J.S.A. 48:2-51.1; see also N.J.A.C. 14:1-5.14(c).

FINDINGS AND CONCLUSIONS

The Board, after a thorough review and investigation, having considered the petition and all related documents submitted in this proceeding, concludes that there will be no negative impact on rates, terms and conditions of service by the ONE Entities, and the proposed transfer of control will have no negative impact on customers and employees of the ONE Entities. The ONE Entities will continue to offer the same services under the same rates, terms and conditions as indicated in its filed tariffs. Moreover, a positive benefit may be expected from the ONE Entities' access to additional resources, which will allow them 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 the rates of current customers. The Board also FINDS that the transfer will have no negative impact on the provision of safe, adequate and proper service, and will positively benefit competition because, as discussed above, the ONE Entities will emerge as a stronger competitor. 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. The Board FURTHER ORDERS that this approval will expire if the transaction is not fully consummated on or before March 31, 2012.

DATED: 3/9/11

BOARD OF PUBLIC UTILITIES
BY:

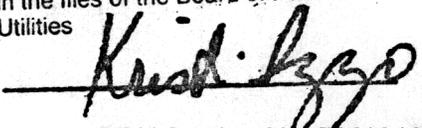


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ATTEST:

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


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Docket No. TM10120959

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