



STATE OF NEW JERSEY
Board of Public Utilities
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www.nj.gov/bpu/

TELECOMMUNICATIONS

IN THE MATTER OF YANKEE METRO PARTNERS,)
LLC AND LTS BUYER LLC FOR APPROVAL (1) TO) ORDER
TRANSFER CONTROL OF SIDERA NETWORKS, LLC)
AND NEON CONNECT, LLC AND (2) OF CERTAIN)
FINANCING ARRANGEMENTS) DOCKET NO. TM13010015

Parties of Record:

William K. Mosca, Jr., Esq., Bevan, Mosca, Giuditta & Zarillo, P.C., on behalf of Petitioners
Stefanie A. Brand, Esq., Director, New Jersey Division of Rate Counsel

BY THE BOARD:

On January 8, 2013, Yankee Metro Partners, LLC ("Yankee") and LTS Buyer LLC ("LTS Buyer") (together "Petitioners") filed a verified joint petition ("Petition") with the Board of Public Utilities ("Board") pursuant to N.J.S.A. 48:2-51(a), N.J.S.A. 48-3:7, N.J.S.A. 48:3-9 and N.J.S.A. 48:3-10 and N.J.A.C. 14:1-5.14(b), requesting Board approval (1) to transfer of control of Sidera Networks, LLC and NEON Connect, Inc. (together, the "NJ Certificated Entities") from Yankee to LTS Buyer (the "Yankee Transaction")¹ and (2) for the NJ Certificated Entities to participate in certain financing arrangements to be entered into in connection with the LTS

¹ The Yankee Transaction is one of two transactions that were entered into simultaneously by LTS Buyer that will result in the transfer of control of entities authorized to provide intrastate telecommunications service in the State of New Jersey. In addition to the Yankee Transaction, LTS Buyer entered into an Agreement and Plan of Merger to acquire control of Light Tower Holdings LLC ("Light Tower") (the "Light Tower Transaction" and, together with the Yankee Transaction, the "LTS Buyer Transactions"). Light Tower, through its operating subsidiaries, is a provider of Ethernet, SONET, private network services, Internet access, dark fiber and collocation services to carrier, government and enterprise customers under the trade name Lighttower Fiber Networks. As a result of the Light Tower Transaction, Yankee will be affiliated with Light Tower and its subsidiaries through common ownership by LTS Buyer. LTS Buyer concurrently filed a Petition (the "Light Tower Petition") seeking Board approval for the transfer of control of (i) Light Tower Fiber Long Island LLC, (ii) New Jersey DataNet Telecom, LLC, and (iii) Lexent Metro Connect, LLC, which are indirect wholly-owned subsidiaries of Light Tower that are authorized to provide telecommunications services in New Jersey. The parties' intent is to complete the LTS Buyer Transactions simultaneously, and they have requested the Board to address all these transactions together. We address the Light Tower Transaction concurrently in Docket No. TM13010014.

Buyer Transactions. Following the consummation of proposed transactions, Sidera and NEON will continue to offer services at the same terms, rates and conditions under which they currently offer such services in the State.

BACKGROUND

Yankee is a Delaware limited liability company with offices located in Herndon, VA. Through its subsidiaries, which include the NJ Certificated Entities, Yankee provides telecommunications networks that serve carrier, government and enterprise customers under the trade name Sidera Networks. Yankee offers dark fiber, collocation and advanced network services, including Ethernet, Wavelength, SONET, Internet Access, and private managed optical networks throughout the Northeast, in the mid-Atlantic region and to Chicago.

The NJ Certificated Entities are indirect wholly-owned subsidiaries of Yankee that provide telecommunications and other services to carrier, government and enterprise customers. Sidera is a New York limited liability company and NEON is a Delaware corporation. In the State of New Jersey, Sidera is authorized to provide local exchange and interexchange services. Authority was originally granted to Con Edison Communications, LLC, which changed its name to RCN New York Communications, LLC, which subsequently changed its name to Sidera. See Order, In the Matter of the Petition for an Order Authorizing Consolidated Edison Communications, Inc. to Provide Local Exchange and Interexchange Telecommunications Services Throughout New Jersey, Docket No. TE00100802, dated November 5, 2001. NEON Connect was authorized to provide facilities-based competitive interexchange and local exchange services pursuant to authority granted by Order of the Board on June 5, 2003. See Order, In the Matter of the Petition of NEON Connect, Inc. for Authority to Provide Local Exchange and Interexchange Telecommunications Services in the State of New Jersey, Docket No. TE03030230. Yankee and its subsidiaries currently have one employee whose office is located in New Jersey.

LTS Buyer is an indirect, wholly owned subsidiary of LTS Group Holdings, LLC ("LTS Holdings"). Both LTS Buyer and LTS Holdings are Delaware limited liability companies created for purposes of the LTS Buyer Transactions with principal offices located in Boston, Massachusetts. LTS Holdings has no majority owner, but certain investment funds and entities controlled and/or managed by a number of investors, including Berkshire Partners LLC ("Berkshire"), ABRY Partners LLC ("ABRY"), HarbourVest Partners, LLC ("HarbourVest"), and Pamlico Capital ("Pamlico"), together with certain executive officers of LTS Holdings and other minority investors, will own the equity of LTS Holdings. Upon consummation of the proposed LTS Buyer Transactions, Berkshire will be the largest equity holder in, and have voting control of, LTS Holdings. Berkshire is a Boston-based investment firm that invests in middle market companies through eight investment funds with aggregate capital commitments of \$11 billion. The business and affairs of LTS Holdings and its subsidiaries will be managed by a seven-member board of managers consisting of four members designated by Berkshire, one member designated by ABRY, one member designated by Pamlico, and Robert J. Shanahan, the current Chief Executive Officer of Light Tower.

Berkshire serves as the manager for LTS Holdings, which is the corporate parent of Petitioner LTS Buyer. Berkshire, as manager of LTS Holdings, submitted confidential financial information regarding LTS Holdings' financial condition, including an illustrative income statement and balance sheet for LTS Holdings.

DISCUSSION

A. The Transfer of Control

Petitioners entered into an Agreement and Plan of Merger ("Agreement"), pursuant to which LTS Buyer will acquire control of the NJ Certificated Entities through its acquisition of all of the ownership interests of Yankee. Specifically, the Agreement provides that SD1 Merger Sub LLC ("Merger Sub") (a Delaware limited liability company and direct, wholly-owned subsidiary of LTS Buyer created solely for purposes of the Yankee Transaction) will merge with and into Yankee, with Yankee surviving the merger as a direct, wholly-owned subsidiary of LTS Buyer.² As a result, the NJ Certificated Entities will become indirect, wholly-owned subsidiaries of LTS Buyer.

Although the Yankee Transaction will result in changes in the equity ownership of Yankee, which is currently the ultimate parent of the NJ Certificated Entities, Petitioners stated that this was not expected to change or affect the day-to-day operation or customer-facing activities of these operating subsidiaries.

Following consummation of the LTS Buyer Transactions, Petitioners state that the LTS Buyer Transactions will be transparent to customers of the NJ Certificated Entities in New Jersey, because those transactions will not affect the current operation of the NJ Certificated Entities. They further state that the transactions will not trigger any Federal or state anti-slamming or bulk customer transfer rules (because the certificated, customer-facing service providers will remain unchanged) and that they will have no adverse effects on the market for telecommunications services in New Jersey.

Finally, Petitioners stated that they and Light Tower have not engaged in any material integration planning and that no current plans with regard to Yankee's New Jersey employees had yet been developed. However, they stated that they expect to maintain substantially similar levels of employee staffing in New Jersey following the closing of the LTS Buyer Transactions, and they do not expect to change the NJ Certificated Entities' day-to-day operations.

B. The Financing Arrangements

Petitioners anticipate that the total amount of funds necessary to complete the LTS Buyer Transactions will be approximately \$2.1 billion. In connection with these transactions, LTS Buyer and certain of its wholly-owned U.S. subsidiaries designated as co-borrowers or co-issuers expect to obtain debt financing in an aggregate amount of up to \$1.6 billion. The debt financing may consist of one or more secured and unsecured credit facilities and/or unsecured notes, in an expected aggregate amount of up to \$1.475 billion and sufficient (together with equity contributions) to finance the LTS Buyer Transactions including repaying the existing debt of Light Tower and Yankee. The debt financing may include commitments for a senior secured revolving credit facility in an expected aggregate amount of up to \$125 million, available on the

² Simultaneously, two other transactions will take place. SD2 Merger Sub, LLC ("Merger Sub 2") (a Delaware limited liability company and direct wholly-owned subsidiary of Merger Sub created solely for purposes of the Yankee Transaction) will merge with and into Yankee Metro Parent, Inc., with Yankee Metro Parent, Inc. surviving the merger and remaining a direct wholly-owned subsidiary of Yankee. In addition, SD3 Merger Sub, LLC (a Delaware limited liability company and direct wholly-owned subsidiary of Merger Sub 2 created solely for purposes of the Yankee Transaction) will merge with and into Sidera Networks, Inc., with Sidera Networks, Inc. surviving the merger and remaining a direct wholly-owned subsidiary of Yankee Metro Parent, Inc.

closing date of the LTS Buyer Transactions for the financing of those transactions and general working capital, and after the closing date for purposes of financing working capital and general corporate purposes. In order to maintain flexibility, however, the NJ Certificated Entities seek approval to participate in debt financing in an aggregate amount of up to \$1.6 billion.

Petitioners explain that the specific maturity date for any debt instruments issued in connection with the financing will be subject to negotiation and will depend on credit conditions at the time they are priced and issued. They anticipate that the debt financing will consist solely of long-term indebtedness. In the event that the borrowers incur bridge loans as a "bridge" to long-term indebtedness, the bridge loans will likely mature one (1) year after issuance. Petitioners expect any long-term indebtedness incurred to mature no later than ten (10) years after issuance depending on the type of facility.

Petitioners state that the interest rate will likely be the market rate for similar financings and will not be determined until the financing arrangements are finalized. Depending on the type of debt securities, credit facility(ies) or other arrangements, the interest rate(s) will be either a fixed rate (typically set at signing or closing based on a then current rate index such as LIBOR or Federal Funds Rate, along with an applicable margin rate) or a floating rate (consisting of a base rate, which will float with a rate index such as LIBOR or Federal Funds Rate, plus an applicable margin), or a combination of fixed rates and floating rates, depending on credit conditions at the time they are priced and issued.

Petitioners expect that the obligations of LTS Buyer and any co-borrowers or co-issuers under any credit facilities or notes will be unconditionally guaranteed by LTS Buyer and each of its existing and future U.S. wholly-owned subsidiaries (with certain exceptions including immaterial subsidiaries and "unrestricted" subsidiaries), including Light Tower and Yankee and their subsidiaries, and, in the case of any secured credit facilities, LTS Intermediate Holdings C LLC. Petitioners further expect that the obligations of LTS Buyer and any co-borrowers under any secured credit facilities, together with obligations under the guarantees, will be secured by a security interest in substantially all of the assets of LTS Buyer, the co-borrowers and guarantors, in each case, now owned or later acquired, including a pledge of all or substantially all of the capital stock or membership units of LTS Buyer and its U.S. wholly-owned subsidiaries, and 65% of the capital stock or membership units of certain of its foreign subsidiaries, subject in each case to the exclusion of certain assets and additional exceptions, including exceptions related to "unrestricted" subsidiaries. Upon completion of the LTS Buyer Transactions, therefore, the NJ Certificated Entities will provide a guaranty and related pledge of substantially all of their assets as security for all or some of the debt financing in an aggregate amount of up to \$1.6 billion.

In addition to the above-described debt financing arrangements, new and rollover equity will provide the financing for the remainder of funds required to acquire each of Light Tower and Yankee.

Petitioners state that the NJ Certificated Entities' participation in the financing arrangement will not adversely affect their current or proposed operations in New Jersey, and they request that the Commission approve the Yankee Transaction and NJ Certificated Entities' participation in the financing arrangements described above, including for the NJ Certificated Entities to each provide a guaranty and related pledge of assets as security for the financing arrangements.

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; N.J.A.C. 14:1-5.14(c). Also, under N.J.S.A. 48:3-7, the Board is required to determine whether the public utility or a wholly owned subsidiary thereof may be unable to fulfill its pension obligations to any of its employees.

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

The Division of Rate Counsel has reviewed this matter and, by letter dated February 27, 2013, states that it does not object to this Petition.

FINDINGS AND CONCLUSION

After a thorough review of the petition and all related documents, the Board concludes that there will be no negative impact on rates or service quality since the New Jersey customers of the NJ Certificated Entities will continue to receive the same services from the same entity at the same rates and under the same terms and conditions. Also, the Board is satisfied that positive benefits will flow to customers based on the record presented by Petitioners. In addition, the Board is persuaded that there will not be a material negative impact on employees.

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, or on employees. The Board also **FINDS** that the Yankee Transaction will have no negative impact on the provision of safe, adequate and proper service, and will positively benefit competition. Therefore, after investigation, having considered the record and exhibits submitted in this proceeding, the Board also **FINDS** that the Yankee Transaction is in accordance with the law and in the public interest.

The Board **FINDS** that the participation of the NJ Certificated Entities in the proposed financing transaction is consistent with the applicable law and is in the public interest. The Board **HEREBY ORDERS** and **AUTHORIZES**:

- 1) Petitioners to complete the Yankee Transaction.
- 2) The NJ Certificated Entities to participate in the proposed financing arrangements by providing guarantees and pledging jurisdiction assets in support of the proposed financing arrangements to the extent that there are or may in the future be any such assets.
- 3) The Petitioners and NJ Certificated Entities will advise the Board in writing within seven (7) days of the closing of these transactions.

This Order is 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 in any future petition with respect to rates, franchises, services, financing, accounting, capitalization, depreciation, or any other matters affecting the Petitioners.
- 2) 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 does not constitute an automatic transfer of the NJ Certificated Entities' assets. Board approval must be sought pursuant to N.J.S.A. 48.1-1 et seq. where applicable.

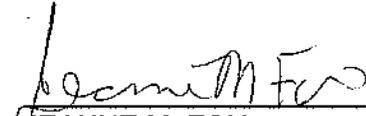
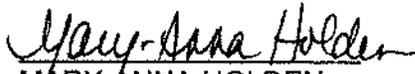
- 3) This Order shall not be construed as directly or indirectly fixing for any purpose whatsoever any value of tangible or intangible assets now owned or hereafter to be owned by Petitioners or the NJ Certificated Entities.

DATED: 3/20/13

BOARD OF PUBLIC UTILITIES
BY:



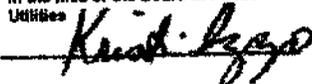
ROBERT M. HANNA
PRESIDENT


JEANNE M. FOX
COMMISSIONER
JOSEPH L. FIORDALISO
COMMISSIONER
MARY-ANNA HOLDEN
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 YANKEE METRO PARTNERS, LLC AND LTS BUYER LLC FOR
APPROVAL (1) TO TRANSFER CONTROL OF SIDERA NETWORKS, LLC AND NEON
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DOCKET NO. TM13010015

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