



Agenda Date: 4/23/14  
Agenda Item: IVB

**STATE OF NEW JERSEY**  
**Board of Public Utilities**  
44 South Clinton Avenue, 9<sup>th</sup> Floor  
Post Office Box 350  
Trenton, New Jersey 08625-0350  
[www.nj.gov/bpu/](http://www.nj.gov/bpu/)

TELECOMMUNICATIONS

IN THE MATTER OF THE VERIFIED PETITION OF XO )  
COMMUNICATIONS SERVICES, LLC FOR )  
AUTHORITY TO PROVIDE ITS SECURITY IN )  
CONNECTION WITH FINANCING )  
ORDER  
DOCKET NO. TF14030263

**Parties of Record:**

**James Laskey, Esq.**, Norris, McLaughlin & Marcus, P.A., on behalf of Petitioner  
**Stefanie A. Brand, Esq.**, Director, New Jersey Division of Rate Counsel

BY THE BOARD:

On March 19, 2014, XO Communications Services, LLC ("XOCS" or "Petitioner") submitted a Verified Petition to the New Jersey Board of Public Utilities ("Board") pursuant to N.J.S.A. 48:3-7 and 48:3-9 requesting Board approval to provide its guarantee, pledge its equity interests and assets, or to otherwise provide security in connection with financings being arranged for its parent company, XO Communications, LLC ("XO").

XO and XOCS are Delaware limited liability companies located at 13685 Sunrise Valley Drive, Herndon, Virginia 20171, (703) 547-2000. XO is a national provider of local and long distance telecommunications services, interexchange access services, advanced communications, managed network and IT infrastructure services to business, large enterprise and wholesale customers. XO delivers its services over its own network of metropolitan fiber rings and long haul fiber optic facilities and through the use of facilities and services leased or purchased from third party carriers, including incumbent local exchange carriers. XO is wholly owned by XO Holdings ("XO Holdings"), a Delaware general partnership and a holding company. Through its subsidiaries, primarily XOCS, XO is authorized to provide intrastate interexchange services in 49 states and to provide competitive local exchange services in 48 states and the District of Columbia.

In New Jersey, XOCS is authorized to provide intrastate telecommunications services. See In the Matter of the Verified of Joint Petition of XO New Jersey Inc., Allegiance Telecom of New Jersey, Inc. and XO Communications Services, Inc. for Approval of an Internal Corporate Reorganization and for Approval As Necessary of Related Transactions, Order of Approval, Docket No. TM04070686, September 14, 2004. XOCS is also authorized to provide interstate and international telecommunications services.

Petitioner proposes that XOCS provide its guarantee, pledge its equity interests and assets, or to otherwise provide security in connection with financing that will be undertaken by its parent, XO, as further described below. XO is arranging to obtain this financing through one or more arrangements with banks, other financial institutions and/or other types of investors. The currently planned financing, to be obtained through a syndicate of lenders, includes an initial \$500 million senior secured term loan facility, with the ability to add an incremental facility or facilities in an aggregate amount equal to the sum of \$250 million plus a projected amount of \$600 million based on XO's ratio of first lien indebtedness to Earnings Before Interest, Taxes, Depreciation and Amortization. These incremental amounts may be in the form of term loan facilities and/or revolving credit facilities.

The planned financing is expected to mature in 2021. Interest for the planned financing will be tied to market rates for similar financings. At XO's option, interest will be determined either as (a) a base rate (highest of (i) the Federal Funds Rate plus 0.50%, (ii) the current prime commercial lending rate of UBS AG / Stamford Branch; or (iii) the London Interbank Offered Rate ("LIBOR") plus 1.00 % and not less than 2.00% per annum) plus applicable interest margin; or (b) a rate equal to LIBOR plus applicable interest margin.

Petitioner contends that approving this Petition will serve the public interest by enhancing the ability of XOCS to grow and compete in the highly competitive markets for telecommunications services in New Jersey and nationwide. According to Petitioner, the financing transaction is not expected to have any direct effect upon the rates of XOCS, or any adverse effect whatsoever upon its services. Moreover, consummation of the transaction will not result in any change in control of XOCS. Instead, the financing arrangement is expected to provide XO with the financial resources needed to further grow and expand its business and to compete in today's highly competitive telecommunications environment.

Petitioner notes that it competes in New Jersey and other markets with numerous other interexchange carriers and enhanced service providers as well as the incumbent local exchange carrier(s) and other competitive local exchange carriers. As a competitive carrier, Petitioner is not subject to rate of return regulation. In addition, because of the highly competitive environment in which Petitioner operates, the rates charged customers are subject to market discipline and the services offered generally are available from numerous other carriers. As a result, Petitioner contends that the source of funds and capital structure of XOCS have little effect on customers in New Jersey or elsewhere.

Petitioner argues that the public interest in New Jersey is best served by assuring the presence of numerous telecommunications competitors. Towards that goal, it is important to provide such competitors with the flexibility to arrange financing in the manner they deem most appropriate to carry on their businesses provided there is no adverse impact on the public. According to Petitioner, to deny such flexibility would discourage new competitors from entering the state and would encourage existing competitors in New Jersey to seek a more favorable regulatory environment elsewhere, neither of which developments would enhance the public interest. In contrast, approving the access of competitive carriers to adequate and flexible financing arrangements such as discussed in this Petition should benefit New Jersey consumers.

The Division of Rate Counsel has reviewed this matter and, by letter dated March 31, 2014, states that it has no objection to approval of this petition.

After careful review of this matter, the Board **FINDS** that the proposed transaction and the expanded financing arrangements are in accordance with the law and in the public interest, and

**HEREBY AUTHORIZES** Petitioner to participate in financing arrangements as described in the Petition, and to take those actions necessary to effectuate such financing arrangements.

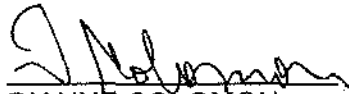
This Order is issued subject to the following provisions:


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 business days, of any material changes in the proposed financing 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 in the terms of the proposed financing within five business days of such occurrence.
4. Notwithstanding anything to the contrary in the documents executed pursuant to the financing transaction or other supporting documents, a default or assignment under such agreement does not constitute an 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.

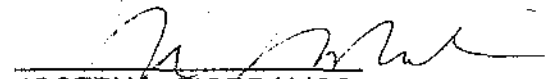
This Order shall become effective May 2, 2014.

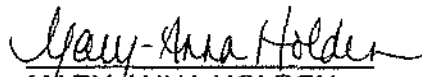
DATED: 4/24/14

BOARD OF PUBLIC UTILITIES  
BY:

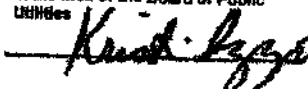
  
DIANNE SOLOMON  
PRESIDENT

  
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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 the Verified Petition of XO Communications Services, LLC for Authority to  
Provide its Security in Connection with Financing

DOCKET NO. TF14030263

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