



Agenda Date: 5/18/22
Agenda Item: IVA

STATE OF NEW JERSEY
Board of Public Utilities
44 South Clinton Avenue, 1st Floor
Post Office Box 350
Trenton, New Jersey 08625-0350
www.nj.gov/bpu/

OFFICE OF CABLE TELEVISION AND
TELECOMMUNICATIONS

IN THE MATTER OF THE VERIFIED) ORDER
PETITION OF EVERSTREAM SOLUTIONS)
LLC FOR APPROVAL OF A PRO FORMA)
CHANGE IN INDIRECT OWNERSHIP) DOCKET NO. TM22030154

Parties of Record:

Brian O. Lipman, Esq., Director, New Jersey Division of Rate Counsel
Joshua Bobeck, Esq., Morgan, Lewis & Bockius LLP, on behalf of Petitioner

BY THE BOARD:

On March 25, 2022, Everstream Solutions LLC (“Petitioner” or “Everstream”) submitted a Verified Petition (“Petition”) with the New Jersey Board of Public Utilities (“Board”) pursuant to N.J.S.A. 48:2-51.1, requesting approval, to the extent required, to complete a *pro forma* change to its indirect ownership with no change to its ultimate owner (“Pro Forma Change”). Following consummation of the changes, Petitioner represents that there will be no change to the services, rates, terms and conditions currently being offered to customers in New Jersey.

BACKGROUND

Everstream is an Ohio limited liability company with headquarters in Cleveland, Ohio. Everstream is a wholly owned subsidiary of Midwest Fiber Acquisition LLC (“Midwest Fiber”), a Delaware limited liability company. Midwest Fiber, through Everstream and its affiliates, is a network service provider bringing fiber-based ethernet, internet and data center solutions to businesses throughout the midwest. Its network allows businesses to operate a converged IP network capable of delivering voice and data services at speeds from 10 Mbps to 100 Gbps. Everstream holds domestic and international 47 U.S.C. § 214 authorization as well as certificates to provide intrastate telecommunications services in Delaware, Kentucky, Maryland, Missouri, New York, Ohio, Pennsylvania, and West Virginia. In New Jersey, Everstream was authorized to provide services on February 17, 2021.¹

¹ In the Matter of the Petition of Everstream Solutions, LLC for Approval to Provide Local Exchange and Interexchange Telecommunications Services throughout the State of New Jersey, Docket No. TE20100653 (Order dated February 17, 2021). Additional information about the qualifications of Everstream can be found in the Order under Docket No. TE20100653.

Midwest Fiber is owned by Midwest Fiber Holdings LP, and is ultimately indirectly owned by four (4) limited partnerships organized under the laws of Luxembourg: AMP Capital Global Infrastructure Fund II A LP, AMP Capital Global Infrastructure Fund II B LP, AMP Capital Global Infrastructure Fund II C LP, and AMP Capital Global Infrastructure Fund II E LP (collectively referred to as "GIF II"). Between Midwest Fiber Holdings LP and GIF II, there are a number of intervening entities in the ownership chain. For each of the limited partnership entities in this chain, as well as for the four (4) Luxembourg limited partnerships referenced above, the general partner is AMP Capital Investors (GIF II GP) S.à.r.l., a Luxembourg company.

PETITION

According to the Petition, the proposed Pro Forma Change will involve the insertion of two (2) intermediate holding companies between Everstream's direct parent, Midwest Fiber, and Midwest Fiber Holding LP, a Delaware limited partnership. Specifically, Midwest Fiber Acquisition Midco1 LLC, a Delaware limited liability company, will become the sole manager of Midwest Fiber, and Midwest Fiber Acquisition TopCo LLC, a Delaware limited liability company, will become the sole manager of Midwest Fiber Acquisition Midco1 LLC. The entity above Midwest Fiber Acquisition TopCo LLC will remain Midwest Fiber Holding LP. The Petition stated that the Pro Forma Change will not result in any changes in the ultimate ownership of Everstream, which will remain under the ownership of Midwest Fiber Holding LP and its owners.

Petitioner further asserted that the Pro Forma Change is in the public interest. The Pro Forma Change will not alter actual working control of Everstream, and further will remain with its existing management team. The telecommunications services provided by Everstream and the rates, terms and conditions of those services will not be modified as a result of the Pro Forma Change. Petitioner stated that the Pro Forma Change will also improve access to debt and equity capital, which provides flexibility to enable Midwest Fiber and its operating subsidiaries including Everstream to keep their cost of capital low. Everstream will continue to have the same requisite managerial, technical and financial capabilities to provide quality communications services.

By letter dated April 26, 2022, the New Jersey Division of Rate Counsel ("Rate Counsel") submitted comments in support of the "contemplated continued provision of innovative, high quality telecommunications services" within the State's telecommunications market for the benefit of both residential and business customers in New Jersey. Accordingly, Rate Counsel did not oppose the Board granting the requests sought by Petitioner in its Petition.

DISCUSSION AND FINDINGS

In considering a request for transfer of control, the Board shall evaluate the impact of the acquisition on competition, on the rates of ratepayers affected by the acquisition of control, on the employees of the affected public utility or utilities, and on the provision of safe and adequate utility service at just and reasonable rates. N.J.S.A. 48:2-51.1(a). 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 and N.J.A.C. 14:1-5.14(c). Also, pursuant to N.J.S.A. 48:3-7 and N.J.S.A. 48:3-10, the Board must determine whether the public utility, or a wholly-owned subsidiary thereof, may be unable to fulfill its pension obligations to any of its employees.

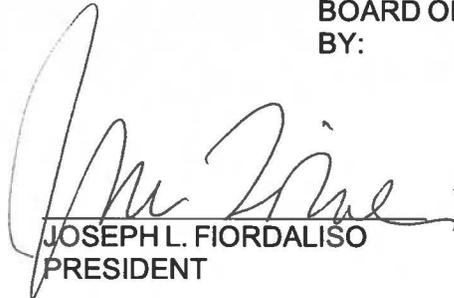
After a careful review of this matter, the Board **FINDS** that the proposed Pro Forma Change is consistent with the applicable law, is not contrary to the public interest, and will have no material impact on the rates of current customers or on New Jersey employees. The Board also **FINDS**

that the Pro Forma Change will have no 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 **HEREBY AUTHORIZES** Petitioner to complete the change to its indirect ownership proposed in its Petition.

This Order shall be effective May 25, 2022.

DATED: May 18, 2022

BOARD OF PUBLIC UTILITIES
BY:

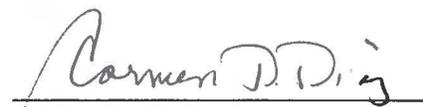

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ROBERT M. GORDON
COMMISSIONER

ATTEST: 
CARMEN D. DIAZ
ACTING SECRETARY

IN THE MATTER OF THE VERIFIED PETITION OF EVERSTREAM SOLUTIONS LLC FOR
APPROVAL OF A PRO FORMA CHANGE IN INDIRECT OWNERSHIP

DOCKET NO. TM22030154

SERVICE LIST

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