



Agenda Date: 10/12/22
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 PETITION OF ZENFI)
NETWORKS, LLC, CROSS RIVER FIBER, LLC, CROSS)
RIVER FIBER NJ, LLC AND BAI COMMUNICATIONS US)
HOLDINGS II, LLC FOR APPROVAL OF A CHANGE OF)
CONTROL OF ZENFI NETWORKS, LLC, CROSS RIVER)
FIBER, LLC AND CROSS RIVER FIBER NJ, LLC)

ORDER

DOCKET NO. TM22070461

Parties of Record:

Brian O. Lipman, Esq., Director, New Jersey Division of Rate Counsel
Michael A Gruin, Esq., Stevens and Lee on behalf of BAI Communications US Holdings II LLC
David E. Bronston, Esq. Phillips Lytle, LLP, on behalf of Licensees

BY THE BOARD:

On July 28, 2022, ZenFi Networks, LLC (“ZenFi” or “Transferor”), Cross River Fiber LLC (“Cross River Fiber”), Cross River Fiber NJ LLC (“Cross River Fiber NJ” (collectively, “Licensees”), and BAI Communications US Holdings II LLC (“BAI,” and together with Licensees, “Petitioners”) filed a petition (“Petition”) with the New Jersey Board of Public Utilities (“Board”) requesting approval of a change of control of the Licensees (“Transaction”) pursuant to N.J.S.A. 48:2-51.1 and N.J.A.C. 14:1-5.14. As a result of the Transaction, the Licensees will become indirect subsidiaries of BAI, which is ultimately majority owned and controlled by the Canada Pension Plan Investment Board (“CPPIB”).

ZenFi and Cross River Fiber are Delaware limited liability companies headquartered in Long Island City, New York and serve enterprise and carrier customers in New York and New Jersey. ZenFi and Cross River Fiber’s offerings include dark and lit fiber transport, cellular front haul and backhaul, and wholesale services. Cross River Fiber NJ is a New Jersey limited liability company also headquartered in Long Island City, New York. Both Cross River Fiber NJ and Cross River Fiber are wholly owned subsidiaries of ZenFi. The Licensees each hold authority from the Board to provide facilities-based and resold local and interexchange telecommunications services in

New Jersey.¹ Cross River Fiber NJ does not currently provide any regulated end-user telecommunications services in New Jersey.

BAI is a limited liability company headquartered in New York, New York, (majority owned and controlled by CPPIB), which, through various subsidiaries and affiliates including Mobilitie, LLC, Transit Wireless, LLC and BAI Communications Holdings NJ LLC (“BAI NJ”), designs, builds, manages, and maintains wireless and wireline infrastructure solutions across the globe, including neutral host distributed antenna systems, small cell systems, and Wi-Fi networks and provides communications services worldwide. Specifically, BAI relies upon Mobilitie, LLC (which enables wireless connectivity for sports and entertainment venues, commercial buildings, hotels, health care and educational facilities, and transportation systems, among other venues) and Transit Wireless, LLC (which builds and operates wireless networks and related infrastructure for transit systems, including the New York City subway, among other solutions) for the provision of its services to end users. In New Jersey, BAI is authorized to provide facilities-based and resold competitive local exchange telecommunications services under its affiliate BAI NJ by Board Order dated March 9, 2022.² On August 17, 2022, the Board approved a restructuring and internal merger, which merged BAI NJ into Mobilitie, LLC resulting in the change of intermediate ownership and control of BAI NJ.³

Pursuant to a Merger Agreement dated July 25, 2022, upon consummation of the Transaction, BAI will acquire ownership and control of the Licensees. At close of the Transaction, ZenFi will merge with and into an existing entity, Earth Merger Sub LLC, a limited liability company and an affiliate of BAI, with ZenFi remaining as the surviving entity. Cross River Fiber and Cross River Fiber NJ, subsidiaries of ZenFi, will subsequently, as a result of the Transaction, become indirect subsidiaries of BAI.

¹ See In the Matter of ZenFi Networks, Inc.’s Verified Petition to Provide Resold and Facilities-Based Local Exchange and Interexchange Telecommunications Services throughout New Jersey, Docket No. TE14080907 (Order dated Sept. 30, 2014); In the Matter of the Petition of Cross River Fiber, Inc. for Authority To Provide Local Exchange and Interexchange Telecommunications Services Throughout the State of New Jersey, Docket No. TE12040297 (Order issued June 18, 2012); In the Matter of the Petition of Cross River Fiber, LLC for Approval to Provide Local Exchange and Interexchange Telecommunications Services Throughout the State of New Jersey, Docket No. TE11050320 (Order dated July 14, 2011). Current Cross River Fiber LLC sought and obtained authority from the Board as Cross River Fiber, Inc., but subsequently was converted to a limited liability company. Cross River Fiber NJ LLC sought and obtained authority from the Board as Cross River Fiber, LLC, but subsequently changed its name to Cross River Fiber NJ LLC.

² See In the Matter of the Petition of BAI Communications US Holdings NJ LLC for Authority To Provide Competitive Local Exchange Telecommunications Services in the State of New Jersey, Docket No. TE21121250 (Order dated March 9, 2022).

³ See In The Matter of The Verified Petition of BAI Communications US Holdings NJ LLC for Approval Of a Restructuring and Internal Merger, Docket No. TM22060375 (Order dated August 17, 2022).

The Petitioners asserted that the Transaction satisfies the statutory criteria for changes of control pursuant to N.J.S.A. 48:2-51.1 and will serve the public interest. The Petitioners further affirmed that the Transaction will not affect the day-to-day management or operations of Licensees, and will not involve an assignment of operating authority, assets, or customers. In addition, the Petitioners stated that the Transaction will provide the Licensees with additional management expertise and financial resources that will enhance their ability to maintain and improve their networks and services and, in turn, enable them to better serve their customers and compete in the communications marketplace.

By letter dated August 22, 2022, the New Jersey Division of Rate Counsel (“Rate Counsel”) acknowledged New Jersey’s long-standing public policy to promote robust competition in the New Jersey telecommunications market, noting that the promotion of robust competition should yield positive benefits in the form of expanding consumer choice in access to safe and reliable, innovative high-quality telecommunications services, at competitive and reasonable rates. Rate Counsel acknowledged that the Petitioners’ filing asserts approval of the Transaction will ensure stronger competition in New Jersey’s telecommunications marketplace and that competition is in the public interest. Accordingly, Rate Counsel did not oppose Board approval, following a determination by the Board that the contemplated Transaction yields positive benefits to New Jersey customers and is in the public interest.

DISCUSSION AND FINDINGS

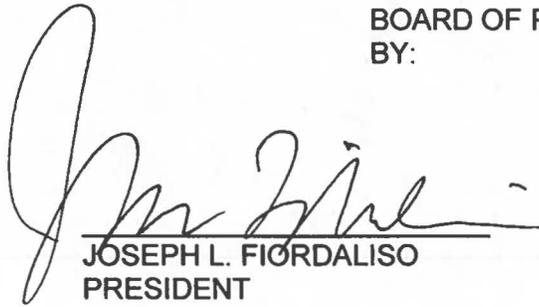
In considering a request for transfer of control, the Board shall evaluate the impact of the acquisition on competition, on the rates of ratepayers affected by the acquisition of control, on the employees of the affected public utility or utilities, and on the provision of safe and adequate utility service at just and reasonable rates. N.J.S.A. 48:2-51.1 and N.J.S.A. 48:3-10. 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).

After a careful review of this matter, the Board **FINDS** that the change in control under the proposed Transaction 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 proposed change of control under the Transaction 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** the Petitioners to complete the proposed Transaction as described in the Petition.

This Order shall be effective on October 19, 2022.

DATED: October 12, 2022

BOARD OF PUBLIC UTILITIES
BY:

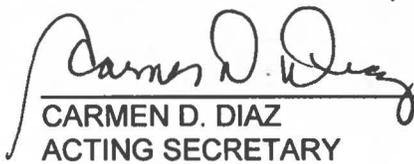

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PRESIDENT


MARY-ANNA HOLDEN
COMMISSIONER


DIANNE SOLOMON
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ROBERT M. GORDON
COMMISSIONER


DR. ZENON CHRISTODOLOU
COMMISSIONER

ATTEST: 
CARMEN D. DIAZ
ACTING 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 ZENFI NETWORKS, LLC, CROSS RIVER FIBER, LLC, CROSS RIVER FIBER NJ, LLC AND BAI COMMUNICATIONS US HOLDINGS II, LLC FOR APPROVAL OF A CHANGE OF CONTROL OF ZENFI NETWORKS, LLC, CROSS RIVER FIBER, LLC AND CROSS RIVER FIBER NJ, LLC.

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