



Agenda Date: 12/18/24  
Agenda Item: IVC

**STATE OF NEW JERSEY**  
**Board of Public Utilities**  
44 South Clinton Avenue, 1<sup>st</sup> Floor  
Post Office Box 350  
Trenton, New Jersey 08625-0350  
[www.nj.gov/bpu/](http://www.nj.gov/bpu/)

OFFICE OF CABLE TELEVISION  
AND TELECOMMUNICATIONS

IN THE MATTER OF THE VERIFIED JOINT PETITION ) ORDER  
OF ZAYO GROUP, LLC AND ZAYO NORTHEAST, LLC )  
FOR APPROVAL (1) OF A PRO FORMA ASSIGNMENT )  
OF CERTAIN ASSETS OF ZAYO GROUP, LLC AND (2) )  
FOR ZAYO NORTHEAST, LLC TO PARTICIPATE IN ) DOCKET NO. TF24060397  
CERTAIN FINANCING ARRANGEMENTS )

**Parties of Record:**

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

**BY THE BOARD:**

On June 5, 2024, Zayo Group, LLC ("Zayo Group") and its indirect subsidiary Zayo Northeast, LLC ("Zayo NE") (together, "Petitioners"), filed a petition with the New Jersey Board of Public Utilities ("Board") requesting approval, pursuant to N.J.S.A. 48:3-7 and N.J.S.A. 48:3-9, and the regulations of the Board, of a pro forma assignment of certain Zayo Group assets to Zayo NE ("Pro Forma Assignment"), including to the extent necessary a waiver of the Board's mass migration rules, N.J.A.C. 14:10-12.1 et seq., and for Zayo NE to participate in certain financing arrangements ("Financing Arrangements") ("Petition"). The Board considers the Petition herein.

**BACKGROUND**

Zayo Group and Zayo NE are each a Delaware limited liability company with a principal office located in Denver, Colorado. Zayo NE is a wholly owned subsidiary of Zayo Group. Zayo Group is a direct, wholly owned subsidiary of Zayo Group Holdings, Inc. (together with its subsidiaries including the Petitioners, "Company"), a Delaware corporation. The Company provides bandwidth infrastructure and interconnection services over regional and metropolitan fiber networks. Zayo Group's customers consist primarily of wireless service providers, national and regional communications service providers, media/Internet/content companies, governments, banks, and other bandwidth-intensive enterprises. Zayo Group is authorized to provide competitive local exchange, competitive access, and/or interexchange services in the District of Columbia and every U.S. state except Alaska. The primary telecommunications service offerings of Zayo Group include high-capacity bandwidth services such as private line, Ethernet, and wavelength services. In New Jersey, Zayo Group was authorized by the Board to provide local

exchange and interexchange telecommunications in Docket No. TE11020049.<sup>1</sup> Zayo NE was authorized by the Board to provide local exchange and interexchange telecommunications in Docket No. TE24050295.<sup>2</sup>

The Petitioners stated that the Pro Forma Assignment is part of Zayo Group's plan for an internal restructuring which will organize its network and operations in the Northeast and Mid-Atlantic regions being assigned. The plan also involves obtaining financing to support that network and operations and for other general corporate purposes. Zayo Group would continue to provide telecommunications services to other existing and new customers that are not a part of this internal restructuring plan. Zayo Group would implement this plan by assigning to Zayo NE certain assets in New Jersey, including communications optical fiber, certain customer contracts, rights in third party fibers, and associated telecommunications equipment used to provision services or facilities to the affected customers. The Petitioners stated that the affected customers receive enterprise services including high-capacity bandwidth services such as private line, Ethernet, wavelength services, and non-telecommunications services including, but not limited to, managed services, and broadband internet access services. The affected customers would be sent a notice of the Pro Forma Assignment at least thirty (30) days prior to the Pro Forma Assignment.

Petitioners stated that all of the customers assigned to Zayo NE will continue to receive service from Zayo NE under the same rates, terms and conditions of service as with Zayo Group. Any future changes in the rates, terms and conditions of service to the affected customers will be undertaken in the ordinary course of business pursuant to customer contracts and the applicable federal and state requirements. The Pro Forma Assignment would not disadvantage customers or cause confusion or disruption to customers since Zayo Group and Zayo NE will market and perform services under the "Zayo" brand and will operate through the same customer service, technical, operational, and managerial personnel.

Petitioners stated that all of Zayo Group's customers in New Jersey are commercial entities or carrier customers who receive service under individually negotiated contracts and therefore would not be considered mass market service customers. Petitioners asserted that the Board's mass migration rules were not intended to cover a change in the provider for such customers, especially under the circumstances presented (*i.e.*, where the change in provider will occur as part of an intracompany transaction pursuant to which ownership, control and management policies will remain the same). As such, to the extent required, Petitioners requested a waiver of the Board's mass migration rules pursuant to N.J.A.C. 14:10-12.1 et seq. Petitioners stated that it would be unduly burdensome, unnecessary, and potentially confusing to affected customers for Petitioners to comply with the Board's mass migration rules without modification or waiver because, from its customers' point of view, the transaction will simply result in a change in the legal name of the specific entity providing service within the same Zayo corporate family rather than a discontinuance or other change in their services.

The Petitioners also sought Board approval for Zayo NE to participate in Financing Agreements

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<sup>1</sup> In re the Petition for an Order Authorizing Zayo Group, LLC to Provide Local Exchange and Interexchange and Exchange Access Telecommunications Services throughout the State of New Jersey, BPU Docket No. TE11020049, Order dated May 6, 2011.

<sup>2</sup> In re the Petition for an Order Authorizing Zayo Northeast, LLC for Authorization to Provide Local Exchange and Interexchange and Exchange Access Telecommunications Services throughout the State of New Jersey, BPU Docket No. TE24050295, Order dated November 21, 2024.

up to an aggregate amount (as defined in the Petition)<sup>3</sup> and thereby to incur debt as a guarantor and to pledge its assets as security for financing arrangements in the aggregate amount. Some or all of the Financing Arrangements may involve secured debt, which may include a grant of a security interest in the assets of Zayo Issuer, LLC and its current and future subsidiaries, including Zayo NE. A portion of the Financing Arrangements may be unsecured debt. For the secured debt, the equity of Zayo Issuer, LLC and its current and future subsidiaries, including Zayo NE, may be pledged as additional security. Additionally, Zayo Issuer, LLC and its current and future subsidiaries, including Zayo NE, may provide a guaranty as security in support of the Financing Arrangements. The Financing Arrangements may be used to support acquisitions, refinancing then-existing debt, funding capital to support growth capital needs, including those of Zayo NE, and providing working capital to fund general corporate purposes.

The Petitioners stated that the Pro Forma Assignment is an integral part of the Financing Arrangements that will provide support for the operations and network serving the affected customers. The Pro Forma Assignment will result in the assignment of customers and assets between affiliated companies that will continue to provide telecommunications services to such assigned customers without interruption. Zayo NE will provide services at the same rates and on the same terms and conditions as provided by Zayo Group (subject to future changes in the ordinary course of business pursuant to applicable law and contract provisions). The Petitioners asserted that customers will continue to benefit from the same management team's knowledge and experience in the New Jersey market.

Zayo Group and its affiliates currently have approximately fifty (50) employees in New Jersey, but do not have a U.S. employee pension plan for its New Jersey employees. Employees' existing rights in any other retirement benefit plan will be retained following consummation of the Pro Forma Assignment and Financing Arrangements.

The Petitioners asserted that the proposed Pro Forma Assignment and the Financing Arrangements will serve the public interest. The Financing Arrangements are necessary and appropriate, are consistent with the performance by Zayo NE of its services to the public, will not impair its ability to perform such services, and will promote its corporate purposes. Further, Petitioners state that the Financing Arrangements will have no adverse impact on the customers of Zayo NE and will not disrupt service or cause customer confusion or inconvenience.

On September 13, 2024, the New Jersey Division of Rate Counsel ("Rate Counsel") submitted comments on the Petition. Rate Counsel stated that it does not object to Board approval of the Pro Forma Assignment of Zayo Group's assets, including a waiver of the mass migration rules, and Zayo NE's participation in the Financing Arrangements as described in the Petition. Accordingly, Rate Counsel did not oppose Board approval of the Petition.

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<sup>3</sup> The aggregate amount of the Financing Arrangements was claimed as confidential by the Petitioners. Consistent with the Board's rules governing claims of confidentiality, the aggregate amount is not identified here. See N.J.A.C. 14:1-12.1 to -12.18.

## **DISCUSSION AND FINDINGS**

Pursuant to N.J.S.A. 48:3-7, a utility shall not dispose of its property or consolidate its property with that of any other public utility without the approval of the Board. Where the disposition of all, or a substantial portion, of a utility's property is proposed, the Board shall not approve the proposed transaction if it appears that the public utility or a wholly owned subsidiary thereof may be unable to fulfill its pension obligations to its employees. N.J.S.A. 48:3-7.

After investigation, and having considered the record in this proceeding, the Board **FINDS** that the Pro Forma Assignment is consistent with applicable law and is not contrary to the public interest. The Board also **FINDS** that the Pro Forma Assignment will have no material adverse impact on the provision of safe, adequate and proper service at just and reasonable rates, and is likely to provide positive benefits to customers. The Board **FINDS** that the Pro Forma Assignment will have no material impact on Petitioners' employees, or their pensions.

The Board further **FINDS** that the Pro Forma Assignment will have no material adverse impact on competition or rates. Therefore, the Board **HEREBY AUTHORIZES** Petitioners to complete the Pro Forma Assignment.

With regard to Petitioners' request for a waiver of the Board's mass migration rules, the Board **HEREBY FINDS** that Petitioners have shown good cause in supporting a waiver pursuant to N.J.A.C. 14:10-12.2(d). The Board agrees in this instance, wherein the change in provider for customers is the result of an intra-company reorganization, and from the customers' point of view, will simply result in a change in the name of their provider, a waiver of the mass migration rules is supported. Further, customers will be provided advance notice of the transfer. For these reasons, Petitioners' request for a waiver of N.J.A.C. 14:10-12.1 et seq. is **HEREBY GRANTED**.


The Board further **FINDS** that Zayo NE's participation in Financing Arrangements satisfies the requirements of N.J.S.A. 48:3-9 and N.J.A.C. 14:1-5.9, is in accordance with the law, in the public interest, and will have no negative impact on the Company, rates, customers, or Petitioners' New Jersey employees. Therefore, after investigation and consideration of the record and information submitted in this proceeding, the Board **HEREBY AUTHORIZES** Zayo NE to participate in the Financing Arrangements and for Zayo NE to take those actions necessary to effectuate such Financing Arrangements.

Beginning January 15, 2025, and every six (6) months thereafter, Petitioner shall submit to the Board Secretary, and provide a copy to the Chief Economist, a letter report detailing each debt issuance, term loan, and use of revolving credit opened or concluded in the prior six (6) months, along with copies of executed indentures associated with the authorization contained in this Order. The reports shall include the name of the issuing entity, issue date, amount of debt issued, the term in years, final maturity date, coupon rate, price to public, underwriters discount, net proceeds after expenses, gross proceeds before expenses, breakdown of estimated issuance costs (including, but not limited to, information such as the underwriting fees, underwriting expenses, legal fees and expenses, recordation taxes and fees, etc.) and any other material provision with respect to the terms and conditions of the new issuance.

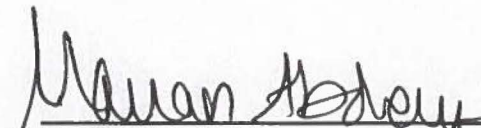
This Order shall be effective on December 26, 2024.

DATED: December 18, 2024

BOARD OF PUBLIC UTILITIES  
BY:

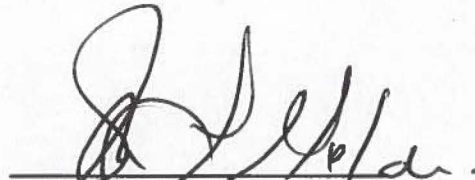
  
CHRISTINE GUHL-SADOVY  
PRESIDENT

  
DR. ZENON CHRISTODOULOU  
COMMISSIONER

  
MARIAN ABDU  
COMMISSIONER

  
MICHAEL BANGE  
COMMISSIONER

ATTEST:

  
SHERRILL L. GOLDEN  
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 JOINT PETITION OF ZAYO GROUP, LLC AND ZAYO  
NORTHEAST, LLC FOR APPROVAL (1) OF A PRO FORMA ASSIGNMENT OF CERTAIN  
ASSETS OF ZAYO GROUP, LLC AND (2) FOR ZAYO NORTHEAST TO PARTICIPATE IN  
CERTAIN FINANCING ARRANGEMENTS

DOCKET NO. TF24060397

SERVICE LIST

For Zayo Group:

Joshua M. Bobeck  
Morgan, Lewis & Bockius LLP  
1111 Pennsylvania Ave., N.W  
Washington, D.C.  
[joshua.bobeck@morganlewis.com](mailto:joshua.bobeck@morganlewis.com)

New Jersey Division of Rate Counsel  
140 East Front Street, 4<sup>th</sup> Floor  
Trenton, NJ 08625-0003

Brian O. Lipman, Esq., Director  
[blipman@rpa.nj.gov](mailto:blipman@rpa.nj.gov)

Emily Lam, Esq.,  
Assistant Deputy Rate Counsel  
[elam@rpa.nj.gov](mailto:elam@rpa.nj.gov)

Robert Glover Esq.,  
Assistant Deputy Rate Counsel  
[rglover@rpa.nj.gov](mailto:rglover@rpa.nj.gov)

Tara Dickerson  
[tara.dickerson@rpa.nj.gov](mailto:tara.dickerson@rpa.nj.gov)

Deputy Attorney General  
NJ Department of Law and Public Safety  
Richard J. Hughes Justice Complex  
Public Utilities Section  
25 Market Street, P.O. Box 112  
Trenton, NJ 08625

Pamela Owen, DAG, Assistant Section Chief  
[pamela.owen@law.njoag.gov](mailto:pamela.owen@law.njoag.gov)

Terel Klein, DAG  
[terel.klein@law.njoag.gov](mailto:terel.klein@law.njoag.gov)

Board of Public Utilities  
44 South Clinton Avenue, 1<sup>st</sup> Floor  
Post Office Box 350  
Trenton, NJ 08625-0350

Sherri L. Golden, Secretary  
[board.secretary@bpu.nj.gov](mailto:board.secretary@bpu.nj.gov)

Stacy Peterson, Deputy Executive Director  
[stacy.peterson@bpu.nj.gov](mailto:stacy.peterson@bpu.nj.gov)

Lawanda R. Gilbert, Director  
[lawanda.gilbert@bpu.nj.gov](mailto:lawanda.gilbert@bpu.nj.gov)

Malike Cummings  
[Malike.cummings@bpu.nj.gov](mailto:Malike.cummings@bpu.nj.gov)

Christine Lin  
[christine.lin@bpu.nj.gov](mailto:christine.lin@bpu.nj.gov)

Colin Emerle, Deputy General Counsel  
[colin.emerle@bpu.nj.gov](mailto:colin.emerle@bpu.nj.gov)

Elsbeth F. Hans, Deputy General Counsel  
[elsbeth.hans@bpu.nj.gov](mailto:elsbeth.hans@bpu.nj.gov)

Kit Burnette, Regulatory Officer  
[kit.burnette@bpu.nj.gov](mailto:kit.burnette@bpu.nj.gov)