



Agenda Date: 1/29/14
Agenda Item: IVC

STATE OF NEW JERSEY
Board of Public Utilities
44 South Clinton Avenue, 9th Floor
Post Office Box 350
Trenton, New Jersey 08625-0350
www.nj.gov/bpu/

TELECOMMUNICATIONS

IN THE MATTER OF THE VERIFIED PETITION OF)
BIRCH COMMUNICATIONS, INC. FOR APPROVAL TO)
UNDERTAKE FINANCING TRANSACTIONS)
)
) DOCKET NO. TF13121171

Parties of Record:

Stefanie A. Brand, Esq., Director, New Jersey Division of Rate Counsel
Angela F. Collins Esq., Cahill Gordon & Reindel LLP for the Petitioner

BY THE BOARD:

On December 13, 2013, Birch Communications Inc. (Petitioner) filed a Verified Petition seeking approval to increase the total amount of available senior credit facilities that was approved in the July Order Docket No. TF12050438. Specifically, Birch now seeks approval to bring its total senior credit facilities (if all options are exercised) to \$175 million. Documentation executed after issuance of the July Order allows Birch to obtain additional revolving credit and term loan facilities not previously contemplated. Birch states that all other conditions of the financing arrangements approved in the July Order remain the same.

The increased senior credit facilities will continue to be secured by a first priority lien on the stock and substantially all of the assets of Birch and Birch's directly and indirectly owned subsidiaries, as well as substantially all of the assets of Birch's parent. There are no intercompany transactions that accompany this transaction. Any accounting of the transaction will reflect the debt repayment and financing.

Birch stated that it intended to use a portion of the proceeds from the re-financing to pay-off its remaining Senior Subordinated Notes. The remaining proceeds were to be used by Birch for future planned acquisitions and other lawful corporate purposes

Birch and its subsidiaries are authorized to provide local exchange and interexchange telecommunications services to both business and residential customers in the District of Columbia and 49 states, with an application pending in Arizona. The Board granted Birch authorization to provide local exchange and interexchange services on July 1, 2009, in Docket No. TE09040307.

Petitioner states that approval of these financing transactions is in the public interest because the financing will allow Birch to strengthen its ability to compete in the New Jersey market by giving Birch access to greater financial resources at lower interest rates. Birch has no employees in New Jersey. Birch asserts that the proposed transaction will not result in any changes to Birch's rates or services in New Jersey.

The Division of Rate Counsel has reviewed this matter and by letter dated January 8, 2014, has no objection to Petitioner's requests under its Verified Petition.

After review, the Board **FINDS** that the proposed transaction is consistent with the applicable law and is not contrary to the public interest, and therefore **HEREBY AUTHORIZES** Petitioner to participate in the financing arrangements described herein.

This Order is issued subject to the following provisions:

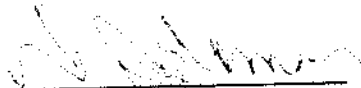
1. This Order shall not affect or in any way limit the exercise of the authority of the Board or the State of New Jersey in any future petition or in any proceeding regarding rates, costs of service, franchises, service, financing, accounting, capitalization, depreciation or any other matters affecting the Petitioner.
2. The Petitioner shall notify the Board, within five business days, of any material changes in the financing transaction documents and shall provide complete details of such transactions including any anticipated effects upon service in New Jersey.
3. The Petitioner shall notify the Board of any material default on the terms of the financing transaction documents within five business days of such occurrence.
4. 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 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.


6. The approval in this Order shall become null and void and of no effect with respect to any portion thereof which is not exercised by June 30, 2014.

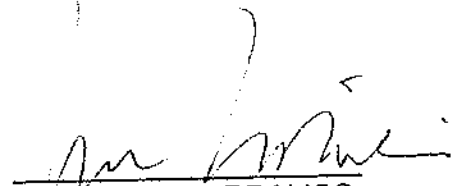
This Order shall be effective on February 7, 2014.


DATED: 1/30/14

BOARD OF PUBLIC UTILITIES
BY:


DIANNE SOLOMON
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 THE VERIFIED PETITION OF BIRCH COMMUNICATIONS, INC.
FOR APPROVAL TO UNDERTAKE FINANCING TRANSACTIONS

DOCKET NO. TF13121171

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