



Agenda Date: 7/29/16
Agenda Item: IVA

STATE OF NEW JERSEY
Board of Public Utilities
44 South Clinton Avenue, 3rd Floor, Suite 314
Post Office Box 350
Trenton, New Jersey 08625-0350
www.nj.gov/bpu/

TELECOMMUNICATIONS

IN THE MATTER OF THE VERIFIED PETITION OF) ORDER
NETWORK BILLING SYSTEMS, L.L.C. FOR)
APPROVAL TO PARTICIPATE IN ADDITIONAL)
FINANCING ARRANGEMENTS OF FUSION NBS)
ACQUISITION CORP.) DOCKET NO. TF16050442

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 May 20, 2016, Network Billing Systems, L.L.C. ("NBS" 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 participate in existing, new and amended financing arrangements in an aggregate amount of up to \$150 million (which amount includes the \$100 million previously authorized by the Board).

BACKGROUND

NBS is a New Jersey limited liability company with a principal office located at 155 Willowbrook Boulevard, Wayne, New Jersey 07470. NBS is a wholly owned subsidiary Fusion NBS Acquisition Corp. ("FNAC"), a Delaware corporation. FNAC is a direct wholly owned subsidiary of Fusion Telecommunications International, Inc. ("Fusion" and together with each of its subsidiaries, the "Company"), a publicly-held Delaware corporation (NASDAQ: FSNN) with principal offices located at 420 Lexington Avenue, Suite 1718, New York, New York 10170. The Company provides digital voice and data communications services to businesses primarily in the United States and also digital voice services to carriers worldwide. Its business service offerings include Hosted Voice over Internet Protocol ("VoIP") and Session Initiated Protocol ("SIP") Trunking, and other enhanced communications services and features.

In New Jersey, NBS is authorized to provide local exchange and interexchange telecommunications services. See I/M/O the Petition of Network Billing Systems, L.L.C. for Approval to Provide Local Exchange and Interexchange Telecommunications Services Throughout the State of New Jersey, Docket No. TE08070466, Order dated September 15,

2008. NBS is also authorized by the FCC to provide domestic and international telecommunications services. Additional information concerning NBS's legal, technical, managerial and financial qualifications has been submitted to the Board with various prior submissions with respect to NBS's certification and prior transactions¹ and is therefore a matter of public record. Petitioner requested that the Board take official notice of these descriptions of NBS's qualifications and requested that they be incorporated by reference. In support of its financial qualifications, NBS provided as Exhibit A to the Petition, the Company's consolidated financial statements (excluding the notes) from Fusion's most recent SEC Form 10-Q.

DISCUSSION

Consistent with the Board's Order issued in Docket No. TF15101145, NBS has provided a guaranty and related pledge of assets as security for: (1) notes in the aggregate amount of approximately \$34 million; (2) a term loan in the aggregate principal amount of \$25 million, and (3) revolving loans in a committed aggregate amount of \$15 million of which \$15 million has been drawn.² By its Petition, NBS seeks to expand the authority granted in Docket No. TF15101145 to authorize NBS to participate in existing, new and amended financing arrangements up to an aggregate amount of \$150 million (the "Financing Arrangements").

In order to maintain flexibility to respond to market conditions and requirements, NBS requests approval to participate as a borrower or guarantor and by providing a pledge of its assets as security for financing arrangements that are consistent with the parameters outlined in its Petition. Specifically, NBS seeks Board approval to incur debt and pledge its assets as security for, up to an aggregate amount of up to \$150 million (which includes the \$100 million previously authorized by the Board). Petitioner expects that any long-term indebtedness incurred as part of the Financing Arrangements will mature up to ten years after issuance, depending on the type of debt instrument.³ Interest rate(s) will be set according to market conditions at issuance and will be fixed or floating, or a combination thereof, with floating rates consisting of a base rate plus an agreed upon margin. Some or all of the Financing Arrangements may be secured with

¹ See I/M/O Verified Petition of Network Billing Systems, LLC for Approval to Participate in Additional Financing Arrangements of Fusion NBS Acquisition Corp., Docket No. TF15101145, Order dated November 16, 2015; I/M/O Verified Petition of Network Billing Systems, LLC for Approval to Participate in Additional Financing Arrangements of Fusion NBS Acquisition Corp., Docket No. TF14111285, Order dated December 17, 2014; I/M/O Verified Joint Petition of Network Billing Systems, LLC and Cypress Communications Operating Company, LLC for Approval for the Assignment of Certain Retail Telecommunications Services and Customers of Cypress Communications Operating Company, LLC to Network Billing Systems LLC, Docket No. TM14060541, Order dated July 23, 2014; I/M/O Verified Petition of Network Billing Systems, LLC for Approval to Participate in Financing Arrangements of Fusion NBS Acquisition Corp., Docket No. TF14010102, Order dated March 19, 2014; I/M/O Verified Joint Petition of Fusion Telecommunications International, Inc., NBS Acquisition Corp., and Network Billing Systems, LLC for Approval (1) for the Transfer of Control of Network Billing Systems, LLC and (2) for Network Billing Systems, LLC to Participate in New Financing Arrangements of Fusion Telecommunications International, Inc., Docket No. TM12060511, Order dated July 18, 2012; I/M/O the Petition of Network Billing Systems, L.L.C. for Approval to Provide Local Exchange and Interexchange Telecommunications Services Throughout the State of New Jersey, Docket No. TE08070466, Order dated September 15, 2008.

² The agreements related to the financing arrangements amended on December 8, 2015, are available at <http://ir.fusionconnect.com/all-sec-filings/content/0001354488-15-005526/0001354488-15-005526.pdf>.

³ The existing notes currently mature on October 31, 2022; the revolving loans currently mature on August 28, 2019; and borrowing under the term loan facility will mature on August 28, 2020. To the extent the maturity dates are amended in the future, the maturity date will be no later than 10 years from the date of the amendment.

security interests in some or all of the assets of the Company, including NBS. Further, Fusion and its current and future subsidiaries, including NBS, may provide a guaranty as security for all or part of the Financing Arrangements to the extent such entity is not a borrower. The Financing Arrangements may be used for acquisitions, working capital requirements, and other types of general corporate purposes.

In its Petition, the Petitioner emphasized that approval of the Financing Arrangements serve the public interest. Petitioner stated that the Financing Arrangements will provide the Company with access to the financial resources necessary to complete potential acquisitions and other capital improvements. Petitioner asserts that the Financing Arrangements are necessary and appropriate, are consistent with the performance by NBS of its services to the public, do not impair NBS's ability to perform such services, and promote the corporate purposes of the Company. Petitioner also states that it does not expect the Financing Arrangements to result in a change to its existing management or employees in New Jersey. Petitioner asserts that it does not offer an employee pension plan, but that Petitioner's employees do have other retirement benefits that they will retain upon completion of the Financing Arrangements.

The Division of Rate Counsel has reviewed this matter and, by letter dated June 22, 2016, stated that it does not object to approval of the Petition.

FINDINGS AND CONCLUSIONS

After careful review of this matter, the Board **FINDS** that the proposed transaction will not have a negative impact on competition, the rates of current customers, or New Jersey employees. Therefore, after investigation and consideration of the record and information submitted in this proceeding, the Board **FINDS** that the expanded financing arrangements are in accordance with the law and in the public interest, and **HEREBY AUTHORIZES** Petitioner to participate in financing arrangements up to an aggregate amount of \$150 million, 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 on August 8, 2016.


DATED: 7/29/16

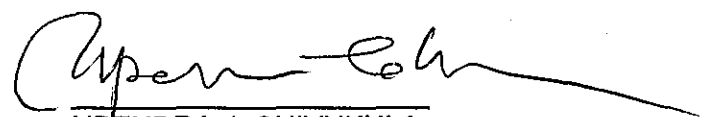
BOARD OF PUBLIC UTILITIES
BY:

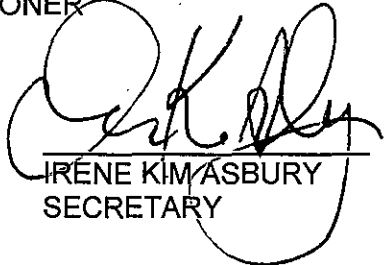

RICHARD S. MROZ
PRESIDENT


JOSEPH L. FIORDALISO
COMMISSIONER

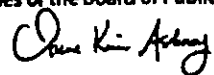

MARY-ANNA HOLDEN
COMMISSIONER


DIANNE SOLOMON
COMMISSIONER


UPENDRA J. CHIVUKULA
COMMISSIONER

ATTEST: 
IRENE KIM ASBURY
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 NETWORK BILLING SYSTEMS, L.L.C.
FOR APPROVAL TO PARTICIPATE IN ADDITIONAL FINANCING ARRANGEMENTS OF
FUSION NBS ACQUISITION CORP.
DOCKET NO. TF16050442**

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