



Agenda Date: 08/19/15  
Agenda Item: IVB

**STATE OF NEW JERSEY**  
**Board of Public Utilities**  
44 South Clinton Avenue, 9<sup>th</sup> Floor  
Post Office Box 350  
Trenton, New Jersey 08625-0350  
[www.nj.gov/bpu/](http://www.nj.gov/bpu/)

TELECOMMUNICATIONS

IN THE MATTER OF THE VERIFIED JOINT PETITION )  
OF ONVOY, LLC, THE BROADVOX HOLDING )  
COMPANY, LLC AND BROADVOX-CLEC, LLC FOR )  
APPROVAL OF: (1) THE TRANSFER OF CONTROL )  
OF BROADVOX-CLEC, LLC TO ONVOY, LLC; (2) )  
ONVOY, LLC TO EXPAND ITS FINANCING )  
ARRANGEMENTS; AND (3) BROADVOX-CLEC, LLC )  
TO PARTICIPATE IN THE EXISTING AND FUTURE )  
FINANCING ARRANGEMENTS OF ONVOY, LLC )

ORDER

DOCKET NO. TF15060723

**Parties of Record:**

**Stefanie A. Brand, Esq., Director, New Jersey Division of Rate Counsel**  
**Dennis C. Linken, Esq., Scarinci & Hollenbeck, LLC, on behalf of Petitioners**

**BY THE BOARD:**

On June 12, 2015, Onvoy, LLC (“Onvoy”), The Broadvox Holding Company, LLC (“BV-Holding”), and Broadvox-CLEC, LLC (“BV-CLEC”) (collectively, the “Petitioners”) submitted a Verified Petition (“Petition”) to the New Jersey Board of Public Utilities (“Board”) pursuant to N.J.S.A. 48:2-51.1, N.J.S.A. 48:3-7, N.J.S.A. 48:3-9 and N.J.S.A 48:3-10 requesting Board authorization: 1) to complete the transfer of control of BV-CLEC from BV-Holdings to Onvoy (“Transaction” or “Broadvox Transaction”); (2) for Onvoy to expand its financing arrangements up to an aggregate amount of \$75 million; and (3) for BV-CLEC, following completion of the Broadvox Transaction, to participate in those financing arrangements. Following the proposed Transaction, BV-CLEC will continue to offer the same services in New Jersey at the same rates, terms, and conditions.

**BACKGROUND**

Onvoy is a corporation organized under the laws of the State of Minnesota whose principal address is 10300 6th Avenue North, Plymouth, Minnesota 55441. Onvoy is a wholly-owned subsidiary of Communications Infrastructure Investments, LLC (“CII”), a Delaware limited liability company. CII has no majority owner. According to the Petition, Onvoy provides wholesale local

exchange and long distance services, switched access, transit and other services to other carriers. In New Jersey, Onvoy is authorized to provide resold and facilities-based local exchange, interexchange, exchange access and private line telecommunications services. See, I/M/O Onvoy, Inc. Petition for Authority to Provide Local Exchange, Exchange Access, Interexchange and Private Line Telecommunications Services Throughout the State of New Jersey, Docket No. TE13100935, Order dated December 18, 2013. Onvoy is also authorized by the FCC to provide domestic and international telecommunications services.

BV-CLEC is a Delaware limited liability company and currently a direct subsidiary of BV-Holding, a Delaware limited liability company. BV-CLEC and BV-Holding have a principal place of business at 75 Erievue Plaza, Suite 400, Cleveland, Ohio 44114.

BV-CLEC provides access to the public switched telephone network, telephone numbers and other functionalities to its VoIP-provider affiliate, Broadvox, LLC ("BV-LLC"). In New Jersey, BV-CLEC is authorized to provide: (1) local exchange telecommunications services, See, I/M/O Broadvox-CLEC, LLC Petition for Approval to Provide Local Exchange Telecommunications Services Throughout the State of New Jersey, Docket No. TE09020172, Order dated April 27, 2009; and (2) resold interexchange and local exchange services pursuant to its Resale Carrier Letter of Acknowledgement dated February 25, 2009. Currently, BV-CLEC has no employees in New Jersey.

## **DISCUSSION**

The Petition states that on June 10, 2015, BV-Holding and Onvoy entered into a Membership Interest Purchase Agreement (the "Agreement") whereby Onvoy will acquire all of the issued and outstanding membership interests in BV-CLEC. As a result, direct ownership and control of BV-CLEC will be transferred from BV-Holding to Onvoy. Petitioners state that the Broadvox Transaction will be conducted in a manner that will be transparent to BV-CLEC customers and will not result in any immediate change of carrier for customers or any assignment of authorizations, and in no event will it result in the discontinuance, reduction, loss, or impairment of service to customers.

Onvoy also requests Board approval to expand its existing authority for financing arrangements<sup>1</sup> by an additional \$35 million to an aggregate amount of \$75 million. In order to maintain adequate flexibility to respond to market conditions and requirements, to fund some or all of the purchase price for the Broadvox Transaction, and to respond to future acquisition and other business opportunities, Onvoy seeks authority for financing arrangements that are consistent with the parameters outlined below, which approval would permit Onvoy, to the extent market conditions may warrant, to modify the specific structure of the current financing in a manner most favorable to Onvoy.

Onvoy is currently the sole borrower under its existing financing arrangements. In order to maintain flexibility, Petitioners also request Board authorization for BV-CLEC, following completion of the Broadvox Transaction, to participate in those financing arrangements.

---

<sup>1</sup> On March 19, 2014, the Board authorized Onvoy to enter into financing arrangements in an aggregate amount of \$40 million with flexibility within that aggregate amount to negotiate particular market-based terms within the range described in its petition. See, I/M/O the Verified Petition of Onvoy, Inc. for Approval to Expand Its Financing Arrangements, Docket No. TF14020155, Order dated March 19, 2014 ("March 19, 2014 Order").

The financing arrangements may include one or more of the following debt instruments: notes or debentures (including notes convertible into equity and private notes that may be exchanged for public notes); conventional credit facilities, such as revolving credit facilities and term loans; letters of credit; and bridge loans; or a combination thereof. Onvoy expects that any long-term indebtedness incurred as part of the financing will mature up to ten years after issuance, depending on the type of debt instrument. Interest rate(s) will be set according to market conditions at issuance and will be fixed or floating, or a combination thereof, depending on the type of debt. To maintain flexibility, authorization is sought for financing arrangements at an interest rate(s) at the then current market conditions.

Some or all of the financing arrangements will be secured facilities, which will include a grant of a security interest in the assets of Onvoy and its current and future subsidiaries. A portion of the financing arrangements may be unsecured facilities. For the secured facilities, the equity of Onvoy and its current and future subsidiaries may be pledged as additional security. Additionally, Onvoy's current and future subsidiaries may provide a guaranty as security for the full \$75 million in financing arrangements. To the extent Onvoy is not the sole borrower for amended future financing arrangements, Onvoy may provide a guaranty for such financing arrangements. The financing arrangements may be used for acquisitions, including the Broadvox Transaction, refinancing of current balance, working capital requirements and other general corporate purposes of the company.

Onvoy requests Board authorization to increase its financing arrangements up to an aggregate amount of \$75 million and thereby to incur debt as a borrower, co-borrower or guarantor, and pledge its assets as security for financing arrangements in an aggregate amount of \$75 million materially consistent with the parameters outlined above, which increased amount includes the \$40 million previously authorized by the Board. March 19, 2014 Order. In addition, authorization is sought for BV-CLEC, following completion of the Broadvox Transaction, to participate in those financing arrangements and thereby to incur debt, as a guarantor, borrower, or co-borrower, and pledge its assets as security for financing arrangements in an aggregate amount of \$75 million.

Pursuant to N.J.S.A. 48:2-51.1(a), "the [B]oard shall evaluate the impact of [an] acquisition [of control of a public utility] on competition, the rates of ratepayers affected by the acquisition of control, the employees of the affected public utility or utilities, and the provision of safe and adequate utility service at just and reasonable rates." In evaluating this Petition, 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" as set forth above. 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.

Petitioners assert that approval of the proposed transactions will serve the public interest. The proposed transactions will be transparent to customers of Onvoy and BV-CLEC. The transactions will not result in a change of carriers for customers or any assignment of authorizations. Following the consummation of the transactions, Onvoy and BV-CLEC will continue to provide services consistent with the quality of services currently provided to their customers at the same rates and terms and conditions.

The New Jersey Division of Rate Counsel ("Rate Counsel") has reviewed this matter and, by letter dated July 31, 2015, states that it "has no objection to the Board's grant of Petitioners' requests under the Verified Joint Petition." Letter from Rate Counsel to the Board dated July 31, 2015, page 3.

### **FINDINGS AND CONCLUSIONS**

After a thorough review of the Petition and all related documents, the Board concludes that there will be no negative impact on rates or service quality since Petitioners' New Jersey customers will continue to receive the same services at the same rates and under the same terms and conditions. Also, the Board is satisfied that positive benefits will flow to customers based upon the record, and that the Transaction will strengthen Petitioners' competitive posture in the telecommunications market due to their access to additional resources. In addition, the Board is persuaded that Petitioners will make every effort to minimize any potential adverse impact to employees in New Jersey.

Accordingly, the Board **FINDS** that the proposed transfer of control and financing arrangements are consistent with the applicable law and are not contrary to the public interest, and **HEREBY AUTHORIZES** Petitioners to participate in the Transaction and financing arrangements described herein.

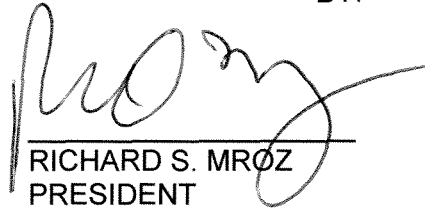
This Order is subject to the following provisions:

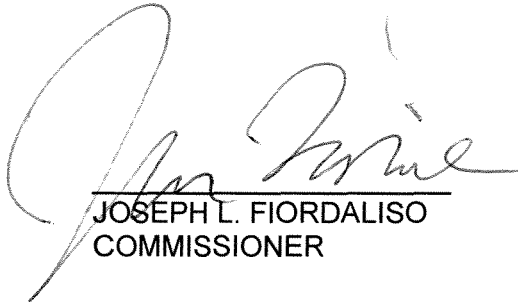
1. This Order shall not affect or in any way limit the exercise of the authority of the Board or the State of New Jersey in any future petition or in any proceeding with respect to rates, franchises, services, financing, accounting, capitalization, depreciation, or any other matters affecting the Petitioners.
2. 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 Petitioners' assets. Board approval must be sought pursuant to N.J.S.A. 48:1-1 et seq. where applicable.
3. 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 Petitioners.
4. Petitioners 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.
5. Petitioners shall notify the Board of any material default on the terms of the notes within five business days of such occurrence.

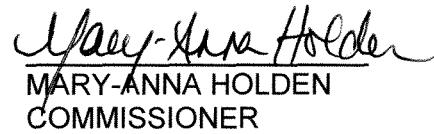
This Order shall be effective August 29, 2015.

DATED: 8/19/15

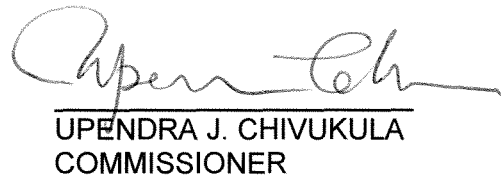
BOARD OF PUBLIC UTILITIES  
BY:

  
RICHARD S. MROZ  
PRESIDENT

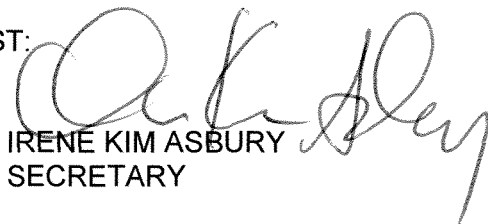
  
JOSEPH L. FIORDALISO  
COMMISSIONER

  
MARY-ANNA HOLDEN  
COMMISSIONER

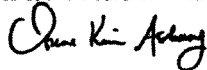
  
DIANNE SOLOMON  
COMMISSIONER

  
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 JOINT PETITION OF ONVOY, LLC, THE BROADVOX HOLDING COMPANY, LLC AND BROADVOX-CLEC, LLC FOR APPROVAL OF: (1) THE TRANSFER OF CONTROL OF BROADVOX-CLEC, LLC TO ONVOY, LLC; (2) ONVOY, LLC TO EXPAND ITS FINANCING ARRANGEMENTS; AND (3) BROADVOX-CLEC, LLC TO PARTICIPATE IN THE EXISTING AND FUTURE FINANCING ARRANGEMENTS OF ONVOY, LLC - DOCKET NO. TF15060723

SERVICE LIST

Dennis C. Linken, Esq.  
Scarinci & Hollenbeck, LLC  
1100 Valley Brook Ave.  
Post Office Box 790  
Lyndhurst, NJ 07101-0790  
[dlinken@scarincihollenbeck.com](mailto:dlinken@scarincihollenbeck.com)

Irene Kim Asbury, Board Secretary  
Board of Public Utilities  
44 South Clinton Avenue, 9th Floor  
Post Office Box 350  
Trenton, NJ 08625-0350  
[Irene.Asbury@bpu.state.nj.us](mailto:Irene.Asbury@bpu.state.nj.us)

Russell, M. Blau, Esq.  
Brett P. Ferenchak, Esq.  
Morgan, Lewis & Bockius LLP  
2020 K Street, N.W., Suite 1100  
Washington, DC 20006-1806  
[russell.blau@morganlewis.com](mailto:russell.blau@morganlewis.com)  
[brett.ferenchak@morganlewis.com](mailto:brett.ferenchak@morganlewis.com)

Patricia A. Krogman, Esq.  
Deputy Attorney General  
Department of Law & Public Safety  
Division of Law  
124 Halsey Street  
Post Office Box 45029  
Newark, NJ 07101  
[Patricia.Krogman@dol.lps.state.nj.us](mailto:Patricia.Krogman@dol.lps.state.nj.us)

Scott Sawyer, General Counsel  
Onvoy, LLC  
10300 6<sup>th</sup> Avenue North  
Plymouth, MN 554441  
[scott.sawyer@onvoy.com](mailto:scott.sawyer@onvoy.com)

Stefanie A. Brand, Esq., Director  
Division of Rate Counsel  
140 East Front Street, 4<sup>th</sup> Floor  
Post Office Box 003  
Trenton, NJ 08625-0003  
[sbrand@rpa.state.nj.us](mailto:sbrand@rpa.state.nj.us)

James C. Falvey  
Eckert Seamans Cherin & Mellott, LLC  
1717 Pennsylvania Avenue, N.W.  
12<sup>th</sup> Floor  
Washington, DC 20006  
[jfalvey@eckertseamans.com](mailto:jfalvey@eckertseamans.com)

Rocco Della Serra  
Division of Telecommunications  
Board of Public Utilities  
44 South Clinton Avenue, 9th Floor  
Post Office Box 350  
Trenton, NJ 08625-0350  
[rocco.della-serra@bpu.state.nj.us](mailto:rocco.della-serra@bpu.state.nj.us)

Alex Gertsberg, Esq.  
EVP – General Counsel  
Broadvox, Inc.  
75 Erieview Plaza, Suite 400  
Cleveland, Ohio 44114  
[agertsburg@broadvox.com](mailto:agertsburg@broadvox.com)