



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 JOINT PETITION) ORDER
OF BUSINESS TELECOM, INC., CONVERSENT)
COMMUNICATIONS OF NEW JERSEY, LLC, CTC)
COMMUNICATIONS CORP., DELTACOM LLC,)
EARTHLINK BUSINESS, LLC, AND LIGHTSHIP)
TELECOM, LLC, FOR APPROVAL OF CERTAIN *PRO*)
FORMA INTRA-COMPANY CHANGES) DOCKET NO. TM13090878

Parties of Record:

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

BY THE BOARD:

On September 27, 2013, Business Telecom, Inc. d/b/a EarthLink Business ("BTI"), Conversent Communications of New Jersey, LLC d/b/a EarthLink Business ("Conversent"), CTC Communications Corp. d/b/a EarthLink Business ("CTC"), DeltaCom, LLC d/b/a EarthLink Business ("DeltaCom"), EarthLink Business, LLC ("EarthLink Business"), and Lightship Telecom, LLC d/b/a EarthLink Business ("Lightship") (collectively, the "Petitioners"), by their counsel and pursuant to N.J.S.A. 48:2-51.1, filed a verified Petition with the New Jersey Board of Public Utilities ("Board") requesting Board approval for certain *pro forma* intra-company changes. Petitioners are all indirect subsidiaries of EarthLink, Inc. ("EarthLink" and together with its subsidiaries, the "Company"). The *pro forma* intra-company changes are being done to eliminate unnecessary intermediate companies in, and realign entities within, the EarthLink corporate structure and to establish a new publicly traded holding company as the ultimate parent in the ownership chain. Following the reorganization, Petitioners will continue to provide service to all of their customers at the same terms, rates and conditions on which they currently offer such services to customers in the state.

BACKGROUND

EarthLink is a publicly traded Delaware corporation with principal offices located in Atlanta, Georgia. EarthLink is a provider of Internet Protocol (IP) and telecommunications infrastructure and services to other telecommunications carriers, businesses, enterprise organizations and individual customers across the United States. In New Jersey, EarthLink has six subsidiaries ("NJ Certificated Entities") that are authorized to provide telecommunications services: Business Telecom, Inc. d/b/a EarthLink Business ("BTI"), Conversent, CTC, Lightship and EarthLink Business (collectively, the "NJ Certificated Entities"). BTI is authorized to provide facilities-based local exchange and interexchange telecommunications services. See Order, I/M/O the Petition for an Order Authorizing Business Telecom, Inc. d/b/a BTI to Provide Local Exchange and Interexchange Telecommunications Services Throughout New Jersey, Docket No. TE01070416, dated February 6, 2002. Conversent is authorized to provide facilities-based local and interexchange telecommunications service. See Order, I/M/O the Petition for an Order Authorizing Conversent Communications of New Jersey, LLC to Provide Facilities-Based Local Exchange and Interexchange Telecommunications Throughout New Jersey, Docket No. TE00020073, dated September 12, 2000. CTC Communications is authorized to provide facilities based intrastate telecommunications service. See Order, I/M/O the Petition for Order Authorizing CTC Communications Corp. D/B/A CT Communications Corp. to Provide Local Exchange and Interexchange Telecommunication Services Throughout New Jersey, Docket No. TE99100808, dated September 22, 2000. Lightship is authorized to provide facilities based local and interexchange telecommunications service. See, I/M/O the Petition for an Order Authorizing Lightship Telecom, LLC to Provide Local Exchange and Interexchange Telecommunications Throughout New Jersey, Docket No. TE00010014, Order dated August 17, 2000. EarthLink Business (formerly known as New Edge Network, Inc.) obtained is authorization to provide facilities based, local exchange and interexchange telecommunications services when it assumed the operating authority of New Edge Network, Inc. See Order, In the Matter of the Verified Joint Petition of CTC Communications Corp., Conversent Communications of New Jersey, LLC, Lightship Telecom, LLC, DeltaCom LLC f/k/a DeltaCom, Inc., and EarthLink Business, LLC f/k/a New Edge Network, Inc., for Approval of Certain Pro Forma Intra-Company Changes, Docket No. TM12090831, dated December 19, 2012. DeltaCom operates solely as a reseller in New Jersey and does not have facilities-based authority.

DISCUSSION

According to the petition, EarthLink has determined that its business would be more efficient from a management, operations, regulatory, accounting, financial and customer perspective by realigning and reducing some of its subsidiaries and establishing a holding company with no operations as the publicly traded parent company for the Company. Accordingly, Petitioners seek approval of various intra-company changes that will result in (1) BTI and DeltaCom becoming direct subsidiaries of EarthLink Business¹ and (2) establishing EarthLink Holdings, Inc. ("EarthLink Holdings") as the new publicly traded holding company between EarthLink and

¹ These intra-company changes will result from (1) BTI Telecom Corporation merging with and into EarthLink Business, whereupon EarthLink Business will be the surviving entity and direct parent company of BTI and (2) ITC^DeltaCom, Inc. merging with and into EarthLink Business whereupon EarthLink Business will be the surviving entity and the direct parent of DeltaCom.

its current shareholders and converting EarthLink to a Delaware limited liability company;² and (3) subsequent to completing steps (1) and (2), EarthLink possibly contributing its membership interests in EarthLink Business Holdings, LLC to EarthLink Holdings, which would remove the EarthLink entity as an intermediate holding company in the chain of ownership between the NJ Certificated Entities and their ultimate parent EarthLink Holdings. Petitioners note that this *pro forma* intermediate holding company change may occur in 2014 following completion of certain corporate documentation and other prerequisites.

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; N.J.A.C. 14:1-5.14(c). Also, under N.J.S.A. 48:3-7 and N.J.S.A. 48:3-10, the Board is required to 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 have indicated that employees in New Jersey will not be affected by this intra-company reorganization.

The Petitioners assert that the transactions described herein will serve the public interest by enabling Petitioners to simplify and realign EarthLink's existing corporate structure thereby reducing its reporting and accounting burdens and providing other efficiencies, enabling EarthLink and its subsidiaries to become stronger competitors to the ultimate benefit of consumers. Moreover, Petitioners assert that the intra-company reorganization will not result in any change in the NJ Certificated Entities' management or day-to-day operations or adversely affect the NJ Certificated Entities' current or proposed operations. Moreover, the *pro forma* changes will not result in any changes in rates, terms or conditions so therefore will be transparent to customers.

The Division of Rate Counsel has reviewed this matter and, by letter dated October 23, 2013, states that it recommends approval of the Petition.

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 on the record presented by Petitioners as the transaction will strengthen Petitioners' competitive posture in the telecommunications market as the reorganization will result in a more streamlined corporate structure that will enable Petitioners to more efficiently achieve potential operational, administrative and strategic objectives. In addition, the Board is persuaded that Petitioners will make every effort to minimize any potential adverse impact to employees in New Jersey.

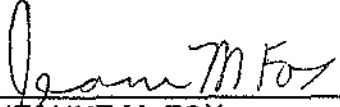
² This intra-company change will occur in three steps: (1) EarthLink will form a wholly owned subsidiary, EarthLink Holdings, which will be a Delaware corporation; (2) EarthLink Holdings will form a wholly owned subsidiary, "MergerCo," which will be a Delaware limited liability; and (3) MergerCo will merge with and into EarthLink, with EarthLink as the surviving corporation and a wholly owned subsidiary of EarthLink Holdings. EarthLink will convert from a Delaware corporation to a Delaware limited liability corporation. At the time of the *pro forma* transaction, the existing publicly traded shares of EarthLink will be converted into shares of EarthLink Holdings stock on a one-for-one basis.

Accordingly, the Board **FINDS** that the proposed reorganization will have no material impact on the rates of current customers, or on employees. The Board also **FINDS** that the reorganization will have no negative 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 **FINDS** that the proposed reorganization is in accordance with the law and in the public interest. The Board **HEREBY APPROVES** the request by Petitioners for the reorganization and **HEREBY ORDERS** that Petitioners shall notify the Board of the closing of the proposed transaction within seven (7) days of consummation. This Order shall become effective upon service in accordance with N.J.S.A. 48:2-40.

DATED: 11/22/13

BOARD OF PUBLIC UTILITIES
BY:


ROBERT M. HANNA
PRESIDENT


JEANNE M. FOX
COMMISSIONER

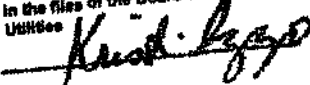

JOSEPH L. FIORDALISO
COMMISSIONER


MARY-ANNA HOLDEN
COMMISSIONER


DIANNE SOLOMON
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



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CONVERSENT COMMUNICATIONS OF NEW JERSEY, LLC, CTC COMMUNICATIONS
CORP., DELTACOM LLC, EARTHLINK BUSINESS, LLC AND LIGHTSHIP TELECOM, LLC.,
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