



Agenda Date: 3/19/14
Agenda Item: IVB

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)
NETWORK BILLING SYSTEMS, LLC FOR APPROVAL) ORDER
TO PARTICIPATE IN FINANCING ARRANGEMENTS)
OF FUSION NBS ACQUISITION CORP.) DOCKET NO. TF14010102

Parties of Record:

Stefanie A. Brand, Esq., Director, New Jersey Division of Rate Counsel
James Laskey, Esq., Norris, McLaughlin & Marcus, P.A., on behalf of Petitioner

BY THE BOARD:

On January 29, 2014, Network Billing Systems, LLC ("NBS" or "Petitioner") submitted a Verified Petition ("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 additional financing arrangements of its parent company, Fusion NBS Acquisition Corp. ("FNAC").

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 of FNAC, a Delaware corporation. FNAC is a direct wholly owned subsidiary of Fusion Telecommunications International, Inc. ("Fusion" and together with its subsidiaries, the "Company"), a publicly-held Delaware corporation (OTCQB: 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 and carriers worldwide. Its services include international voice services for carriers and a variety of voice and data services for businesses, including Hosted Voice over Internet Protocol and Session Initiated Protocol Trunking services, 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, LLC 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 Federal Communications Commission 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 requests that the Board take official notice of these descriptions of NBS's qualifications and deem them incorporated in the Petition 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.

Consistent with the Board's Order issued in Docket No. TM12060511, FNAC issued notes in the amount of \$16.5 million (the "Existing Notes") in order to fund its acquisition of NBS. Upon closing of that transaction, NBS provided a guaranty and related pledge of assets as security for the Existing Notes. By this Petition, NBS seeks authority to provide a guaranty for and related pledge of assets in support of additional financing arrangements undertaken by FNAC in connection with the acquisition by Fusion BVX LLC, a subsidiary of FNAC, of certain unregulated assets of BroadvoxGo!, LLC and Cypress Communications, LLC (the "Broadvox Acquisition"). Specifically, Petitioner states that on December 31, 2013, FNAC (a) amended the Existing Notes,² (b) amended additional notes in the amount of \$0.5 Million issued on December 16, 2013 (the "Series C Notes"),³ and (c) issued new notes in the aggregate amount of \$25 million (the "Series D Notes" and together with the Series C Notes, the "New Notes") (the New Notes together with the Existing Notes, the "Notes") in order to fund the Broadvox Acquisition and for working capital and other general corporate purposes. Petitioner states that the Notes will mature on December 31, 2018 and have an interest rate of 11.15%. Petitioner also states that the Notes are secured with a first lien on substantially all of the assets of FNAC and its subsidiaries and a second lien on substantially all of the assets of Fusion; however, the lien on the New Jersey assets of NBS for the New Notes will not be effective until receipt of approval from this Board. Additionally, Petitioner explains that Fusion and the subsidiaries of FNAC also provided a guaranty as security for the Notes; however, the guaranty by NBS for the New Notes will not be effective until receipt of necessary regulatory approvals.

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 the Petition. Specifically, NBS seeks Board approval to incur debt and pledge its assets as security for an aggregate amount of up to \$42 Million (which includes the \$16.5 Million previously authorized by the Board). Petitioner expects that any long-term indebtedness incurred as part of the financing arrangements will mature between five and eight 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, with floating rates consisting of a base rate plus an agreed-upon margin. Some or all of the expanded financing arrangements will be secured with 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 full amount in financing

¹ See Docket Nos. TM12060511 (acquisition of NBS and financing) and TE08070466 (NBS certification).

² While the interest rates for the Existing Notes were adjusted to 11.15%, such interest rates remained within the interest rate range (10% to 11.5%) considered by the Board in Docket No. TM12060511. In addition, the maturity date of the Existing Notes was adjusted to five years from the date the Existing Notes were amended (December 31, 2013) rather than five years from their initial issuance date (October 27, 2012).

³ The Series C Notes were amended so that the guaranty and pledge of certain assets provided by NBS as security are not effective until receipt of the necessary regulatory approvals.

arrangements to the extent such entity is not a borrower. The financing arrangements may be used to fund acquisitions, for working capital requirements, and for other types of general corporate purposes.

The Petitioner emphasizes that approval of the financing arrangements will serve the public interest. Petitioner states that the financing arrangements provided the Company with access to the financial resources necessary to complete the Broadvox Acquisition, which will allow the Company to become a more effective competitor to larger incumbent telecommunications providers. Petitioner asserts that the financing arrangements are necessary and appropriate, are consistent with the performance by NBS of its services to the public, will not impair NBS's ability to perform such services, and will promote the corporate purposes of the Company. The Petitioner also emphasizes that the financing arrangements are transparent to NBS's customers and will not disrupt service or cause customer confusion or inconvenience.

The Division of Rate Counsel has reviewed this matter and by letter dated February 25, 2014, indicated that it has no objection to the Petitioner's requests in its verified petition.

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 law and in the public interest, and **HEREBY AUTHORIZES** Petitioner to participate in the existing financing arrangements up to an aggregate amount of \$42 Million, and to take those actions necessary to effectuate such financing arrangements.

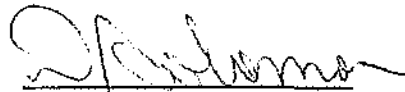
This Order is issued subject to the following provisions:

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 matter 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 be effective March 28, 2014.

DATED: 3/19/2014

BOARD OF PUBLIC UTILITIES
BY:



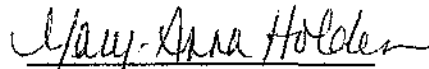
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JEANNE M. FOX
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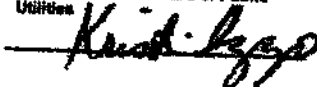
MARY ANNA HOLDEN
COMMISSIONER

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 Network Billing Systems, LLC for Approval to Participate
in Financing Arrangements of Fusion NBS Acquisition Corp.
Docket No. TF14010102

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