



STATE OF NEW JERSEY
Board of Public Utilities
44 South Clinton Avenue, 1st Floor
Post Office Box 350
Trenton, New Jersey 08625-0350
www.nj.gov/bpu/

IN THE MATTER OF THE PETITION OF) TELECOMMUNICATIONS
EVERSTREAM SOLUTIONS LLC FOR)
APPROVAL TO PARTICIPATE IN CERTAIN) ORDER
FINANCING ARRANGEMENTS)
) DOCKET NO. TF22030137

Parties of Record:

Brian O. Lipman, Esq., Director, New Jersey Division of Rate Counsel
Joshua M. Bobeck, Esq., Morgan, Lewis & Bockius, LLP on behalf of Petitioner

BY THE BOARD:

On March 14, 2022, Everstream Solutions LLC (“Everstream” or “Petitioner”) submitted a petition to the New Jersey Board of Public Utilities (“Board”) pursuant to N.J.S.A. 48:3-7 and 48:3-9 requesting approval for Everstream to participate in certain financing arrangements up to an aggregate amount of \$975 million (“Financing Arrangements”) (“Petition”).

BACKGROUND

Everstream is an Ohio limited liability company headquartered at 1228 Euclid Ave, #250, Cleveland, OH 44115. Everstream holds domestic and international Section 214 authorization from the Federal Communications Commission (“FCC”) as well as certificates to provide intrastate telecommunications services in Delaware, Maryland, Missouri, New Jersey, New York, Ohio, Pennsylvania, and West Virginia. In New Jersey, Everstream is authorized by the Board to operate as a competitive local exchange carrier and provide all forms of facilities-based competitive local exchange, interexchange and exchange access telecommunications services to business and wireless customers throughout New Jersey.¹

Everstream is affiliated with (i) Everstream GLC Holding Company LLC (“Everstream GLC”), (ii) Lynx Network Group, Inc. (“Lynx”), and (iii) HRS Internet, LLC (“HRS Internet”). Everstream is a

¹ In re the Petition of Everstream Solutions LLC for Approval to Provide Local Exchange and Interexchange Telecommunications Services Throughout the State of New Jersey, Docket No. TE20100653, Order dated February 17, 2021.

wholly owned subsidiary of Midwest Fiber Acquisition LLC (“Midwest”), a Delaware limited liability company. Midwest, through Everstream and its affiliates, is a super-regional network service provider bringing fiber-based ethernet, internet, and data center solutions to businesses throughout the Midwest and Mid-Atlantic regions. Midwest has more than 10,000 route miles and comprehensive data center connectivity at 100 Gbps. Its network allows businesses to operate a converged IP network capable of delivering robust voice and data services at speeds from 10 Mbps to 100 Gbps. Midwest is ultimately indirectly owned by four (4) limited partnerships organized under the laws of Luxembourg.

PETITION

In the Petition, Everstream seeks Board to participate in new, amended, or restated financing arrangements in an aggregate amount of up to \$975 million. Petitioner expects that the maturity for any long-term indebtedness incurred as part of the financing will be set according to market conditions at issuance.

According to the Petition, some or all of the Financing Arrangements may be secured facilities, which may include a grant of a security interest in the assets of Midwest, Everstream, and Everstream GLC, and their current and future subsidiaries. A portion of the Financing Arrangements may be unsecured facilities. For the secured facilities, the equity of Midwest and its subsidiaries, including Everstream, may be pledged as additional security. Additionally, Midwest and its current and future subsidiaries, including Everstream, may provide a guaranty of the obligations owing under the Financing Arrangements, including, without limitation, the payment of \$975 million to the extent borrowed.

The Financing Arrangements may be used to refinance existing debt, for acquisitions and other expansion activities and for general corporate purposes. In order to maintain flexibility, Petitioner seeks authority to be a co-borrower, along with Everstream GLC and Midwest, under the Financing Arrangements, up to an aggregate amount of \$975 million consistent with the parameters outlined above.

In the Petition, Everstream asserted that the Financing Arrangements will serve the public interest because they will be used to refinance existing debt, for acquisitions and other expansion activities, to provide for ongoing working capital, and for other corporate purposes. The Financing Arrangements will also provide access to greater financial resources that will allow Midwest and its current and future subsidiaries, including Everstream, to become more effective competitors in the communications industry. According to the Petitioner, the Financing Arrangements are necessary and appropriate, will not impair Petitioner’s ability to provide its services and will promote its corporate purposes. The Financing Arrangements will be transparent to Petitioner’s customers and will not disrupt service or cause customer confusion or inconvenience.

Petitioner further stated Everstream does not offer an employee pension plan, and that employees’ existing rights in any other retirement benefit plan offered by Petitioner will be retained upon completion of the Financing Arrangements. While N.J.S.A. 48:3-7 and N.J.S.A. 48:3-10 require the Board to determine whether the public utility or a wholly owned subsidiary thereof may be unable to fulfill its pension obligations to any New Jersey employees, the lack of an employee pension plan reflects there is no negative impact on employee pensions.

The New Jersey Division of Rate Counsel has reviewed this matter and, by letter dated May 4, 2022, stated that it does not object to Board approval of the Petition.

Board Staff's review of the Petition indicates that the Financing Arrangements and the use of the proceeds associated therewith are appropriate. While there is no guarantee in this regard, especially given the competitive environment in which Petitioner operates, the Financing Arrangements do not appear to impact adversely Everstream's operations in New Jersey.

DISCUSSION AND FINDINGS

After review of this matter, the Board **FINDS** that Everstream's participation in the Financing Arrangements is in accordance with law, in the public interest and will not have a negative impact on the Petitioner, rates, customers or New Jersey employees. Therefore, after investigation and consideration of the record and information submitted in this proceeding, pursuant to N.J.A.C. 14:1-15.9A, the Board **HEREBY AUTHORIZES** Everstream to participate in Financing Arrangements up to an aggregate amount of \$975 million and for Petitioner to take those actions necessary to effectuate such Financing Arrangements.

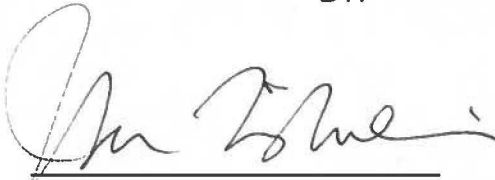
This Order is issued subject to the following provisions:

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 (5) 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 (5) 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 documents shall 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 Petitioner.

This Order shall become effective on June 15, 2022.

DATED: June 8, 2022

BOARD OF PUBLIC UTILITIES
BY:



JOSEPH L. FIORDALISO
PRESIDENT



MARYANNA HOLDEN
COMMISSIONER



DIANNE SOLOMON
COMMISSIONER



UPENDRA J. CHIVUKULA
COMMISSIONER



ROBERT M. GORDON
COMMISSIONER

ATTEST:



CARMEN D. DIAZ
ACTING SECRETARY

IN THE MATTER OF THE PETITION OF EVERSTREAM SOLUTIONS LLC FOR APPROVAL TO
PARTICIPATE IN CERTAIN FINANCING ARRANGEMENTS

DOCKET NO. TF22030137

SERVICE LIST

<p><u>Board of Public Utilities</u></p> <p>44 South Clinton Avenue, 1st Floor Post Office Box 350 Trenton, NJ 08625-0350</p> <p>Carmen Diaz, Acting Secretary board.secretary@bpu.nj.gov</p> <p>Benjamin Witherell, Ph.D. Chief Economist benjamin.witherell@bpu.nj.gov</p> <p>Christine Lin christine.lin@bpu.nj.gov</p> <p>Lawanda Gilbert, Esq., Director lawanda.gilbert@bpu.nj.gov</p> <p>Harold Bond, Deputy Director harold.bond@bpu.nj.gov</p> <p>Carol Artale, Esq., Deputy General Counsel carol.artale@bpu.nj.gov</p> <p>Rocco Della Serra rocco.dellaserra@bpu.nj.gov</p> <p><u>Petitioners</u></p> <p>Morgan, Lewis & Bockius, LLP 1111 Pennsylvania Avenue, NW Washington, DC 20004</p> <p>Joshua M. Bobeck Danielle Burt Leetal Weiss joshua.bobek@morganlewis.com danielle.burt@morganlewis.com leetal.weiss@morganlewis.com</p> <p>Dereck Wishmeyer Everstream Solutions, LLC 1228 Euclid Ave, #250 Cleveland, OH 44115 dwishmeyer@everstream.net</p>	<p><u>Division of Rate Counsel</u></p> <p>140 East Front Street, 4th Floor Post Office Box 003 Trenton, NJ 08625-0003</p> <p>Brian O. Lipman, Esq. Director blipman@rpa.nj.gov</p> <p>Maria Novas-Ruiz, Esq. Assistant Deputy Rate Counsel mnovas-ruiz@rpa.nj.gov</p> <p><u>Division of Law</u></p> <p>NJ Department of Law & Public Safety Richard J. Hughes Justice Complex 25 Market Street., 7th Floor West P.O. Box 112 Trenton, NJ 08625</p> <p>Pamela Owen, Chief, DAG Terel Klein, DAG Steven A. Chaplar, DAG pamela.owen@law.njoag.gov terel.klein@law.njoag.gov steven.chaplar@law.njoag.gov</p>
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