

In the Matter Of:

In Re: Electric Lightwave and Zayo Group - Joint Application

HEARING PROCEEDINGS DOCKET NOS. 16-2536-01, 16-2299-02, 16-2263-01

January 11, 2017

Job Number: 358638

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BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH

In the Matter of the Joint
Application of Electric
Lightwave Parent, Inc.; Docket Nos. 16-2536-01,
Electric Lightwave, LLC; 16-2299-02, and 16-2263-01
Eschelon Telecom of Utah,
Inc.; Integra Telecom of
Utah, Inc.; and Zayo Group,
LLC for Approval to Transfer
Indirect Control

HEARING PROCEEDINGS

TAKEN AT: Public Service Commission
160 East 300 South, Room 451
Salt Lake City, Utah
DATE: Wednesday, January 11, 2017
TIME: 9:00 a.m.
REPORTER: Daren S. Bloxham, R.P.R.

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APPEARANCES

PRESIDING OFFICER:

Jennie T. Jonsson

FOR THE DIVISION OF PUBLIC UTILITIES:

Justin Jetter
ASSISTANT ATTORNEY GENERAL
160 East 300 South, Fifth Floor
Salt Lake City, Utah 84114

FOR THE APPLICANT:

William J. Evans
Parsons, Behle & Latimer
201 S. Main Street, Ste. 1800
Salt Lake City, Utah 84111

ALSO PRESENT: Douglass Denney (by telephone)
Greg Strumberger (by telephone)
Ronald Slusher

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1 P-R-O-C-E-E-D-I-N-G-S

2 --oOo--

3 ALJ JONSSON: For the record, today is
4 Wednesday, January 11th, 2017. It's a little bit after
5 9:00 in the morning. This is the time and date set for
6 the hearing in the Matter of the Joint Application of
7 Electric Lightwave Parent, Inc.; Electric Lightwave,
8 LLC; Eschelon Telecom of Utah, Inc.; Integra Telecom of
9 Utah, Inc.; and Zayo Group, LLC.

10 There are three docket numbers. They are
11 16-2536-01, 16-2299-02, and 16-2263-01. Counsel for
12 the Division of Public Utilities is not here quite yet.
13 We have heard that he's on his way. Let's go ahead and
14 enter appearance of counsel for the applicants.

15 MR. EVANS: I am William Evans of Parsons,
16 Behle & Latimer for the joint applicants, Zayo Group
17 and Electric Lightwave parents and its licensees.

18 ALJ JONSSON: Thank you. And counsel for the
19 Division has just walked in. Go ahead when you're
20 ready.

21 MR. JETTER: Good morning. I apologize for
22 my tardiness this morning. I had -- just a mistake on
23 my calendar. I'm Justin Jetter with Utah Attorney
24 General's Office. I represent the Utah Division of
25 Public Utilities. And with me at counsel table is Ron

1 Slusher.

2 ALJ JONSSON: Thank you.

3 MR. EVANS: And on the telephone, if I may
4 interject, for Electric Lightwave is Douglass Denney,
5 and for Zayo Group is Greg Strumberger.

6 ALJ JONSSON: Thank you. And is that
7 Electric Lightwave Parent or --

8 MR. EVANS: It's Electric Lightwave Parent
9 and its licensees, who are the list of Utah operating
10 companies that you read.

11 ALJ JONSSON: Okay. Thank you very much.
12 All right. Well, let's go ahead and begin the hearing.
13 Mr. Evans?

14 MR. EVANS: Yes. This is on the joint
15 application of the joint applicants filed on
16 December 2nd. We filed an application with exhibits,
17 and we also filed supplemental exhibits last Friday, 1
18 and 2.

19 I have to point out that the dates in the
20 cover letter are wrong, which you have caught. Thank
21 you for that. And also on the cover sheet of the
22 Supplemental Exhibits 1 and 2, the docket number --
23 second docket number should be 16-2299-02 rather than
24 01. The Commission has been notified of that
25 correction already.

1 So -- that's all the housekeeping. If you're
2 ready, we can call our first witness on behalf of the
3 applicants, Greg Strumberger.

4 ALJ JONSSON: All right. Mr. Strumberger,
5 can you hear Mr. Evans all right?

6 MR. STRUMBERGER: Actually, would it be
7 possible for him to get a little closer to the phone?
8 I can't hear very well.

9 ALJ JONSSON: Yes.

10 MR. EVANS: I will speak up then. How is
11 that?

12 ALJ JONSSON: Is that better?

13 MR. STRUMBERGER: Okay. That is. Thank you.

14 --oOo--

15 GREG STRUMBERGER,

16 having been first duly sworn to tell the
17 truth, was examined and testified as follows:

18 EXAMINATION

19 BY MR. EVANS:

20 Q. Good morning, Mr. Strumberger. If at any
21 time you can't hear me, please speak up, and I will try
22 to speak louder for you.

23 For the record, would you please state your
24 name, your business address, and your position at Zayo
25 Group?

1 A. My name is Greg Strumberger. My business
2 address is 1805 29th Street, Ste. 2050, Boulder,
3 Colorado 80301. And I'm general counsel of Zayo
4 Canada.

5 **Q. And what is the relationship between Zayo**
6 **Canada and Zayo Group, LLC, the applicant in this**
7 **proceeding?**

8 A. Zayo Canada is a subsidiary and division of
9 Zayo Group, LLC.

10 **Q. And how long have you held the position of**
11 **general counsel for Zayo Canada?**

12 A. I've been with Zayo Canada for approximately
13 one year. And for five and a half years before that, I
14 was general counsel for a variety of divisions of Zayo
15 Group.

16 **Q. Have you reviewed the joint application filed**
17 **by Zayo and Electric Lightwave parties in this docket?**

18 A. Yes, I have.

19 **Q. And do you have personal knowledge of the**
20 **matters set out in the application?**

21 A. Yes.

22 **Q. Are you the person who signed the**
23 **verification to the application?**

24 A. Yes.

25 **Q. And for the purposes of your testimony today**

1 then, do you adopt the statements made in the
2 application as your own?

3 A. Yes.

4 Q. Are there any changes or corrections that
5 should be made to the joint application?

6 A. No corrections or changes.

7 Q. Is Zayo asking the Commission to approve this
8 transaction pursuant to the informal procedures
9 described in the Commission's Rule 7463497?

10 A. Yes, we are.

11 Q. Is Zayo or any of its affiliates serving as
12 an incumbent local exchange carrier anywhere in the
13 state of Utah?

14 A. No, we're not.

15 Q. And are Zayo and Electric Lightwave Companies
16 required to file for Section 214 authority with the
17 Federal Communications Commission to complete this
18 transaction?

19 A. Yes. We filed applications for approval for
20 indirect transfer control of the subsidiaries that hold
21 the domestic and international 214 applications,
22 authorizations. And those applications were filed on
23 December 9th of 2016.

24 Q. And has the -- have the CC applications been
25 submitted in the Utah docket?

1 A. Yes. Those were filed as Supplemental
2 Exhibit 1.

3 **Q. Has the FCC established a pleading cycle for**
4 **those applications?**

5 A. Yes. With respect to the domestic, the FCC
6 issued a public notice on December 22nd of 2016
7 establishing a pleading with comments of interest due
8 January 5th, 2017, and reply comments due January 12th.

9 With respect to the international 214, the
10 FCC issued its public notice on December 30th, 2015.
11 And they're accepting application for filing incumbents
12 or interested parties. And those are due on
13 January 27th, 2017.

14 **Q. And are the FCC public notices the documents**
15 **that have been filed in the Utah docket as Supplemental**
16 **Exhibit 2?**

17 A. Yes, they have.

18 **Q. Have there been any comments filed on the FCC**
19 **applications?**

20 A. No. To this date, the domestic passed the
21 January 5th date with no comments. We also don't
22 expect any reply comments. Similarly, we don't expect
23 any comments to be filed with respect to the
24 international 214 applications either.

25 **Q. So do you have an idea about when you might**

1 **expect to have FCC approval of the transaction?**

2 A. Unless we're notified otherwise, which we
3 don't expect, we anticipate to have the approval in
4 either late January or early February.

5 **Q. Do any state commissions other than Utah**
6 **require Zayo and Electric Lightwave to obtain approval**
7 **before closing this transaction?**

8 A. Yes, they do. The application that we filed
9 with the Utah Commission lists on page 6 all of the
10 states that require approval.

11 **Q. And have applications been filed in all of**
12 **those states?**

13 A. Yes, they have.

14 **Q. I see the New York application has been**
15 **submitted as Exhibit B to the Utah application; is that**
16 **right?**

17 A. That's correct.

18 **Q. And are the applications that have been filed**
19 **in other states substantially similar to the Utah and**
20 **New York petitions?**

21 A. Yes, they have. Yes, they are.

22 **Q. Have any states in which approval is required**
23 **approved the transaction as of today?**

24 A. Not yet. It's running through the normal
25 process, and we expect most of the approvals to come

1 through in January or early February. I also should
2 mention that the FTC and Department of Justice granted
3 early termination of our Hertz Docwidinal {sp} filing.
4 And they granted that on December 28th of 2016.

5 **Q. Okay. In those states that have not yet**
6 **approved the transaction, including Utah, have you**
7 **received or are you aware of any opposition or protest**
8 **to the transaction?**

9 A. Except for Louisiana, we haven't received or
10 are aware of any opposition or protest to the
11 transaction. We did have one small one in Louisiana.
12 Commission staff filed a protest because the staff
13 alleged we were delinquent in filing a report that was
14 due on the first quarter of 2015.

15 We weren't doing any subsequent reports.
16 We're working to submit that report as soon as
17 possible. Once that report is submitted, Louisiana
18 staff has indicated that it will withdraw its protest
19 and recommend approval.

20 **Q. Have you filed notifications in all states**
21 **that require only notification?**

22 A. Yes, we have.

23 **Q. And do Zayo and Electric Lightwave have a**
24 **date on which they would like to close this**
25 **transaction?**

1 A. Our plan is to close as soon as we have all
2 the regulatory approvals. And we're anticipating the
3 back closing to take place sometime in March of 2017.

4 **Q. Okay. Would you like to offer a summary of**
5 **why you believe this transaction is in the public**
6 **interest?**

7 A. Yeah. This transaction is branding together
8 under the management of Zayo three companies that have
9 a long history of providing great service in Utah -
10 Electric Lightwave, Eschelon Telecom, and Integra
11 Telecom, or the licensees as they're called in the
12 application.

13 Because ELI Parents' network and Zayo's
14 complement each other, approval of the transaction will
15 allow the licensees to offer service to
16 multi-litigation businesses and enterprise customers
17 across and an even larger footprint once they're
18 combined with Zayo.

19 Approval will also promote competition
20 amongst carriers in Utah with -- because there will be
21 a greater access to financial resources. And these
22 companies will allow the combination with Zayo and
23 become more effective competitors to the larger
24 incumbent providers.

25 After they become part of Zayo, the Utah

1 licensees will continue to provide the same quality --
2 high-quality telecommunications services to consumers
3 as before, while also gaining accesses to the
4 additional resources and operational expertise of Zayo.

5 The transaction described in the application
6 will not result in a carrier change for any customers
7 or require any sign of an existing commission
8 [unintelligible]. They will also be seamless to the
9 Utah customers who will continue to enjoy the same
10 rates, terms, conditions, and quality of service as
11 they do now.

12 The only immediate change resulting from the
13 transaction will be that the licensees will ultimately
14 be owned by Zayo as their ultimate parent. And if
15 there are any changes or any service changes in the
16 future, we'll notify customers appropriately and will
17 receive the required ILMs. As a result of this
18 transaction, we simply expect that the Utah licensees
19 will be better positioned to meet the needs of the Utah
20 customers.

21 MR. EVANS: Okay. Thank you,
22 Mr. Strumberger. Mr. Strumberger is available for
23 cross.

24 MR. JETTER: I have no questions. Thank you.

25 ALJ JONSSON: Thank you.

1 MR. EVANS: May we call Douglass Denney from
2 the Electric Lightwave Parent.

3 ALJ JONSSON: Yes. Mr. Denney, can you hear
4 all right?

5 MR. DENNEY: Yes, I can. Thank you.

6 --oOo--

7 DOUGLASS DENNEY,
8 having been first duly sworn to tell the
9 truth, was examined and testified as follows:

10 EXAMINATION

11 BY MR. EVANS:

12 Q. Good morning, Mr. Denney. For the record,
13 would you please --

14 A. Good morning.

15 Q. Would you please state your name, your
16 business address, and your position at Electric
17 Lightwave.

18 A. Yes. I am Douglass K. Denney, D-E-N-N-E-Y.
19 My business address is 18110 Southeast 34th Street.
20 It's in Building 1, Suite 100, in Vancouver,
21 Washington. Zip code is 98683. My title is I'm the
22 vice-president of cost and policy for Electric
23 Lightwave.

24 Q. And how long have you held that position?

25 A. I've been in this position since March of

1 2012. And prior to that, I worked on regulatory issues
2 on behalf of Integra and Eschelon. Eschelon was
3 purchased by Integra in 2008. And I've been doing that
4 since December of 2004. I also note I've appeared
5 before this Commission on numerous occasions in the
6 past, most recently with the CenturyLink-Quest merger.

7 Q. Have you reviewed the joint application filed
8 in the Utah docket on December 2, 2016?

9 A. Yes, I have.

10 Q. Did you sign the application on behalf of
11 Electric Lightwave?

12 A. Yes, I did.

13 Q. So do you have personal knowledge of the
14 details of this transaction and the facts set out in
15 the application?

16 A. Yes, I do.

17 Q. Were you present this morning and did you
18 hear Mr. Strumberger's testimony?

19 A. Yes.

20 Q. Apart from the information contained in the
21 supplemental exhibits and the information offered by
22 Mr. Strumberger, do you have any changes or corrections
23 to make to the joint application?

24 A. I have no changes or corrections.

25 Q. Have you reviewed or are you aware of any

1 **opposition from third parties or the public to the FCC**
2 **Section 214 applications?**

3 A. I'm not aware of any opposition to those
4 filings.

5 Q. Have you received or are you aware of any
6 notices or correspondence from state utility
7 commissions denying the parties' applications for
8 approval of this transaction?

9 A. No, I am not.

10 Q. Are you aware of any objection or protest
11 from regulators or third parties or the public to any
12 application for approval filed with any state
13 commission?

14 A. I'm not aware of any of those protests or
15 opposition other than what was addressed by
16 Mr. Strumberger in Louisiana.

17 Q. Okay. Is Electric Lightwave or any of the
18 Utah licensees serving as an incumbent local exchange
19 carrier anywhere in the state of Utah?

20 ALJ JONSSON: Mr. Denney, are you still with
21 us?

22 THE WITNESS: I am still with you. Was there
23 another question? I didn't hear.

24 MR. EVANS: Yeah. I'm sorry. I'll try that
25 again.

1 **Q. (By Mr. Evans) Is Electric Lightwave or any**
2 **of the Utah licensees serving as incumbent local**
3 **exchange carriers anywhere in Utah?**

4 A. No, we are not.

5 **Q. Do you have a summary that you'd like to**
6 **offer of why you believe this transaction is in the**
7 **public interest?**

8 A. Yes. Similar to Mr. Strumberger, this
9 transaction will combine the resources and experiences
10 of two companies that have already shown I think their
11 ability to offer high quality service to Utah customers
12 through their Utah operating companies.

13 By combining networks and financial,
14 technical, managerial resources, the company will be
15 better able to compete in the market for services, and
16 that will benefit customers in Utah.

17 This transaction's been designed so that the
18 current customers of Zayo and Electric Lightwave will
19 continue to receive the same high quality of service
20 that they've come to expect without any interruptions,
21 without any changes to their service offerings, rates,
22 terms, or conditions. And I believe this transfer of
23 control to Zayo serves the public interest. And we
24 request that the Commission approve it.

25 MR. EVANS: All right. Thank you.

1 Mr. Denney is available for cross.

2 MR. JETTER: I have no questions.

3 ALJ JONSSON: Thank you.

4 MR. EVANS: We would then offer into evidence
5 the application with Exhibit A and B and Supplemental
6 Exhibits 1 and 2.

7 ALJ JONSSON: Any objection?

8 MR. JETTER: No objections.

9 ALJ JONSSON: All right. We'll enter those
10 as marked.

11 Mr. Jetter, go ahead.

12 MR. JETTER: Thank you. The Division would
13 like to call and have sworn in Mr. Ron Slusher.

14 --oOo--

15 RON SLUSHER,

16 having been first duly sworn to tell the
17 truth, was examined and testified as follows:

18 EXAMINATION

19 BY MR. JETTER:

20 **Q. Mr. Slusher, would you please state your name**
21 **and occupation for the record today.**

22 A. My name is Ron Slusher, S as in Sam,
23 L-U-S-H-E-R. I'm the utility technical consultant for
24 the Division of Public Utilities.

25 **Q. Thank you. And in the course of your**

1 employment with the Utah Division of Public Utilities,
2 have you had the opportunity to read the joint
3 application filed in this docket, along with the
4 exhibits that were filed with it?

5 A. Yes.

6 Q. And did you create and cause to be filed with
7 the Commission comments from the Division of Public
8 Utilities dated December 28th, 2016?

9 A. Yes, I did.

10 Q. Do you have any corrections or changes that
11 you would like to make to those?

12 A. I do not.

13 Q. And does that recommendation, which, for the
14 record, the recommendation recommending approval of the
15 application, does that accurately reflect the position
16 of the Division of Public Utilities today?

17 A. Yes, it does.

18 Q. Have you had an opportunity to review
19 Supplemental Exhibits 1 and 2 filed January 6th, 2017?

20 A. I have.

21 Q. And do either of those or those combined
22 change your opinion on approval?

23 A. It does not.

24 Q. Are you aware of any objections to approval
25 of this application?

1 A. I have not seen or heard of any objections.

2 Q. And do you believe that approval of the
3 application would be just, reasonable, and in the
4 public interest?

5 A. Yes.

6 MR. JETTER: Thank you. I'd like to move at
7 this time to enter the comments from the Division of
8 Public Utilities dated December 28th, 2016, into the
9 record.

10 ALJ JONSSON: Any objection?

11 MR. EVANS: No objection.

12 ALJ JONSSON: Thank you.

13 MR. JETTER: Thank you. I have no further
14 questions for Mr. Slusher. He's available for cross.

15 ALJ JONSSON: Anything?

16 MR. EVANS: No questions. Thank you.

17 ALJ JONSSON: All right. Thank you all very
18 much. I believe I have what I need, and an order will
19 issue shortly. We'll close this hearing. Thank you
20 all.

21 MR. JETTER: Thank you.

22 MR. EVANS: Thank you.

23 (The proceedings concluded at 9:25 a.m.)

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REPORTER'S CERTIFICATE

STATE OF UTAH)
COUNTY OF UTAH)

I, Daren S. Bloxham, a Notary Public and Certified Shorthand Reporter, Registered Professional Reporter, hereby certify:

THAT the foregoing proceedings were taken before me at the time and place set forth in the caption hereof; that the witness was placed under oath to tell the truth, the whole truth, and nothing but the truth; that the proceedings were taken down by me in shorthand and thereafter my notes were transcribed through computer-aided transcription; and the foregoing transcript constitutes a full, true, and accurate record of such testimony adduced and oral proceedings had, and of the whole thereof.

I have subscribed my name on this 17th day of January, 2017.



Daren S. Bloxham
Registered Professional Reporter #335

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