

BEFORE THE UTAH PUBLIC SERVICE COMMISSION

Notification of Proposed Changes in Ownership of)
Arcadian Infracom 1, LLC) DOCKET NO. 21-2623-01
)

NOTICE

Arcadian Infracom 1, LLC (“Arcadian”) hereby notifies the Utah Public Service Commission (“Commission”) that it plans to complete a transaction (“Transaction”) that will result in a partial change of ownership (but not operational control) of Arcadian. As an initial matter, Arcadian submits that the Transaction does not fall within the scope of Utah Code Ann. §§ 54-4-28, 54-4-29 and 54-4-30, which require prior approval for transactions where two public utilities (or the parent companies of two public utilities) “combine, merge, [or] consolidate.”¹ The Transaction is not governed by these provisions because neither the entity acquiring an ownership interest in Arcadian, as further described below, nor any of the individuals that hold interests in such entity, operates as a public utility, owns a public utility, or controls a public utility. Consequently, the Transaction does not result in a consolidation, merging, or combination of public utility operations or assets in Utah and the requirements for prior approval asserted in the cited provisions do not apply.

Further, even if the Transaction falls within the ambit of Utah Code Ann. § 54-4-28 *et seq.*, Utah Code Ann. § 54-8b-3.4 exempts the Transaction from the prior-approval requirements of Utah Code Ann. §§ 54-4-28, 54-4-29, and 54-4-30. Arcadian is a competitive entrant pursuant to Section 54-8b-2.1 and does not receive high-cost support from the Universal Public Telecommunications Support Fund.² Nevertheless, Arcadian submits this notice to the

¹ Utah Code Ann. § 54-4-28.

² Utah Code Ann. § 54-8b-3.4 (1)(a)(i), (2).

Commission out of an abundance of caution, for informational purposes, and for transparency, and requests that the Commission acknowledge this notice.

I. Description of Arcadian

The Commission granted Arcadian Certificate of Public Convenience and Necessity 2623 to provide public telecommunications services within the State of Utah in this docket on November 19, 2020. Arcadian is currently the direct, wholly owned subsidiary of Arcadian Infracom, Inc. (“Arcadian Parent”), a Delaware corporation.

II. Description of the Transaction

Arcadian is about to execute, among other documents, a Membership Interest Purchase Agreement and an Amended and Restated LLC Agreement (“Transaction Documents”) with an unrelated investor, 730 Fiber, LLC (“Investor”), in order to raise funds to finance a long-haul dark fiber network from Phoenix through Tuba City and to Salt Lake City and from Tuba City to Denver. Investor is a subsidiary of Teachers Insurance and Annuity Association of America.

Upon execution of the Transaction Documents, Arcadian Parent will continue to serve as the sole manager of Arcadian, with full responsibility for management of the day-to-day operations of Arcadian. Upon execution of the Transaction Documents and completion of the Transaction, Investor will obtain a direct equity interest in Arcadian. A five-member board of directors will be appointed to make decisions on certain matters as specified in the Amended and Restated LLC Agreement. Two members of the board will be appointed by Arcadian Parent, two will be appointed by Investor, and one member of the board will be a mutually selected independent director.

III. Public Interest Considerations

The planned Transaction will serve the public interest. The change in ownership will not involve any assignment of assets or customers of Arcadian. Arcadian’s current highly experienced

and well-qualified management, technical, and operational teams will continue to be responsible for the day-to-day operation of Arcadian's business following completion of the Transaction. Further, as a result of the Transaction, Arcadian will be in a better position to fund the expansion of the facilities and services the Commission previously authorized when it approved Arcadian's Certificate of Registration. As such, the Transaction will strengthen the financial position of Arcadian.

The financial resources made available to Arcadian as a result of the Transaction will more readily enable Arcadian to enhance its networks and services to the benefit of its customers. Further, the Transaction will not result in any discontinuance of service or adversely affect competition. The Transaction will not result in a change of provider for any customers or any assignment of existing Commission authorizations. In addition, the proposed Transaction will not adversely affect competition because it will not result in any reduction in the number of competitors serving the market.

IV. Contact Information

Questions, correspondence, or other communications concerning this filing should be directed to Arcadian's counsel as identified below:

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V. Conclusion

Arcadian respectfully submits that the public interest will be furthered by the Transaction.

Arcadian therefore requests that the Commission take notice of this filing.

Respectfully submitted this October 1, 2021.

HOLLAND & HART LLP

By: 

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***ATTORNEYS FOR ARCADIAN INFRACOM 1,
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CERTIFICATE OF SERVICE

I CERTIFY that on October 1, 2021, a true and correct copy of the foregoing was served upon the following as indicated below:

By Email:

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