

- BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH -

In the Matter of the Joint Application of Zayo)
Group, LLC and American Fiber Systems,) DOCKET NO. 10-2353-01
Inc. for the Indirect Transfer of Control of) ORDER APPROVING INDIRECT
American Fiber Systems, Inc. to Zayo Group,) TRANSFER OF CONTROL
LLC)

ISSUED: September 20, 2010

By The Commission:

This matter is before the Commission on the Joint Application of Zayo Group, LLC and American Fiber Systems, Inc. (collectively, “Applicants”), for Approval of the Indirect Transfer of Control of American Fiber Systems, Inc. Applicants filed the joint application on July 12, 2010, and request expedited review and action. The Application contains all the information required by Utah Admin. Code R.746-349-7.A.1.

The Commission issued a public notice and notice of hearing on August 11, 2010. The notice allowed for the submission of comments by any interested party regarding the Application. There were no objections lodged against the Application.

The Division of Public Utilities (Division) submitted its recommendation on July 29, 2010. It recommended approving the Application.

Pursuant to Utah Admin. Code R746-349-7.A.2, the administrative law judge of the Commission held a hearing on Tuesday, August 31, 2010. No one appeared at the hearing objecting to the Application. Brett Ferenchak was counsel for the Applicants and appeared telephonically. Mr. Ferenchak is an attorney licensed to practice in a foreign state. He made an oral motion at the hearing, asking to be admitted for this individual matter, pursuant to Utah

DOCKET NO. 10-2353-01

- 2 -

Admin. Code R746-100-6.B.¹ The ALJ found that requiring the Applicants to retain local counsel for an unopposed matter, which hearing would only last a few minutes, would work a hardship on the Applicant. Additionally, requiring the Applicants to retain local counsel for an unopposed matter would run counter to the legislative policy enacted in Utah Code Ann. § 54-8b-1.1(4) allowing “for flexible and reduced regulation for telecommunications corporations and public telecommunication services” Bruce Frankeiwich, General Counsel and VP of Regulatory Affairs for American Fiber Systems, was a witness for the Applicants and also appeared telephonically. Assistant attorney general, Michael Ginsberg, was counsel for the Division. Ron Slusher was witness for the Division. Mr. Ginsberg proffered that its witnesses’ recommendation at the hearing would remain the same as submitted in its written recommendation.

American Fiber Systems, Inc. is a Delaware corporation with principal offices located at 100 Meridian Centre, Suite 300, Rochester, New York 14618. It is a wholly-owned subsidiary of American Fiber Systems Holding Corp. and is authorized to provide dedicated facilities-based and resold local exchange, facilities-based interexchange, and private line services within Utah pursuant to a Certificate of Public Convenience and Necessity issued in Docket Number 00-2353-01 on February 23, 2001. As a result of the proposed transaction, if approved, American Fiber Systems Holding Corp. will become a direct subsidiary of Zayo Group, LLC. American Fiber Systems, Inc. will become an indirect subsidiary, of Zayo Group, LLC.

¹ Mr. Ferenchak was also counsel for the applicants in Docket No. 10-2312-01, which hearing was held immediately before this hearing.

Zayo Group, LLC is a Delaware limited liability company with principal offices located at 400 Centennial Parkway, Suite 200, Louisville, Colorado 80027. Through its business units -- Zayo Bandwidth, Zayo Enterprise Services, Zayo Fiber Solutions and zColo -- Zayo Group, LLC provides bandwidth, voice, collocation and interconnection, connectivity and dark-fiber related services, and managed services to carrier, enterprise, small and medium enterprise, and government customers. Zayo Group, LLC is not itself authorized to provide telecommunications services in any state. While its subsidiaries hold licenses to provide telecommunications services in over 20 states, none currently hold authorizations to provide such services in Utah.

Applicants submit the proposed transaction will serve the public interest. Despite the change in indirect ownership, American Fiber Systems, Inc. will continue to provide service to its existing customers under the same rates, terms and conditions as it does today. Zayo Group, LLC, however, plans to change the name of American' Fiber Systems, Inc. to "Zayo Metro, Inc." immediately upon completion of the transaction. The Applicant's assert the proposed transaction will be transparent to Utah customers, except for the name change.

Because there is no objection to the granting of the Application, the Commission will presume the approval of the Application for approval of the indirect transfer of control is in the public interest.

ORDER

For the foregoing reasons, the Commission approves the indirect transfer of control of American Fiber Systems, Inc. to Zayo Group, LLC, including the name change to "Zayo Metro, Inc."

DOCKET NO. 10-2353-01

- 4 -

Pursuant to Sections 63G-4-301 and 54-7-15 of the Utah Code, an aggrieved party may request agency review or rehearing of this Order by filing a written request with the Commission within 30 days after the issuance of this Order. Responses to a request for agency review or rehearing must be filed within 15 days of the filing of the request for review or rehearing. If the Commission does not grant a request for review or rehearing within 20 days after the filing of the request, it is deemed denied. Judicial review of the Commission's final agency action may be obtained by filing a petition for review with the Utah Supreme Court within 30 days after final agency action. Any petition for review must comply with the requirements of Sections 63G-4-401 and 63G-4-403 of the Utah Code and Utah Rules of Appellate Procedure.

DATED at Salt Lake City, Utah, this 20th day of September, 2010.

/s/ Ruben H. Arredondo
Administrative law judge

Approved and confirmed this 20th day of September, 2010, as the Order Approving Indirect Transfer of Control issued by the Public Service Commission of Utah.

/s/ Ted Boyer, Chairman

/s/ Ric Campbell, Commissioner

/s/ Ron Allen, Commissioner

Attest:

/s/ Julie Orchard
Commission Secretary
G#68350