

BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH

In the Matter of: The Joint)	Docket Nos.
Application of 360networks)	11-2289-01
Corporation, 360networks)	and
(USA) Inc., and Zayo Group,)	11-2536-02
LLC for the Transfer of)	
Indirect Control of)	
360networks (USA) Inc. to)	
Zayo Group, LLC)	

TRANSCRIPT OF HEARING PROCEEDINGS

TAKEN AT: Public Service Commission
160 East 300 South
Salt Lake City, Utah

DATE: November 22, 2011

TIME: 11:03 a.m.

REPORTED BY: Kelly L. Wilburn, CSR, RPR

APPEARANCES

Presiding:

MELANIE A. REIF, Administrative Law Judge

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1 November 22, 2011

11:03 A.M.

2 P R O C E E D I N G S

3 THE COURT: Welcome everyone. My name is
4 Melanie Reif and I'm the Administrative Law Judge for
5 the Public Service Commission. This is the date and
6 time for the hearing in the matter of 360networks and
7 Zayo Group, LLC. Docket Nos. 11-2289-01 and
8 11-2536-02.

9 This particular hearing concerns an
10 application for Commission approval to complete a
11 transaction involving the transfer of indirect control
12 of 360networks to Zayo.

13 At this point I want to note for everyone
14 that the Commission takes administrative notice of the
15 Company's application, as well as the Division's
16 recommendation recommending approval of the
17 application.

18 Let's go ahead and take appearances, starting
19 with the Company.

20 MR. EVANS: My name is William J. Evans of
21 Parsons, Behle & Latimer. And I'm here on behalf of
22 360networks Corporation and Zayo Group, LLC, the Joint
23 Applicants.

24 THE COURT: Okay. And let's go ahead and
25 take the appearances of the individuals over the phone

1 next, please.

2 MR. FERENCHAK: Yes, your Honor. This is
3 Brett Ferenchak with Bingham McCutchen. And I'm, I
4 guess, here on behalf of the Applicants.

5 THE COURT: Thank you.

6 MS. SINGER NELSON: And Michelle Singer
7 Nelson is appearing on behalf of 360networks (USA)
8 Inc.

9 MR. CHEVALIER: And Peter Chevalier appearing
10 for Zayo Group, LLC.

11 THE COURT: Thank you. The Division?

12 MS. BURTON-LEE: Dahnelle Burton-Lee,
13 Assistant Attorney General, on behalf of the Division
14 of Public Utilities. And with me is Mr. Ron Slusher
15 from the Division as the Division's witness today.

16 THE COURT: Thank you all.

17 Mr. Evans, would you like to make a statement
18 on behalf of the Company?

19 MR. EVANS: Yes, your Honor. We have
20 submitted the joint application and in it described
21 the transaction as it's been proposed, and also
22 reasons why it would be in the public interest to
23 approve the transaction.

24 The application speaks for itself, really,
25 and it has been verified by officers for both

1 360networks (USA) and for Zayo Group, LLC.

2 If we -- I think our witnesses are prepared
3 today to answer any questions that the parties might
4 have of them. I don't believe -- and I can ask this
5 maybe of Ms. Singer. Are there any changes that need
6 to be made to this joint application, or do you
7 proffer it as it stands?

8 MS. SINGER NELSON: As far as 360networks is
9 concerned there are no changes that I think need to be
10 made to the application.

11 MR. EVANS: And Mr. Chevalier, would you say
12 the same?

13 MR. CHEVALIER: Yes, I would. No changes on
14 behalf of Zayo either.

15 MR. EVANS: Your Honor, under the current law
16 and regulations these unopposed applications for
17 transfer of control are to be treated informally. And
18 the presumption is that the transaction is in the
19 public interest.

20 We have had no intervenors and no opposition
21 to this application, so we would submit that it should
22 be found to be in the public interest and the
23 application should be granted.

24 MR. EVANS: Thank you Mr. Evans.

25 Ms. Burton-Lee, would you like to add

1 anything?

2 MS. BURTON-LEE: I would just like to add on
3 behalf of the Division, in that the Commission has
4 taken judicial notice or administrative notice of the
5 Division's comments as well as the affidavit of
6 Mr. Slusher, that the Division has reviewed the
7 application and has found it to be in the public
8 interest to have the application approved.

9 And if there are any questions for
10 Mr. Slusher, he is available.

11 THE COURT: Mr. Evans, do you have any
12 questions of Mr. Slusher?

13 MR. EVANS: No, your Honor, thank you.

14 THE COURT: Okay. Are there any objections
15 to the application today?

16 Hearing none, I'd like to address what
17 Mr. Evans has already identified as the standard in
18 this case, which is under the Utah Administrative
19 Rules R746-349-7 requires that:

20 "If no objection to the proposed
21 transaction is submitted in any comments
22 or reply comments, the Commission will
23 presume that approval of the transaction
24 is in the public interest and use the
25 information contained in the application

1 and accompanying documents as evidence
2 to support a Commission order."

3 Are there any questions before we take a
4 recess?

5 MS. BURTON-LEE: No, your Honor.

6 THE COURT: Okay. We'll be in recess for
7 five minutes. Thank you.

8 (A recess was taken from 11:08 to 11:13 a.m.)

9 THE COURT: Thank you everyone. It is the
10 Commission's decision to approve the application. So
11 unless there are any questions, we'll be adjourned.
12 Are there any questions regarding the application?

13 Mr. Evans?

14 MR. EVANS: Well, just one, one issue. And I
15 appreciate very much you getting that bench order
16 today. We're a little concerned, because the statute
17 provides that in order for an order to be effective it
18 has to be issued by the Commission and filed with the
19 Commission office.

20 And I'm kind of thinking that that means a
21 written order apart from the bench order. And I think
22 your Honor is aware that we're trying to close this
23 transaction on December 1. So if we can, if we can
24 get the written order by December 1, we're okay.

25 THE COURT: Yes.

1 MR. EVANS: Okay. That's --

2 THE COURT: I'm confident that you will get
3 the order by December 1. My understanding is a
4 request has been made of the court reporter for an
5 expedited transcript.

6 MR. EVANS: Right.

7 THE COURT: Which I believe I will be seeing
8 tomorrow. And I think, based on that, you will be
9 seeing something from the Commission very shortly
10 after that.

11 MR. EVANS: Okay, perfect.

12 THE COURT: So.

13 MR. EVANS: And again, we'd be glad to assist
14 if you think it would be worthwhile to submit a
15 proposed order. Whatever we can --

16 THE COURT: I appreciate that very much. I
17 don't think that that will be necessary.

18 MR. EVANS: Okay.

19 THE COURT: And as soon as I see the
20 transcript, this being a rather short matter I don't
21 foresee there being any issue with getting you the
22 written order right away.

23 MR. EVANS: Okay.

24 THE COURT: And I want you to know that I'm
25 sensitive to your request. The Commission is aware of

1 it as well. And we will certainly meet your request
2 to get that out between now and the first.

3 MR. EVANS: Thank you. I'm sure the Joint
4 Applicants greatly appreciate the expediting of this
5 order. And we do thank you for that.

6 THE COURT: You're very welcome.

7 MS. SINGER NELSON: Yes, thank you, Judge.
8 And thank you to the Commission. We appreciate that.

9 THE COURT: Thank you. Thank you. And have
10 a happy holiday everyone.

11 MR. EVANS: All right.

12 MS. BURTON-LEE: Thank you, your Honor.

13 THE COURT: This hearing is adjourned. Thank
14 you.

15 (The hearing was concluded at 11:15 a.m.)
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C E R T I F I C A T E

STATE OF UTAH)
) ss.
COUNTY OF SALT LAKE)

This is to certify that the foregoing proceedings were taken before me, KELLY L. WILBURN, a Certified Shorthand Reporter and Registered Professional Reporter in and for the State of Utah.

That the proceedings were reported by me in stenotype and thereafter caused by me to be transcribed into typewriting. And that a full, true, and correct transcription of said proceedings so taken and transcribed is set forth in the foregoing pages, numbered 1 through 10, inclusive.

I further certify that I am not of kin or otherwise associated with any of the parties to said cause of action, and that I am not interested in the event thereof.

SIGNED ON THIS 23rd DAY OF November, 2011.

Kelly L. Wilburn, CSR, RPR
Utah CSR No. 109582-7801

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