



State of Utah
Department of Commerce
Division of Public Utilities

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MEMORANDUM

To: Public Service Commission

From: Division of Public Utilities
Chris Parker, Director
Bill Duncan, Telecommunications / Water Manager
Ron Slusher, Utility Technical Consultant

Date: April 07, 2011

Re: In the Matter of the Global Capacity Group, Inc., Global Capacity Direct, LLC f/k/a Vanco Direct USA, LLC Transfer of Assets to GC Pivotal, LLC Docket No.11-2539-02.

RECOMMENDATION (Approve):

The Division has reviewed the joint application and believes that the transfer of assets is in the public interest. As a result of the acquisition, GC Pivotal, LLC should be in a better position to provide expanded and advanced telecommunications services because of the financial stability and access to the technical and managerial abilities of the newly formed company.

EXPLANATION:

On March 16, 2011, Global Capacity Group, Inc., Global Capacity Direct, LLC f/k/a Vanco Direct USA, LLC and GC Pivotal, LLC (“The Applicants”) notified the Commission of a transaction which will result in a transfer of assets of Global Capacity Group, Inc., Global Capacity Direct, LLC f/k/a Vanco Direct USA, LLC to GC Pivotal, LLC.

Global Capacity Group, Inc is a Texas corporation with principal offices located at 200 South Wacker Drive, Suite 1650, Chicago, Illinois 60606. They’re currently registered as a toll reseller in the state of Utah. Global Capacity Group, Inc. is a direct, wholly-owned subsidiary of GC Holdco, which in turn is a wholly-owned subsidiary of Capital Growth Systems, Inc.

Global Capacity Direct, LLC f/k/a Vanco Direct USA, LLC is a Delaware corporation with principal offices located at 200 South Wacker Drive, Suite 1600, Chicago, Illinois 60606. They’re currently registered as a toll reseller in the state of Utah. Global Capacity Group, Inc. is a direct, wholly-owned subsidiary of GC Holdco, which in turn is a wholly-owned subsidiary of Capital Growth Systems, Inc.

GC Pivotal, LLC is a Delaware limited liability company with principal offices located at 3200 East Camelback Road, Suite 295, Phoenix, Arizona 85018. GC Pivotal is a newly formed operating company that was formed to facilitate the ability of its indirect parent, FFN Investments, LLC, to acquire the telecommunications assets currently held by Global Capacity Group, Inc and then operate those assets. FFN Investments, LLC, is an Arizona limited liability company with principal offices located at 3200 East Camelback Road, Suite 295, Phoenix, Arizona 85018. FFN Investments, LLC, is the direct 100% parent of Pivotal Global Capacity, LLC ("Pivotal Holdco") which in turn owns 100% of Pivotal. FFN Investments, LLC, is a management company owned and controlled by a series of trusts formed for the benefit of F. Francis Najafi and his family members.

On March 14, 2011, GC Pivotal, LLC applied for a Certificate of Public Convenience and Necessity to Provide Resold and Facilities-Based Local Exchange Telecommunications Service within the State of Utah Docket No. 11-2539-01. The Division filed a recommendation on March 24, 2011 with the Commission for asking for approval of their application.

By order entered on January 26, 2011, the Bankruptcy Court for the District of Delaware approved the sale of substantially all of the assets of the jointly-administered Global Capacity debtors, including direct and indirect subsidiaries of Capital Growth Systems, Inc., to Pivotal Global Capacity, LLC or its wholly-owned subsidiary assignee GC Pivotal, LLC

In addition, the Applicants state that the proposed transfer of assets will involve no disruption or impairment of service to customers, the facilities used to provide such services, or the rates, terms and conditions of such service. Global Capacity Group, Inc corporate officers and management team responsible for its day-to-day operations are expected to remain essentially the same immediately following the transfer of assets. The proposed transfer will not have an adverse effect on non-management employees of Global Capacity Group, Inc. Finally, all existing customer service numbers/operations, contact and procedures of Global Capacity Group, Inc. will also remain in place after the proposed transfer, including procedures relating to billing, repair and customer complaints. See attached letter that companies will be including with customers monthly bills.

The Applicants state that the transfer of assets described herein will serve the public interest and will not adversely affect the customers of Global Capacity Group, Inc. or Global Capacity Direct, LLC f/k/a Vanco Direct USA, LLC. The further state the operations of the company will be better because it will be economically much stronger. The economic benefits are expected to strengthen the company's ability to expand its service offerings to a broader customer base. The Applicants also expect that the proposed transaction will enable the company to strengthen its competitive position to the benefit of consumers of Utah.

cc: Lance J.M. Steinhart, Attorney, Global Capacity Group, Inc.