



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 06, 2012

Re: In the Matter of the Joint Application of AboveNet, Inc., AboveNet of Utah LLC and Zayo Group, LLC for the Transfer of Indirect Control of AboveNet of Utah LLC to Zayo Group, LLC.

RECOMMENDATION (Approve):

The Division has reviewed the joint application of AboveNet, Inc., AboveNet of Utah LLC and Zayo Group, LLC and believes that the transfer of control is in the public interest. As a result of the acquisition, the Companies should be in a better position to provide expanded and advanced telecommunications services in the State of Utah.

EXPLANATION:

On March 28, 2012, AboveNet, Inc. ("ABN-Parent"), AboveNet of Utah L.L.C. ("AboveNet") and Zayo Group, LLC ("Zayo") (collectively, the "Applicants"), filed an application pursuant to Utah Code Ann. §§ 54-4-28 & 54-4-29 and the Public Service Commission of Utah ("Commission") Rule R746-349-7, notifying the Commission of a transaction, which will result in a Transfer of Indirect Control of AboveNet to Zayo.

On March 18, 2012, the Applicants entered into an agreement where Zayo will acquire all outstanding equity interest in ABN-Parent. ABN-Parent will become a wholly-owned direct subsidiary of Zayo. AboveNet will remain an indirect subsidiary of ABN-Parent and, therefore, AboveNet will become an indirect subsidiary of Zayo.

ABN-Parent is a publicly-held Delaware corporation headquartered at 360 Hamilton Avenue, White Plains, New York 10601. AboveNet is a Delaware limited liability company and wholly-owned direct subsidiary of AboveNet Communications, Inc., a Delaware corporation and

wholly-owned direct subsidiary of ABN-Parent. AboveNet is authorized to provide local exchange and interexchange telecommunications service in the State of Utah by the Commission on Docket No. 00-2324-01 on September 05, 2000.

Zayo is a Delaware limited liability company with headquartered at 400 Centennial Parkway, Suite 200, Louisville, Colorado 80027. Zayo is a wholly-owned subsidiary of Zayo Group Holdings, Inc., a Delaware corporation and wholly-owned subsidiary of Communications Infrastructure Investments, LLC (“CIIF”), a Delaware limited liability company. Zayo is authorized to provide local exchange and interexchange telecommunications service in the State of Utah by the Commission on Docket No. 11-2536-01 on March 10, 2011.

All companies listed in this docket are authorized by the Federal Communications Commission (“FCC”) to provide interstate and international telecommunications services.

Zayo has shown that they have the technical, managerial, and financial qualifications to acquire control of the ABN-Parent. The Applicants submit that the transaction described herein will serve the public interest. The Applicants expect that the merger will enable the combined entities to better meet the needs of enterprises, wholesale buyers, and other customers. The transaction will bring together two successful carrier organizations that have proven themselves in a highly competitive marketplace. The transaction will help create a stronger competitor by bringing together each organization’s respective strengths. Operating as an integrated company will allow each of the operating companies to be more competitive and to deliver greater value and variety of services to their customers than they do individually.

The Applicants further submit that the transaction will be conducted in a manner that will be largely transparent to customers of the AboveNet. The transaction will not result in a change of carrier for customers or any assignment of authorizations, and in no event will it result in the discontinuance, reduction, loss, or impairment of service to customers. Immediately following consummation of the transaction, the AboveNet will continue to provide high-quality communications services to their customers without interruption and without immediate change in rates, terms, or conditions.

The Division has reviewed the joint application of AboveNet, Inc., AboveNet of Utah LLC and Zayo Group, LLC and believes that the transfer of control is in the public interest. As a result of the acquisition, the Companies should be in a better position to provide expanded and advanced telecommunications services in the State of Utah.

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