

- BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH -

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In the Matter of the Joint Application of )  
AboveNet, Inc., AboveNet of Utah L.L.C. and ) DOCKET NO. 12-2324-01  
Zayo Group, LLC for the Transfer of Indirect ) DOCKET NO. 12-2536-01  
Control of AboveNet of Utah L.L.C. to Zayo ) REPORT AND ORDER  
Group, LLC )  
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ISSUED: May 7, 2012

By The Commission:

This matter is before the Commission on the Joint Application of AboveNet, Inc. (“ABN-Parent”), AboveNet of Utah LLC (“AboveNet”), and Zayo Group, LLC (“Zayo”) (collectively, “Applicants”) for Approval of Transfer of Indirect Control of AboveNet to Zayo. Applicants filed a joint application on March 26, 2012 and requested expedited review and action. The application contains all the information required by Utah Admin. Code R746-349-7(A)(1).

On April 6, 2012 the Division of Public Utilities (the “Division”) submitted a recommendation to approve the application. Pursuant to Utah Admin. Code R746-349-7(A)(2), the Commission issued a public notice of the application on April 10, 2012, allowing for the submission of comments by any interested party regarding the application. No comments or objections were received.

Pursuant to Utah Admin. Code R746-349-7(A)(2), the administrative law judge for the Commission held a hearing on May 3, 2012. No one appeared at the hearing objecting to the application. William J. Evans appeared for the Applicants and was accompanied, telephonically, by Brett Ferenchak, Jill Sandford, and Peter Chevalier. Patricia Schmid,

Assistant Attorney General, appeared for the Division, and was accompanied by Ron Slusher, Utility Technical Consultant for the Division.

The ALJ took administrative notice of both the application and recommendation filed by the Division recommending approval.

Under Utah Admin. Code R746-349-7, “[i]f no objection to the proposed transaction is submitted in any filed comments or reply comments, the Commission will presume that approval of the transaction is in the public interest and use the information contained in the application and accompanying documents as evidence to support a Commission order.” Utah Admin. Code R746-349-7(A)(3). Because there is no objection to the granting of the application, the Commission thus presumes the application for approval of transfer of indirect control is in the public interest. Moreover, the Division’s memorandum provides additional support for approval of the application.

ORDER

For the foregoing reasons, the Commission approves the transfer of indirect control of AboveNet to Zayo.

DATED at Salt Lake City, Utah, this 7<sup>th</sup> day of May 2012.

/s/ Melanie A. Reif  
Administrative Law Judge

DOCKET NOS. 12-2324-01 and 12-2536-01

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Approved and confirmed this 7<sup>th</sup> day of May, 2012, as the Report and Order issued by the Public Service Commission of Utah.

/s/ Ted Boyer, Chairman

/s/ Ric Campbell, Commissioner

/s/ Ron Allen, Commissioner

Attest:

/s/ Gary L. Widerburg  
Commission Secretary  
DH#224662

Notice of Opportunity for Agency Review or Rehearing

Pursuant to Utah Code Ann. §§ 63G-4-301 and 54-7-15, a party may seek agency review or rehearing of this order by filing a request for review or rehearing with the Commission within 30 days after the issuance of the 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 fails to grant a request for review or rehearing within 20 days after the filing of a request for review or rehearing, 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 Utah Code Ann. §§ 63G-4-401, 63G-4-403, and the Utah Rules of Appellate Procedure.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 7<sup>th</sup> day of May, 2012, a true and correct copy of the foregoing REPORT AND ORDER, was delivered upon the following as indicated below:

By Electronic-Mail

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