

NEW APPLICATION

BINGHAM  
ORIGINAL



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Jean L. Kiddoo  
Brett P. Ferenchak  
jean.kiddoo@bingham.com  
brett.ferenchak@bingham.com  
Our file no.: 0000350839

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Arizona Corporation Commission  
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July 23, 2010

AZ CORP COMMISSION  
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*Via Overnight Courier*

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Brian C. McNeil, Executive Secretary  
Arizona Corporation Commission  
Utilities Division  
1200 W. Washington Street  
Phoenix, AZ 85007-2927

T-03980A-10-0313  
T-20694A-10-0313

**RE: Notification of Zayo Group, LLC and American Fiber Systems, Inc. of Indirect Transfer of Control of American Fiber Systems, Inc. to Zayo Group, LLC**

Dear Mr. McNeil:

Zayo Group, LLC ("Zayo Group") and American Fiber Systems, Inc. ("AFS" and together with Zayo Group, the "Parties"), hereby notify the Arizona Corporation Commission ("Commission") of the indirect transfer of control of AFS to Zayo Group (the "AFS-Zayo Transaction"). AFS does not currently provide intrastate telecommunications services in Arizona.

It is the Parties' understanding that Commission approval is not required to complete the transactions described herein.<sup>1</sup> Accordingly, the Parties submit this letter for informational purposes only to ensure the continuing accuracy of the Commission's records. In support, the Parties provide the following information:

**Description of the Parties**

**A. Zayo Group, LLC**

Zayo Group is a Delaware limited liability company with principal offices located at 400 Centennial Parkway, Suite 200, Louisville, Colorado 80027. Through its four business units -- Zayo Bandwidth, Zayo Enterprise Services, Zayo Fiber Solutions and zColo -- Zayo Group provides bandwidth, voice, collocation and interconnection, connectivity and dark-fiber related and managed services to carrier, enterprise, small and medium enterprise, and government customers. Zayo Group anticipates that, upon completion of the acquisition of AFS-Zayo Transaction, AFS will initially become part of the Zayo Bandwidth business unit, which provides Private Line, Ethernet, Wavelength, Dedicated Internet Access and Collocation services to wholesale (e.g., other carriers) and large enterprise customers. While Zayo Group is not itself authorized to provide

<sup>1</sup> AFS has less than \$1 million in jurisdictional revenues in 2009, and therefore, the Arizona Affiliated Interest Rules, A.A.C. R12-2-801 to R12-2-806, requiring utilities with greater than \$1 million in jurisdictional revenues to obtain prior approval for certain transactions, do not apply. Accordingly, the Parties hereby submit this notice for the Commission's reference and files.

- Boston
- Hartford
- Hong Kong
- London
- Los Angeles
- New York
- Orange County
- San Francisco
- Santa Monica
- Silicon Valley
- Tokyo
- Walnut Creek
- Washington

Bingham McCutchen LLP  
2020 K Street NW  
Washington, DC  
20006-1806

T 202.373.6000  
F 202.373.6001  
bingham.com

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Brian C. McNeil, Executive Secretary  
July 23, 2010  
Page 2

telecommunications in any state, its subsidiaries hold licenses to provide telecommunications in over 20 other states, as well as from the Federal Communications Commission. In Arizona, Zayo Bandwidth, LLC, Zayo Group's primary operating subsidiary of the Zayo Bandwidth business unit, is authorized to provide facilities-based local exchange and resold and facilities-based private line telecommunications services pursuant to Decision No. 71781 issued in Docket No. T-20694A-09-0379 on July 12, 2010. Further, Zayo Fiber Solutions, LLC (formerly known as AGL Networks, LLC), Zayo Group's another operating subsidiary for the Zayo Fiber Solutions business unit, is authorized as a competitive private line telecommunications services pursuant to Decision No. 71485 issued in Docket No. T-20667A-09-0179 on February 23, 2010.

Zayo Group has the technical, managerial, and financial qualifications to acquire control of AFS. Zayo Group's current ownership and operation of ZB and ZFS demonstrates that Zayo Group is qualified to own and control AFS. Zayo Group is operated by a highly qualified management team, all of whom have extensive backgrounds in the telecommunications industry. Zayo Group's managerial expertise will further strengthen AFS's operations.

**B. American Fiber Systems, Inc.**

AFS is a Delaware corporation with principal offices located at 100 Meridian Centre, Suite 300, Rochester, New York 14618. AFS is a wholly-owned subsidiary of American Fiber Systems Holding Corp. ("AFSHC"), a Delaware holding company whose principal business is telecommunications.<sup>2</sup> In Arizona, AFS is authorized to provide facilities-based and resold local exchange, exchange access and interexchange telecommunications services pursuant to the Commission's authorization issued in Docket No. T-03980A-01-0025 on March 9, 2001. AFS is authorized to provide telecommunications services in other states pursuant to deregulation, registration or certification. AFS is also authorized by the Federal Communications Commission to provide interstate and international services as a non-dominant carrier.

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<sup>2</sup> AFSHC holds no regulatory licenses from this or any other regulatory Commission.

Brian C. McNeil, Executive Secretary  
July 23, 2010  
Page 3

### Contact Information

Questions or inquiries concerning this filing may be directed to:

For Zayo Group:

Jean L. Kiddoo  
Brett P. Ferenczak  
Bingham McCutchen LLP  
2020 K Street, N.W.  
Washington, DC 20006  
202-373-6697 (Tel)  
202-373-6001 (Fax)  
jean.kiddoo@bingham.com  
brett.ferenczak@bingham.com

and:

Scott E. Beer  
General Counsel  
Zayo Group, LLC  
400 Centennial Parkway, Suite 200  
Louisville, CO 80027  
303-381-4664 (Tel)  
303-226-5923 (Fax)  
sbeer@zayo.com

For AFS:

Bruce T. Frankiewich  
General Counsel & VP of Regulatory  
Affairs  
American Fiber Systems, Inc.  
100 Meridian Centre, Suite 300  
Rochester, NY 14618  
585-785-5821 (Tel)  
585-785-5822 (Fax)  
bfrankiewich@afsnetworks.com

### Description of the Transaction

**A. Transfer of Control of AFS to Zayo Group**

Zayo Group, Zayo AFS Acquisition Company, Inc. ("Merger Sub"), a direct subsidiary of Zayo Group created specifically for the purposes of this transaction, AFSHC and Robert E. Ingalls, Jr., as the Equity Holder Representative have entered into an Agreement and Plan of Merger dated as of June 24, 2010, whereby AFSHC will merge with and into Merger Sub, with AFSHC surviving the merger. As a result of the transaction, AFSHC will become a direct subsidiary, and AFS will become an indirect subsidiary, of Zayo Group. The Parties therefore notify the Commission of the indirect transfer of control of AFS to Zayo Group. For the Commission's convenience, pre- and post-transaction corporate structure charts are provided as Exhibit A.

Immediately following the consummation of the proposed transaction, AFS will continue to offer service with no change in the rates or terms and conditions of service. Zayo Group, however, plans to change AFS's name to Zayo Metro, Inc.<sup>3</sup> immediately upon

<sup>3</sup> Upon completion of the AFS-Zayo Transaction, AFS will notify its customers of the name change and make all appropriate filings with the Commission to reflect its new name.

Brian C. McNeil, Executive Secretary  
July 23, 2010  
Page 4

completion of the transaction. Therefore, except for the name change, the transfer of control of AFS will be seamless and transparent to consumers in the State of Arizona.

#### Public Interest Considerations

The transactions described herein will serve the public interest. Under new ownership, AFS will be able to provide high-quality services in Arizona, while gaining access to the additional resources and operational expertise of Zayo Group. The transfer of control, therefore, will give AFS the ability to become a stronger competitor, to the ultimate benefit of consumers. AFS's network complements the existing metro and regional networks of Zayo Group's current business units, giving the operating subsidiaries greater market depth and breadth as a result of the transaction. As a result, the transaction will strengthen the Parties' ability to compete with other, much larger, fiber providers in the region to the benefit of consumers and the telecommunications marketplace. Further, except for the name change, the AFS-Zayo Transaction will be conducted in a manner that will be transparent to consumers.

#### Conclusion

An original and thirteen (13) copies of this letter are enclosed for filing. Please date-stamp the enclosed extra copy and return it in the envelope provided. Should you have any questions regarding this filing, please do not hesitate to contact Brett P. Ferenchak at 202-373-6697.

Respectfully submitted,



Jean L. Kiddoo  
Brett P. Ferenchak

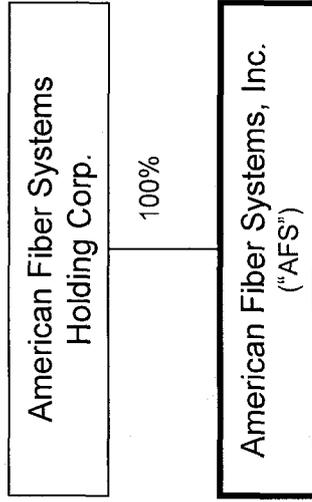
Counsel for Zayo Group, LLC

cc: Bruce T. Frankiewich (AFS)

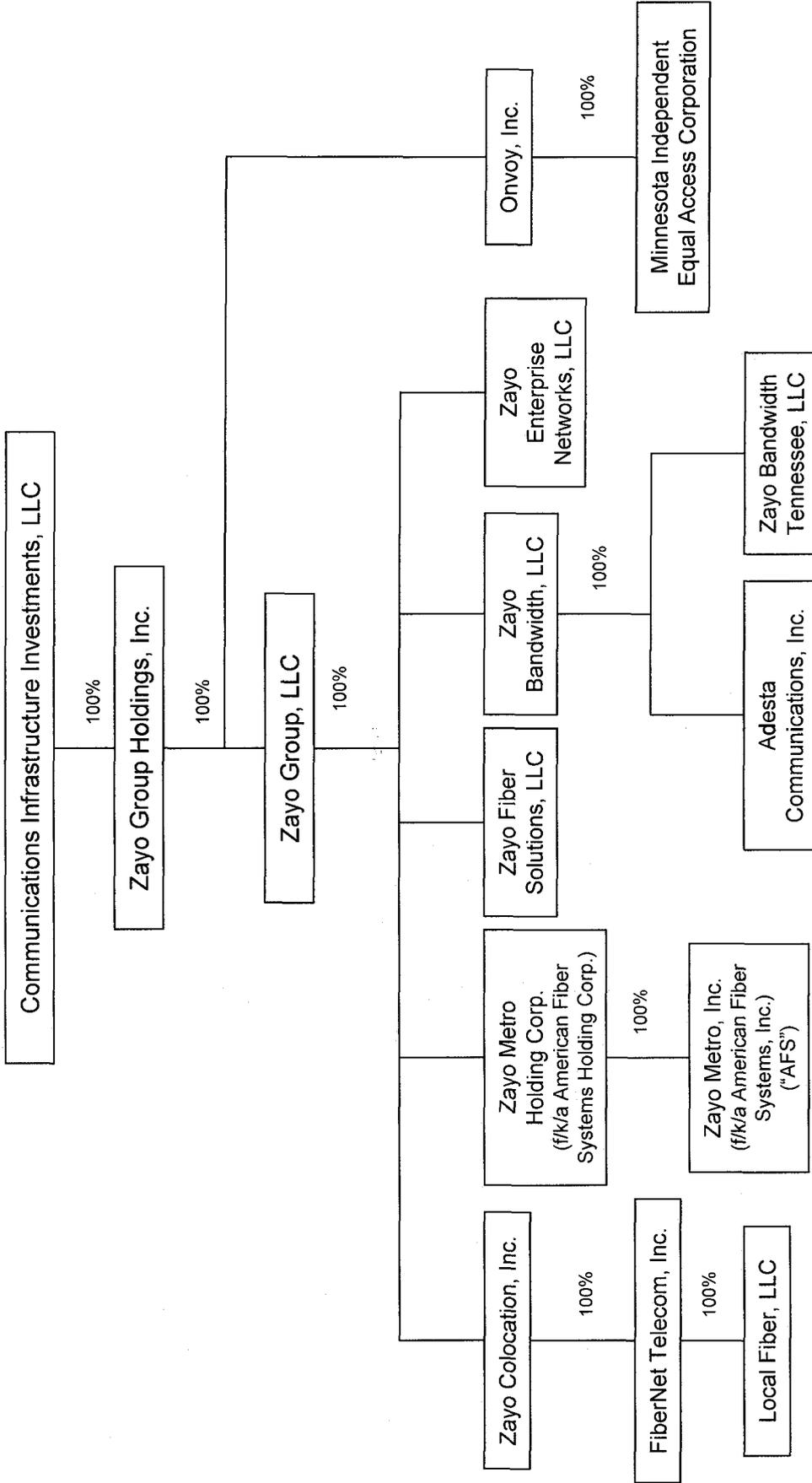
**EXHIBIT A**

**Pre- and Post-Transaction Corporate Organizational Structure**

Pre-Transaction Corporate Structure of AFS



# Post-Transaction Corporate Structure of AFS



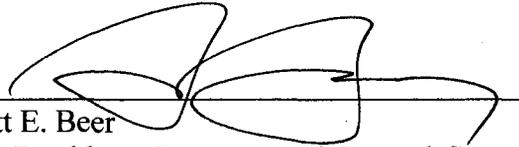
## Verifications

STATE OF COLORADO  
COUNTY OF BOULDER

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§  
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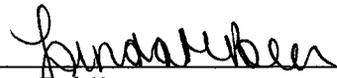
**VERIFICATION**

I, Scott E. Beer, state that I am the Vice President, Secretary and General Counsel of Zayo Group, LLC (the "Company"); that I am authorized to make this Verification on behalf of the Company; that the foregoing filing was prepared under my direction and supervision; and that the contents with respect to the Company are true and correct to the best of my knowledge, information, and belief.



Scott E. Beer  
Vice President, Secretary and General Counsel  
Zayo Group, LLC

Sworn and subscribed before me this 7<sup>th</sup> day of July, 2010.



Notary Public

My commission expires 6-8-2011

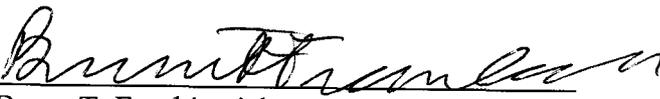
✓

STATE OF NEW YORK  
COUNTY OF MONROE

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**VERIFICATION**

I, Bruce T. Frankiewich, state that I am the General Counsel & VP of Regulatory Affairs of American Fiber Systems Holding Corp., the parent company of American Fiber Systems, Inc. (together, the "Company"); that I am authorized to make this Verification on behalf of the Company; that the foregoing filing was prepared under my direction and supervision; and that the contents with respect to the Company are true and correct to the best of my knowledge, information, and belief.

  
Bruce T. Frankiewich  
General Counsel & VP of Regulatory Affairs  
American Fiber Systems Holding Corp.

Sworn and subscribed before me this 19<sup>th</sup> day of July, 2010.

  
Notary Public

My commission expires                      **MARTIN CONSTABLE**  
**NOTARY PUBLIC, State of N.Y., Monroe Co.**  
**My Commission Expires November 28, 2015**