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MEMORANDUM

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DOCKETED BY *JM*

TO: THE COMMISSION

FROM: Utilities Division

DATE: August 17, 2012

RE: IN THE MATTER OF THE APPLICATION OF ZAYO GROUP, LLC, 360NETWORKS (USA) INC. AND ABOVE NET COMMUNICATIONS, INC. FOR AN ORDER AUTHORIZING THE ENCUMBRANCES OF THEIR ASSETS (DOCKET NOS. T-20783A-12-0319, T-03777A-12-0319 AND T-03774A-12-0319)

On July 12, 2012, Zayo Group ("Zayo"), 360networks (USA), Inc. ("360networks") and AboveNet Communications. Inc. ("AboveNet") (collectively "the Applicants") filed an application requesting Arizona Corporation Commission ("Commission") approval, pursuant to A.R.S. §40-285, to encumber their respective assets in Arizona in connection with up to \$120 Million in Additional Revolving Facilities. The Additional Revolving Facilities will be available to the Applicants and Zayo Group's other subsidiaries (collectively, "the Company") upon receipt of the necessary regulatory approvals.

Background

Zayo is a Delaware limited liability company with principal offices at 400 Centennial Parkway, Suite 200, Louisville, Colorado 80027. Zayo is a wholly-owned subsidiary of Zayo Group Holdings, Inc., a Delaware corporation, a wholly-owned subsidiary of Communications Infrastructure Investments, LLC ("CII"), a Delaware limited liability company. In Arizona, Zayo is authorized to provide facilities-based local exchange and resold and facilities-based intraLATA and interLATA private line services pursuant to Decision No. 72561.

360networks was acquired by Zayo in December of 2011. Its principal offices are located at 2101 4th Avenue, Suite 2000, Seattle, Washington 98121. 360networks is a full service wholesale provider of Private Line Transport, Ethernet, IP, and VoIP services and is authorized to provide local exchange switched access services and interexchange telecommunications services in Arizona pursuant to Decision Nos. 69240 and 62710, respectively. Zayo and 360networks are authorized by the Federal Communications Commission ("FCC") to provide domestic and/or international telecommunications services.

AboveNet is a Delaware corporation and wholly-owned direct subsidiary of AboveNet, Inc. ("ABN-Parent") a publicly-held Delaware corporation. ABN-Parent and

AboveNet have principal offices located at 360 Hamilton Avenue, White Plains, New York 10601. ABN-Parent and its subsidiaries, including AboveNet, are providers of dedicated end-to-end fiber optic infrastructure and high-bandwidth Internet connectivity, both domestically and internationally. In Arizona, AboveNet is authorized to provide facilities-based and resold non-switched dedicated and private line, high capacity fiber optic telecommunications services pursuant to Decision No. 62628. AboveNet is also authorized by the FCC to provide interstate and international telecommunications services.

The Transaction

The Applicants in their application represent the following:

On March 26, 2012, Applicants filed an application ("March 26 Application") seeking approval to pledge their assets in connection with up to \$3 Billion in new financing arrangements (the "Financing"). At the time, Applicants did not yet know the precise terms and amounts of the debt instruments that would be available and the March 26 Application, therefore, described a range of the expected terms and conditions of the Financing.

The Commission approved the March 26 Application on June 27, 2012 (Decision 73251). Shortly before closing the Financing, Zayo Group and its lenders determined that advantageous financial market conditions and the Company's potential future needs justified an increase in the aggregate amount of the financing by \$120 Million, subject to obtaining all necessary regulatory approvals for the Additional Revolving Facilities.

On July 2, 2012, consistent with the Commission's prior approval, Zayo Group completed its \$3 Billion Financing that included the following: (1) \$750 Million 8.125% Senior Secured First Priority Notes due 2020 ("Secured Notes"); (2) \$500 Million 10.125% Senior Unsecured Notes due 2020 ("Unsecured Notes"); (3) Term Loans in the amount of \$1.62 Billion to mature on July 2, 2019 (the "Term Loans") and (4) revolving loan facilities, swing line loans and letters of credit ("Revolving Facilities") in an amount of up to \$130 Million, which amount may be increased by up to an additional \$120 Million (the "Additional Revolving Facilities") upon receipt of all necessary regulatory approvals.

The Revolving Facilities have an interest rate of London InterBank Offered Rate ("LIBOR") plus a margin of 5.375% or Base Rate plus a margin of 4.375% (with margin subject to quarterly adjustment based on Zayo Group's leverage ratio), will mature on July 2, 2017 and are secured by a security interest in substantially all of the assets of the Company. Because the March 26 Application did not envision, and therefore the Commission's Decision No. 73251 did not approve, the Additional Revolving Facilities, Applicants hereby seek approval to encumber their respective assets in connection with the Additional Revolving Facilities in the aggregate amount of up to \$120 Million.

Staff's Analysis

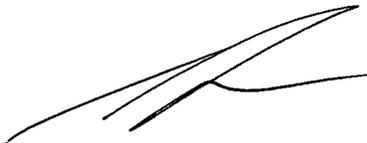
A.R.S. §40-285 requires public service corporations to obtain Commission authorization to assign or dispose of a utility's assets as proposed in this transaction. The statute serves to protect captive customers from a utility's act to dispose of any of its assets that are necessary for the provision of service; thus, it serves to preempt any service impairment due to disposal of assets essential for providing service.

The Applicants state that the proposed transaction will not affect the rates, terms and conditions by which the applicants offer service in Arizona. The Applicants also state that the financing arrangements will not result in an interruption or disruption of service, and will be seamless and transparent to customers. Additionally, the Applicants confirmed via email that any deposits, prepayments or advance payments held by Zayo will not be included in the proposed encumbrance. Staff concludes that the proposed transaction will not impair the availability of service to customers since the Applicants provide competitive services that are available from alternative service providers.

Staff's Recommendations

Based on its analysis of the proposed transaction, Staff concludes that the transaction would not impair the financial status of Zayo, would not impair its ability to attract capital, nor would it impair the ability of the Zayo to provide safe, reasonable, and adequate service. Customers may still have exposure to losses to the extent they have prepaid for service or made deposits. Therefore, Staff recommends approval of the application subject to the condition that all customer deposits and prepayments be excluded from encumbrance.

Staff further recommends authorizing the Applicants to engage in any transactions and to execute any documents necessary to effectuate the authorizations granted. Additionally, Staff recommends that one copy of the executed security documents be filed with the Utilities Division and a letter confirming such filing be docketed as a compliance item in this docket, within 90 days following execution of the proposed transaction.



Steven M. Olea
Director
Utilities Division

SMO:KMS:sms/BH

ORIGINATOR: Kiana M. Sears

1 Infrastructure Investments, LLC (“CII”), a Delaware limited liability company. In Arizona, Zayo
2 is authorized to provide facilities-based local exchange and resold and facilities-based intraLATA
3 and interLATA private line services pursuant to Decision No. 72561.

4 3. 360networks was acquired by Zayo in December of 2011. Its principal offices are
5 located at 2101 4th Avenue, Suite 2000, Seattle, Washington 98121. 360networks is a full service
6 wholesale provider of Private Line Transport, Ethernet, IP, and VoIP services and is authorized to
7 provide local exchange switched access services and interexchange telecommunications services in
8 Arizona pursuant to Decision Nos. 69240 and 62710, respectively. Zayo and 360networks are
9 authorized by the Federal Communications Commission (“FCC”) to provide domestic and/or
10 international telecommunications services.

11 4. AboveNet is a Delaware corporation and wholly-owned direct subsidiary of AboveNet,
12 Inc. (“ABN-Parent”) a publicly-held Delaware corporation. ABN-Parent and AboveNet have
13 principal offices located at 360 Hamilton Avenue, White Plains, New York 10601. ABN-Parent
14 and its subsidiaries, including AboveNet, are providers of dedicated end-to-end fiber optic
15 infrastructure and high-bandwidth Internet connectivity, both domestically and internationally. In
16 Arizona, AboveNet is authorized to provide facilities-based and resold non-switched dedicated and
17 private line, high capacity fiber optic telecommunications services pursuant to Decision No.
18 62628. AboveNet is also authorized by the FCC to provide interstate and international
19 telecommunications services.

20 The Transaction

21 5. On March 26, 2012, Applicants filed an application (“March 26 Application”)
22 seeking approval to pledge their assets in connection with up to \$3 Billion in new financing
23 arrangements (the “Financing”). At the time, Applicants did not yet know the precise terms and
24 amounts of the debt instruments that would be available and the March 26 Application therefore
25 described a range of the expected terms and conditions of the Financing.

26 6. The Commission approved the March 26 Application on June 27, 2012 (Decision
27 73251). Shortly before closing the Financing, Zayo Group and its lenders determined that
28 advantageous financial market conditions and the Company’s potential future needs justified an

1 advantageous financial market conditions and the Company's potential future needs justified an
2 increase in the aggregate amount of the financing by \$120 Million, subject to obtaining all
3 necessary regulatory approvals for the Additional Revolving Facilities.

4 7. On July 2, 2012, consistent with the Commission's prior approval, Zayo Group
5 completed its \$3 Billion Financing that included the following: (1) \$750 Million 8.125% Senior
6 Secured First Priority Notes due 2020 ("Secured Notes"); (2) \$500 Million 10.125% Senior
7 Unsecured Notes due 2020 ("Unsecured Notes"); (3) Term Loans in the amount of \$1.62 Billion to
8 mature on July 2, 2019 (the "Term Loans") and (4) revolving loan facilities, swing line loans and
9 letters of credit ("Revolving Facilities") in an amount of up to \$130 Million, which amount may be
10 increased by up to an additional \$120 Million (the "Additional Revolving Facilities") upon receipt
11 of all necessary regulatory approvals.

12 8. The Revolving Facilities have an interest rate of London InterBank Offered Rate
13 ("LIBOR") plus a margin of 5.375% or Base Rate plus a margin of 4.375% (with margin subject to
14 quarterly adjustment based on Zayo Group's leverage ratio), will mature on July 2, 2017 and are
15 secured by a security interest in substantially all of the assets of the Company. Because the March
16 26 Application did not envision, and therefore the Commission's Decision No. 73251 did not
17 approve, the Additional Revolving Facilities, Applicants hereby seek approval to encumber their
18 respective assets in connection with the Additional Revolving Facilities in the aggregate amount of
19 up to \$120 Million.

20 Staff's Analysis

21 9. A.R.S. § 40-285 requires public service corporations to obtain Commission
22 authorization to assign or dispose of a utility's assets as proposed in this transaction. The statute
23 serves to protect captive customers from a utility's act to dispose of any of its assets that are
24 necessary for the provision of service; thus, it serves to preempt any service impairment due to
25 disposal of assets essential for providing service.

26 10. The Applicants state that the proposed transaction will not affect the rates, terms
27 and conditions by which the applicants offer service in Arizona. The Applicants also state that the
28 financing arrangements will not result in an interruption or disruption of service, and will be

1 seamless and transparent to customers. Additionally, the Applicants confirmed via email that any
2 deposits, prepayments or advance payments held by Zayo will not be included in the proposed
3 encumbrance. Staff concludes that the proposed transaction will not impair the availability of
4 service to customers since the Applicants provide competitive services that are available from
5 alternative service providers.

6 Staff's Recommendations

7 11. Based on its analysis of the proposed transaction, Staff concludes that the
8 transaction would not impair the financial status of Zayo, would not impair its ability to attract
9 capital, nor would it impair the ability of the Zayo to provide safe, reasonable, and adequate
10 service. Customers may still have exposure to losses to the extent they have prepaid for service or
11 made deposits. Therefore, Staff recommends approval of the application subject to the condition
12 that all customer deposits and prepayments be excluded from encumbrance.

13 12 Staff further recommends authorizing the Applicants to engage in any
14 transactions and to execute any documents necessary to effectuate the authorizations granted.
15 Additionally, Staff recommends that one copy of executed security documents be filed with the
16 Utilities Division and a letter confirming such filing be docketed as a compliance item in this
17 docket, within 90 days following execution of the proposed transaction.

18 CONCLUSIONS OF LAW

19 1. Zayo Group, LLC, 360networks (USA) inc. and AboveNet Communications, Inc.
20 are public service corporations within the meaning of Article XV of the Arizona Constitution.

21 2. The Commission has jurisdiction over Zayo Group, LLC, 360networks (USA) inc.
22 and AboveNet Communications, Inc. and the subject matter in this filing.

23 3. The Commission, having reviewed the filing and Staff's Memorandum dated
24 August 17, 2012, concludes that it is in the public interest to grant approval as proposed and
25 discussed herein.

26 ORDER

27 IT IS THEREFORE ORDERED that the application of Zayo Group, LLC, 360networks
28 (USA) Inc. and AboveNet Communications, Inc. requesting approval to encumber their Arizona

1 assets in connection with the additional revolving facilities of up to \$120 Million be and hereby is
2 approved, subject to the condition that all customer deposits and prepayments be excluded from
3 encumbrance.

4 IT IS FURTHER ORDERED that the Applicants be and hereby are authorized to engage in
5 any transactions and to execute any documents necessary to effectuate the authorizations granted.

6 IT IS FURTHER ORDERED that one copy of the executed security documents shall be
7 filed with the Utilities Division and a letter confirming such filing shall be docketed as a
8 compliance item in this docket within 90 days following execution of the proposed transaction.

9 IT IS FURTHER ORDERED that this Decision become effective immediately.

10
11 **BY THE ORDER OF THE ARIZONA CORPORATION COMMISSION**

12
13 _____
CHAIRMAN

COMMISSIONER

14
15
16 _____
COMMISSIONER

COMMISSIONER

COMMISSIONER

17
18 IN WITNESS WHEREOF, I, ERNEST G. JOHNSON,
19 Executive Director of the Arizona Corporation Commission,
20 have hereunto, set my hand and caused the official seal of
21 this Commission to be affixed at the Capitol, in the City of
22 Phoenix, this _____ day of _____, 2012.

23 _____
24 ERNEST G. JOHNSON
EXECUTIVE DIRECTOR

25 DISSENT: _____

26
27 DISSENT: _____

28 SMO:KAS:sms/BH

1 SERVICE LIST FOR: Zayo Group, LLC, 360networks (USA) inc. and AboveNet
2 Communications, Inc
3 DOCKET NOS.: T-20783A-12-0319, T-03777A-12-0319 AND T-03774A-12-0319

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