

BEFORE THE IDAHO PUBLIC UTILITIES COMMISSION

**IN THE MATTER OF ELECTRIC)
LIGHTWAVE, LLC’S AND ZAYO GROUP,) CASE NOS. ELI-T-23-01
LLC’S JOINT APPLICATION FOR) ZAYO-T-23-01
APPROVAL TO ASSIGN THE)
CERTIFICATE OF PUBLIC CONVENIENCE) ORDER NO. 35928
AND NECESSITY HELD BY ELECTRIC)
LIGHTWAVE, LLC TO ZAYO GROUP, LLC)
_____)**

On March 23, 2023, Electric Lightwave, LLC d/b/a Allstream (“Electric Lightwave”) and Zayo Group, LLC (“Zayo”) (referred to collectively as “the Applicants”) jointly applied to the Idaho Public Utilities Commission (“Commission”) seeking approval to transfer Electric Lightwave’s Certificate of Public Convenience and Necessity (“CPCN”) No. 344 to Zayo with Zayo being the only remaining entity after assuming Electric Lightwave’s CPCN.

On April 3, 2023, while retaining their original request, the Applicants filed an amended application (“Application”) to comply with Rule 43 of the Commission’s Rules of Procedure. *See* IDAPA 31.01.01.43.

On July 10, 2023, the Commission issued a Notice of Application and set deadlines for public and Staff comments and the Company’s reply. Staff filed comments to which the Company did not reply. No other comments were received.

With this Order, the Commission approves the relinquishment of Electric Lightwave’s CPCN as well as the granting of a new CPCN to Zayo conditional upon the Company meeting the requirements set forth below.

THE APPLICATION

Electric Lightwave is a wholly owned subsidiary of Zayo.¹ Zayo is wholly owned by Zayo Group Holdings, Inc. The Applicants stated that the Pro Forma Consolidation of Electric Lightwave into Zayo will save costs by reducing the duplication of roles within the Applicants’ corporate structures.

The Applicants stated that Zayo provides numerous telecom related services including providing broadband infrastructure and interconnection, private line, Ethernet, and wavelength

¹ Zayo is authorized to engage in business activities related to telecommunication in Idaho.

services. Zayo has been authorized to provide wholesale telecommunications service in Idaho pursuant to Commission Order No. 32765. Electric Lightwave was granted its CPCN in Case No. ELI-T-04-02. *See* CPCN No. 344. Both Zayo and Electric Lightwave have been authorized to provide domestic and international services by the Federal Communications Commission.

If the Applicants' requested relief is granted, the plan for Zayo is to form a division that would be known as Allstream to provide the services that Electric Lightwave once provided. This will include certain services that are not currently provided by Zayo. The Applicants stated that customer rates and terms of service would not change if Electric Lightwave's customers are served directly by Zayo. Zayo plans to use Electric Lightwave's existing facilities (and certain other facilities) to provide local exchange service.²

Further information concerning the Applicants' proposed Pro Forma Consolidation can be found in the detailed Exhibits attached to the Application.

STAFF COMMENTS

Staff discussed the history of Electric Lightwave's CPCN and recommended that Electric Lightwave's CPCN be canceled and that Zayo then be issued a new CPCN. Notably, this differs from the Applicants' request to transfer Electric Lightwave's CPCN directly to Zayo. However, Staff believed that canceling Electric Lightwave's CPCN was preferable because Electric Lightwave will be wholly replaced by Zayo and cease to exist should the Commission grant the relief requested. Staff noted that the Commission had already granted Zayo the authority to provide wholesale telecommunication services in Order No. 32765. After reviewing the information provided by the Applicants, Staff stated that if the request is granted, Zayo had the capacity to serve Electric Lightwave's customers. Staff also explained that Electric Lightwave's customers' service, rates, and terms of service will remain the same. For these reasons, Staff recommended that Electric Lightwave's CPCN be cancelled; Staff also recommended that Zayo be granted a CPCN conditional upon it meeting five conditions. Zayo must (1) comply with the North American Number Plan Administrator requirements; (2) comply with all reporting and contribution requirements prescribed by the Idaho Universal Service Fund, Idaho Telecommunications Relay System, and Idaho Telecommunications Service Assistance Program, and must comply with all future reporting requirements deemed appropriate by the Commission for competitive

² Further information concerning the Applicants' proposed Pro Forma Consolidation can be found in the detailed Exhibits attached to the Application.

telecommunications providers; (3) file with the Commission a final price list outlining its rates, terms, and conditions before issuance of its CPCN; (4) provide the Commission with three reports during the next 12 months, indicating the number of basic local exchange customers it has and the services being offered. If Zayo fails to provide the reports, it will relinquish its CPCN and all telephone numbers assigned or the Commission will issue an order revoking its CPCN; and (5) recognize that if Zayo is not providing basic local exchange service by the time the third report is due, the Commission by its own motion will revoke Zayo's CPCN.

COMMISSION FINDINGS AND DECISION

The Commission sets the requirements that competitive local exchange carriers must satisfy to obtain a CPCN. IDAPA 31.01.01.114. We recognize the Applicant's initially requested that the Commission transfer Electric Lightwave's CPCN to Zayo. However, the Commission finds that it is preferable to relinquish Electric Lightwave's CPCN and issue Zayo a new CPCN because Electric Lightwave will be wholly replaced by Zayo and cease to exist. Therefore, the Commission finds that relinquishment followed by the granting of a new CPCN to Zayo is a cleaner process. The Commission is satisfied that Zayo has the ability and the intent to maintain Electric Lightwave's obligations and expectations under a new CPCN.

Based on our review of the record, we find that Zayo has complied with the requirements necessary to obtain a CPCN subject to the conditions outlined in Staff's Comments. Excepting those items discussed in Staff's comments above, Zayo has provided all necessary information to satisfy the Commission's requirements in Zayo's Application. We thus find it reasonable to grant Zayo a CPCN, subject to the following conditions:

1. Zayo complies with number pooling and reporting requirements of the North American Numbering Plan Administrator, as set forth in Commission Order No. 30425;
2. Zayo provides necessary reports and contributions appropriate to the Idaho Universal Service Fund, Idaho Telecommunications Relay Services, Idaho Telecommunications Service Assistance Program, and complies with all future reporting requirements deemed appropriate by the Commission for competitive telecommunications providers;
3. Prior to issuance of the CPCN, Zayo files a final price list outlining all its rates, terms, and conditions with the Commission;

4. Zayo provides three reports to the Commission indicating the number of basic local exchange customers it has and the services being offered. These reports will be due as follows:
 - a. November 27, 2023
 - b. March 25, 2024
 - c. July 29, 2024

If Zayo fails to provide the three reports, Zayo shall relinquish its CPCN and all telephone numbers it has been assigned or the Commission will by its own order revoke Zayo's CPCN; and

5. If Zayo is not providing basic local exchange service by the time the third report is due, the Commission by its own order will revoke Zayo's CPCN.

ORDER

IT IS HEREBY ORDERED that Electric Lightwave's CPCN is now relinquished; Zayo shall be granted a CPCN conditional upon it meeting the requirements described above.

THIS IS A FINAL ORDER. Any person interested in this Order may petition for reconsideration within twenty-one (21) days of the service date of this Order regarding any matter decided in this Order. Within seven (7) days after any person has petitioned for reconsideration, any other person may cross-petition for reconsideration. *Idaho Code* § 61-626.

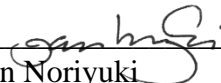
DONE by Order of the Idaho Public Utilities Commission at Boise, Idaho this 19th day of September 2023.


ERIC ANDERSON, PRESIDENT


JOHN R. HAMMOND JR., COMMISSIONER


EDWARD LODGE, COMMISSIONER

ATTEST:


Jan Noriyuki
Commission Secretary

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