

complete the *pro forma* intra-company transactions as soon as possible and no later than January 30, 2013.

In support of this Joint Application, the Applicants state as follows:

I. INTRODUCTION

Since the time that it completed a *pro forma* intra-company consolidation in 2011, Zayo has acquired a number of additional existing communications businesses, including 360networks. As a result of these acquisitions, the corporate structure of Zayo, has again become overly complex, with numerous operating entities, many of whose services overlap. Through the consolidation of those entities, Zayo will greatly simplify its corporate structure and reduce the reporting and accounting burdens of Zayo (and the regulatory Commissions who receive such reports) and provide operational efficiencies.

II. DESCRIPTION OF THE APPLICANTS

Zayo is a Delaware limited liability company with principal offices at 400 Centennial Parkway, Suite 200, Louisville, Colorado 80027. 360networks is a Nevada corporation and a wholly owned indirect subsidiary of Zayo. Zayo is a wholly-owned direct subsidiary of Zayo Group Holdings, Inc. (“Holdings”), a Delaware corporation, which in turn is a wholly owned direct subsidiary of Communications Infrastructure Investments, LLC (“CII”), a Delaware limited liability company. CII has no majority owner.

The Company is a provider of bandwidth infrastructure and network neutral colocation and interconnection services over regional and metropolitan fiber networks. These services

Transaction”). The assets involved in the Onvoy *Pro Forma* Transaction include facilities used to provide wholesale local exchange and long distance services as well as switched access services. Zayo, 360networks and Onvoy previously notified the Commission of the Onvoy *Pro Forma* Transaction. See Notification Regarding the Transfer of Control of 360networks (USA) inc. to Zayo Group, LLC at note 2 (Nov. 3, 2011). Out of an abundance of caution, the Parties provide this additional notice of the Onvoy *Pro Forma* Transaction because the transaction has not yet been completed.

enable customers to manage, operate, and scale their telecommunications and data networks. Such customers consist primarily of wireless service providers, national and regional telecommunications carriers and other communications service providers, media and content companies, schools, hospitals, governments, banks and other bandwidth-intensive enterprises.

In South Dakota, 360networks is authorized to provide local exchange and interexchange telecommunications services pursuant to Certificates granted in Docket Nos. TC00-079 and TC06-063. 360networks, however, is not currently providing any intrastate telecommunications services and does not have any intrastate customers. As a result of the *Pro Forma* Transaction, 360networks' Certificates will be transferred to Zayo. Applicants are also authorized by the Federal Communications Commission ("FCC") to provide domestic and/or international telecommunications services.

III. DESIGNATED CONTACTS

Questions or any correspondence, orders, or other materials pertaining to this Joint Application should be directed to the following:

Jean L. Kiddoo
Brett P. Ferenchak
Bingham McCutchen LLP
2020 K Street, N.W.
Washington, DC 20006-1806
202-373-6697 (tel)
202-373-6001 (fax)
jean.kiddoo@bingham.com
brett.ferenchak@bingham.com

Scott E. Beer, General Counsel
Jill Sandford, Associate General
Counsel
Zayo Group, LLC
400 Centennial Parkway, Suite 200
Louisville, CO 80027
914-421-7585 (tel)
914-421-6793 (fax)
scott.beer@zayo.com
jill.sandford@zayo.com

IV. DESCRIPTION OF THE PRO FORMA TRANSACTION

In order to simplify its corporate structure, Zayo is undertaking certain *pro forma* intra-company transactions that will result in assets (including the South Dakota Certificates) moving from 360networks to Zayo. Depending on the timing of various state regulatory approvals, the

Pro Forma Transactions will be accomplished by (a) the roll-up of 360networks into Zayo through a series of *pro forma* mergers, with Zayo as the surviving entity (i.e. its merging subsidiaries will cease to exist as separate corporate entities); and/or (b) the *pro forma* assignment of assets (including the South Dakota Certificates) and customers of 360networks to Zayo, followed by the series of *pro forma* mergers. Diagrams illustrating the organizational structure of the Company before and after the Zayo *Pro Forma* Transactions are provided in Exhibit A.

As stated above, 360networks does not currently have any intrastate telecommunications customers in South Dakota.

V. ADDITIONAL INFORMATION REQUIRED TO TRANSFER THE CERTIFICATE

A. Corporate Name and Principal Address of Zayo

Zayo Group, LLC
400 Centennial Parkway, Suite 200
Louisville, Colorado 80027
303-381-4683 (tel)
303-604-6869 (fax)
www.zayo.com

B. Corporate Organization

As stated above, Zayo is a Delaware limited liability company. A copy of Zayo's formation documents is provided in Exhibit B. A copy of Zayo's authorization to transact business in South Dakota is provided in Exhibit C.

C. Corporate Ownership and Officers and Directors

As stated above, Zayo is a wholly-owned direct subsidiary of Holdings, a Delaware corporation, which in turn is a wholly owned direct subsidiary of CII, a Delaware limited liability company. CII has no majority owner.

The following persons are the officers and directors of Zayo:

Officers: Dan Caruso (CEO), Ken desGarennes (Vice President and CFO), Scott Beer (General Counsel and Secretary), Christopher Yost (Assistant Secretary)

Directors: Dan Caruso, Gillis Cashman, John Siegel, John A. Downer, Michael Choe, and Rick Connor.

All of the above listed owners, officers and directors can be reached through Zayo's principal place of business.

D. Contact for Ongoing Operations of Zayo:

The Commission should contact the following person for questions regarding Zayo's ongoing operations:

(1) General Regulatory Questions

Jill Sandford
360 Hamilton Avenue
White Plains, NY 10601
914-421-7585 (tel)
914-421-6793 (fax)
jill.sandford@zayo.com

(2) Reports

Tim Gentry, Controller
400 Centennial Parkway, Suite 200
Louisville, Colorado 80027
303-381-4662 (tel)
303-226-5922 (fax)
tim.gentry@zayo.com

(3) Fees

Tim Gentry, Controller
400 Centennial Parkway, Suite 200
Louisville, Colorado 80027
Tel: 303-381-4662
Fax: 303-226-5922
tim.gentry@zayo.com

(4) Customer Inquiries:

Zayo Customer Care
800-390-6094 (tel)
303-604-6869 (fax)
billing@zayo.com

E. Customer Service Contacts

Customers may contact Zayo's customer service department by calling 800-390-6094 or by emailing billing@zayo.com.

F. Information required by Section 20:10:24:02 (Interexchange) and 20:10:32:03 (Local Exchange) of the Administrative Rules of South Dakota, Applicants provide the following information:

- (1) 20:10:24:02(1) and 20:10:32:03(1) - Applicant's name, address, telephone number, facsimile number, web page URL, and Email address.

Zayo Group, LLC
400 Centennial Parkway, Suite 200
Louisville, Colorado 80027
303-381-4683 (tel)
303-604-6869 (fax)
www.zayo.com
jill.sandford@zayo.com

- (2) 20:10:24:02(2) and 20:10:32:03(2) - A description of the legal and organizational structure of the Applicants' company.

This information is provided in Section II of this Application.

- (3) 20:10:24:02(3) and 20:10:32:03(3)- The name under which the Applicants will provide local and interexchange services.

Applicant will provide service under the its legal name.

- (4) 20:10:24:02(4) and 20:10:32:03(5) - A copy of the Applicant's certificate of authority to transact business in South Dakota from the Secretary of State.

A copy of Zayo's authorization to transact business in South Dakota is provided in Exhibit C.

- (5) 20:10:24:02(5) and 20:10:32:03(4) - Location of Applicant's principal office.

Zayo does not have an office in South Dakota. The name and address of Zayo's current registered agent is:

C T Corporation System
319 S. Coteau St.
Pierre, SD 57501-3108

- (6) 20:10:24:02(6) and 20:10:32:03(8) - The list and description of telecommunications services Applicants intend to offer.

Zayo intends to provide local exchange and interexchange telecommunications services. Zayo will primarily provide Private Line, Ethernet, Wavelength, Dedicated Internet Access and Collocation services to wholesale (e.g., other carriers) and large enterprise customers. Zayo will not initially offer switched (voice) services, but seeks such authority to provide such services to allow for flexibility if its business plan changes in the future. Zayo will offer these services primarily using its own facilities (including fiber optic facilities) and facilities leased from other carriers. Zayo may also resell certain services. Currently, Zayo expects to provide service to only business, enterprise and carrier customers and does not intend to provide to residential customers. Zayo, however, seeks authority to provide services to all classes of customers.

- (7) 20:10:32:03(6) - A description of Applicant's experience providing any telecommunications services in South Dakota or in other jurisdictions, including the types of services provided, and the dates and nature of state or federal authorization to provide the services.

Zayo is authorized to provide intrastate telecommunications services in the District of Columbia and all states except for Connecticut, Florida, Iowa, Maine, Massachusetts, Montana, Nebraska, New Hampshire, North Dakota, Rhode Island, South Carolina, South Dakota, Vermont and Wisconsin. In those states, Zayo is seeking authorization to provide intrastate telecommunications services. Zayo is also authorized by the FCC to provide international and domestic interstate telecommunications services as a non-dominant carrier.

- (8) 20:10:24:02(7) and 20:10:32:03(8) - Statement of how Applicant will provide services.

Applicant's business is building communications solutions for large enterprise and carrier customers on an individual case basis for each projects' needs. Applicant will primarily provide services using its own facilities and facilities leased from other carriers, but also seeks authority to provide service on a resale basis

- (9) 20:10:32:03(7) - Names and addresses of Applicant's affiliates, subsidiaries, and parent organizations.

Zayo is a wholly owned subsidiary of Holdings, which is wholly owned by CII. Holdings and CII are located at the same address as Applicant. Please see Exhibit A for a corporate organizational chart that also includes Zayo's other subsidiaries that provide telecommunications services. Zayo is also affiliated with Onvoy, Inc. through common ownership by Holdings.

- (10) 20:10:24:02(8) and 20:10:32:03(9) - Narrative description indicating with particularity the geographic area proposed to be served.

Zayo seeks authority to provide non-voice services and interexchange services statewide. Zayo seeks authority to provide voice local exchange services in the areas served by Qwest Corporation d/b/a CenturyLink QC and any other areas currently open to competition. At this time, Zayo does not seek to provide service in any areas not currently open to competition or termination any exemptions of any small or rural local exchange carriers. To the extent Zayo provide voice services, Zayo's exchanges will mirror those of the incumbent local exchange carrier in whose service territories Zayo provides service. Applicants, therefore have not included a map showing proposed service areas. Zayo intends to offer interexchange services on a statewide basis.

- (11) 20:10:24:02(9) and 20:10:32:03(12) - Financial statements.

The most recent financial statements for Zayo are provided in Exhibit D to this Application.

- (12) 20:10:24:02(10) and 20:10:32:03(17) - Complaints and regulatory matters.

Regulatory Matters:

Jill Sandford
Zayo Group
Associate General Counsel
360 Hamilton Avenue
White Plains, NY 10601
914-421-7585 (tel)
914-421-6793 (fax)
jill.sandford@zayo.com

Complaints:

Zayo Customer Care
800-390-6094 (tel)
303-604-6869 (fax)
billing@zayo.com

In the event of a billing dispute, Zayo will perform a review of the disputed billing amount and attempt to reach a settlement to the mutual satisfaction of both parties. Following a full investigation to determine whether or not the charges are improper, Zayo may adjust the disputed bill. Because customer satisfaction is extremely important to Zayo and to its success in the competitive marketplace, all commercially reasonable efforts will be made to address and resolve customer concerns as quickly as possible.

- (13) 20:10:24:03(10) - Technical competence.

Zayo is technically and managerially qualified to provide competitive local exchange and interexchange services in South Dakota. Zayo's South Dakota operations will be directed by its existing corporate management, technical and operations staffs who are responsible for the interexchange and local exchange operations in other states. Zayo will respond to customer complaints promptly using the personnel listed in Paragraph (12) and Section V above. Zayo will perform facility and equipment maintenance necessary to ensure compliance with any Commission quality of service requirements. Since Zayo will initially be providing service via resale, Zayo will initially rely on its underlying carriers to perform necessary facility and equipment maintenance.

- (14) 20:10:24:02(11) and 20:10:03(18) - Bill and collect charges.

Zayo's customers will be billed directly by Zayo. Zayo's customer service number, 1-800-390-6094, will be provided on each customer's monthly bill.

- (15) 20:10:32:03(11) - Information explaining how Applicant will provide customers with access to emergency services such as 911 or enhanced 911, operator services, interexchange services, directory assistance, and telecommunications relay service.

At this time, Zayo does not plan to provide voice services. To the extent Zayo provides voice services in the future, Zayo will comply with all applicable laws and regulations relevant to the provision of these services. Zayo may rely on its underlying carrier or the ILEC to provide such services.

- (16) 20:10:24:02(12) and 20:10:32:03(19) - Information concerning Applicant's policies relating to solicitation of new customers and a description of the efforts the applicant shall use to prevent the unauthorized switching of interexchange and local service customers.

Zayo intends to market its services to business, enterprise and carriers customers in the State of South Dakota. Zayo primarily utilizes sales agents to solicit customers by telephone or in person. Zayo plans to market its services directly through direct mail. Zayo, however, has not yet developed brochures or other materials to be used in marketing its services in South Dakota. Zayo does not plan to engage in multi-level marketing in South Dakota. Zayo will comply with South Dakota law and the Federal Communications Commission's regulations governing changing a customer's primary carrier(s).

- (17) 20:10:24:02(13) and 20:10:32:03(21) - Information concerning how Applicant will make available to any person information concerning the applicant's current rates, terms, and conditions for all of its telecommunications services.

Zayo primarily provides service through customer specific contracts, which provide the rates, terms and conditions of its telecommunications services. Zayo will make its telecommunication rates, terms and conditions available to any person upon request at its office and/or electronically.

- (18) 20:10:32:03(13) - Information related to interconnection.

360networks' existing interconnection arrangements with Qwest Corporation will be assigned to Zayo pursuant to the terms of that interconnection agreement.

- (19) 20:10:24:02(14) and 20:10:32:03(22) - Information concerning how Applicant will notify a customer of any materially adverse change to any rate, term, or condition of any telecommunications service being provided to the customer.

Zayo will notify customers via mail or bill insert or notation 30 days in advance of materially adverse changes to any rate, term, or condition of any telecommunications service being provided to customer.

- (20) 20:10:24:02(15) and 20:10:32:03(16) - A list of the states where Applicant is registered or certified to provide telecommunications services and statement of good standing.

Zayo has never been denied registration or certification in any state and, furthermore, Zayo is in good standing with the appropriate regulatory agency in the states where it is registered or certified. Zayo is authorized to provide intrastate telecommunications services in the District of Columbia and all states except for Connecticut, Florida, Iowa, Maine, Massachusetts, Montana, Nebraska, New Hampshire, North Dakota, Rhode Island, South Carolina, South Dakota, Vermont and Wisconsin. In those states, Zayo is seeking authorization to provide intrastate telecommunications services. Zayo is also authorized by the FCC to provide international and domestic interstate telecommunications services as a non-dominant carrier.

- (21) 20:10:32:03(15) - If the Applicant is seeking authority to provide local exchange service in the service area of a rural telephone company, the date by which the applicant expects to meet the service obligations imposed pursuant to § 20:10:32:15 and applicant's plans for meeting the service obligations.

Zayo does not intend to provide local exchange service in the service area of a rural telephone company.

- (22) 20:10:24:02(16) and 20:10:32:03(14) - A description of how the Applicant intends to market its services, and its target market.

As set forth in the response to (16) above, Zayo intends to market its services to business, enterprise and carrier customers in the State of South Dakota. Zayo primarily utilizes sales agents to solicit customers by telephone or in person. Zayo plans to market its services directly through direct mail. Zayo, however, has not yet developed brochures or other materials to be used in marketing its services in South Dakota. Zayo does not plan to engage in multi-level marketing in South Dakota. Zayo will comply with South Dakota law and the FCC's regulations governing changing a customer's primary carrier(s).

- (23) 20:10:24:02(17) and 20:10:32:03(24) - Applicant's federal tax identification number and South Dakota sales tax number.

Zayo's federal tax identification number is 26-2012549. Zayo does not yet have a South Dakota sales tax number.

- (24) 20:10:24:02(18) and 20:10:32:03(20) - Information regarding the number and nature of complaints filed against Applicant with any state or federal regulatory commission regarding the unauthorized switching of a customer's telecommunications provider and the act of charging customers for services that have not been ordered.

Zayo has not had any complaints filed against it in any state or federal regulatory commission regarding the unauthorized switching of a customer's telecommunications provider, nor for the act of charging customers for services that have not been ordered.

- (25) 20:10:24:02(19) and 20:10:32:03(23) - Waiver of Commission's Rules.

To the extent necessary, Zayo requests a waiver of the local exchange map requirement in §§ 20:10:24:02(8) and 20:10:32:03(9) of the Administrative Rules of South Dakota. Zayo's local calling areas will mirror those of the incumbent carriers.

- (26) 20:10:24:02(20) and 20:10:32:03(25) Other Information.

Further information for the Commission's consideration is provided in Section VI of this Application.

VI. PUBLIC INTEREST CONSIDERATIONS

Applicants respectfully submit that the proposed *Pro Forma* Transactions serve the public interest. The proposed transaction is expected to invigorate competition in South Dakota. The *Pro Forma* Transactions will provide Zayo with a presence in the telecommunications market in South Dakota, and thereby make Zayo a more viable competitor in all of its markets, as it can attract customers that seek a carrier that can offer intrastate telecommunications services in multiple states.

The Zayo *Pro Forma* Transactions will simplify the Zayo's existing corporate structure and thereby reduce its reporting and accounting burdens and provide other operational efficiencies. As a result of the efficiencies and focus, the Company will become a stronger competitor to the ultimate benefit of consumers. The *Pro Forma* Transaction will not adversely impact South Dakota consumers since 360networks does not current provide intrastate telecommunications services in South Dakota.

VII. CONCLUSION

For the reasons stated above, Applicants respectfully submit that the public interest, convenience, and necessity would be furthered by a grant of this Application. Accordingly, Applicants respectfully request expedited treatment to permit Applicants to complete the proposed *Pro Forma* Transactions (including the transfer of 360networks' certificate to Zayo) as soon as possible.

Respectfully submitted,



Jean L. Kiddoo
Brett P. Ferenchak
Bingham McCutchen LLP
2020 K Street, N.W.
Washington, DC 20006-1806
202-373-6697 (Tel)
202-373-6001 (Fax)
jean.kiddoo@bingham.com
brett.ferenchak@bingham.com

Counsel for Applicants

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