

STATE OF NEW HAMPSHIRE

Inter-Department Communication

DATE: November 26, 2019
AT (OFFICE): NHPUC

FROM:  Kath Mullholand, Director – Regulatory Innovation and Strategy Division

SUBJECT: Docket No. DT 19-143
Bretton Woods Telephone Company, Inc. Petition for Approval of Transfer of Franchise, Works and Systems to Affiliate
Staff Recommendation

TO: Commissioners
Debra A. Howland, Executive Director

CC: David K. Wiesner, Legal Division Director
Mary Schwarzer, Staff Attorney

On August 27, 2019, Bretton Woods Telephone Company, Inc. (BWTC) filed with the New Hampshire Public Utilities Commission (Commission) a petition seeking all necessary authorizations related to a proposed indirect transfer of control of BWTC's New Hampshire franchise, works, and systems to an affiliate of its current owner.

BWTC is an incumbent local exchange carrier (ILEC), and has elected excepted local exchange carrier (ELEC) status in New Hampshire pursuant to RSA 362:7, I (c)(2). BWTC is a rural telephone company as defined in 47 U.S.C. §153(44), and the Commission designated BWTC as an eligible telecommunications carrier (ETC) in 1996. As of December 31, 2018, BWTC, pursuant to state franchise authority, provides local exchange service to customers in the Bretton Woods franchise area, comprising 554 retail residential and business voice lines, a small number of which are basic service customers.

In support of its petition, BWTC submitted the written testimony of Robert E. Dolan, the recently-retired President of BWTC. On October 2, 2019, BWTC filed supplemental testimony of Mr. Dolan. In its pre-filed testimony, BWTC states that it is indirectly owned by LICT Corporation (LICT), a holding company engaged principally in the business of owning rural telephone companies. LICT, through an indirect subsidiary, proposes to contribute all of BWTC's stock to a newly-formed, indirect subsidiary of CIBL, Inc. (CIBL), a corporation that was spun off from LICT in 2007. CIBL, like LICT, is a holding company engaged principally in the business of owning rural telephone companies. According to BWTC, LICT and CIBL are affiliated through substantial common ownership, officers, and directors. Dolan Testimony at 3.

LICT and CIBL are both publicly traded companies. Following the transaction, BWTC will have a new corporate owner; however, its directors, officers, and employees will not change. According to BWTC, the purpose of the transaction is to provide the

benefits of a corporate parent focused on the operations and success of BWTC and another New Hampshire company, World Surfer, as its only operating businesses. Over time, the transaction is intended to result in the “continued development of and innovation in” BWTC’s operations and services. Dolan Testimony at 6-8.

BWTC represents that the proposed transaction “will not result in any change in any aspect of the management, staffing, network, operations, or services that BWTC provides in New Hampshire.” Dolan Testimony at 3. It maintains that the “stock transaction will be entirely seamless to customers of BWTC’s services in New Hampshire, and to its suppliers, employees, and officers.” Dolan Testimony at 7. According to BWTC, there will be no need to assign any contracts or to cutover any systems as a result of the proposed transaction. *Id.* BWTC further affirms that the new owners would share the same managerial, technical, and financial capabilities as BWTC’s current owners. Dolan Testimony at 3.

In Order No. 25,452, issued on January 8, 2013, the Commission found that BWTC “has been a competent ILEC in good standing and ... has the technical, managerial and financial capability to maintain the obligations of an incumbent local exchange carrier...” In the view of Commission Staff (Staff), nothing in the current petition raises any issues of concern with respect to the Commission’s prior finding.

In order to clarify the common ownership and control of LICT and CIBL, Staff requested additional information from BWTC. BWTC filed Supplemental Testimony on October 2, which clarified the nature of the common ownership and control, in particular, that the Board of Directors of CIBL consists of three people, all of whom are also on the Board of Directors of LICT. Staff further investigated the overlapping ownership between LICT and CIBL by reviewing the 2019 annual meeting proxy statements of the two corporations.¹ Based on that review, it appears that the same three individuals have beneficial ownership of 43.3% of LICT’s outstanding shares and 44.7% of CIBL’s outstanding shares, either directly or through associated trusts, plans, entities, or immediate family members. No other stock owner is known to have beneficial ownership of more than 5% of either company’s outstanding shares.

Based on Staff’s review of BWTC’s testimony and its further investigation of the two holding companies’ overlapping beneficial ownership, Staff has concluded that CIBL and LICT are effectively components of the same enterprise, and therefore, although this is a transfer of franchise requiring Commission approval, as contemplated in RSA 374:30,II, the Commission has already made the finding required by that statute, and the proposed transfer therefore can be approved.

Accordingly, Staff recommends that the Commission issue an Order *Nisi* finding that BWTC and CIBL have the requisite technical, managerial, and financial capability

¹ These proxy statements are publicly available on the corporations’ websites, as follows: CIBL proxy statement (ownership information on pages 8-9): <http://cibline.com/files/2019/05/CIBL-Inc.-2019-Proxy-Statement.pdf>; LICT proxy statement (ownership information on page 14): <http://liccorp.com/files/2019/05/LICT-Corp-2019-Annual-Meeting-Proxy.pdf>.

required under New Hampshire law, thereby permitting the proposed transaction to be completed.

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