


PENNSYLVANIA PUBLIC UTILITY COMMISSION  
Uniform Cover and Calendar Sheet

1. <b>REPORT DATE:</b> March 14, 2005	2. <b>BUREAU AGENDA NO.</b> MAR-2005-FUS-1314*
3. <b>BUREAU:</b> Fixed Utility Services	5. <b>PUBLIC MEETING DATE:</b>  March 23, 2005
4. <b>SECTION(S):</b> Finance/Tariffs	9. <b>EFFECTIVE DATE OF FILING:</b> March 24, 2005
6. <b>APPROVED BY:</b>  Director: R. Rosenthal 3-5242 Mgr/Spvr: R. Wilson 3-6162 Legal Review: 	8. <b>DOCKET NO.:</b> S-00051037, S-00051038 A-310921 F0005, A-310828 F0004

**DOCUMENT  
FOLDER**

10. (a) **CAPTION** (abbreviate if more than 4 lines)  
 (b) **Short summary of history & facts, documents & briefs**  
 (c) **Recommendation**

- (a) Joint Application of Conversent Communications of Pennsylvania, LLC (Conversent PA) and FiberNet Telecommunications of Pennsylvania, LLC (FiberNet PA) for approval of a change in control as a result of a combination of their current parents, together with securities certificates of each utility for their guaranties of two credit facilities of the parents.
- (b) FiberNet PA and Conversent PA propose a merger of their parents that will result in the creation of a new holding company, Conversent Communications, Inc. The resulting organization will be authorized to provide service in an 11-state contiguous region, from Maine to West Virginia. The credit facility that the utilities propose to guarantee will provide financing for a portion of the merger of the parents, refinancing of existing debt of the parents and their subsidiaries, and for working capital for the same entities.
- (c) The Bureau of Fixed Utility Services recommends that the Commission adopt the proposed Order.

**DOCKETED**  
MAR 30 2005

10. **MOTION BY:** Commissioner Chm. Holland

**SECONDED:** Commissioner Bloom

Commissioner Pizzigrilli - Yes  
Commissioner  
Commissioner

**CONTENT OF MOTION:** Staff recommendation adopted.



COMMONWEALTH OF PENNSYLVANIA  
PENNSYLVANIA PUBLIC UTILITY COMMISSION  
P.O. BOX 3265, HARRISBURG, PA 17105-3265

IN REPLY PLEASE  
REFER TO OUR FILE

MARCH 23, 2005

A-310921F0005

A-310828F0004

S-00051038

S-00051037

JAMES CAWLEY ESQUIRE  
RHOADS & SINON  
ONE MARKET SQUARE 12TH FLOOR  
PO BOX 1146  
HARRISBURG PA 17108-1146

**DOCKETED**  
MAY 23 2005

Joint Application of Conversent Communications of Pennsylvania, LLC and FiberNet Telecommunications of Pennsylvania, LLC for approval of a change in control as a result of a combination of their current parents.

Securities certificates of Conversent Communications of Pennsylvania LLC and FiberNet Telecommunications of Pennsylvania, LLC for the guaranty by each of two senior credit facilities to provide loans to the parents of the utilities.

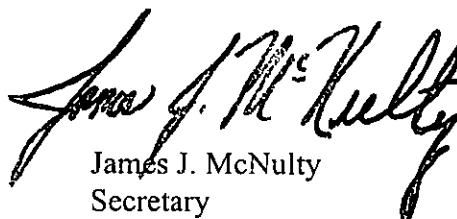
To Whom It May Concern:

This is to advise you that the Commission in Public Meeting on March 23, 2005 has adopted an Order in the above entitled proceeding.

An Order has been enclosed for your records.

Very truly yours,

**DOCUMENT  
FOLDER**



James J. McNulty  
Secretary

**BTL**

fg  
encls  
cert. mail

FIBERNET TELECOMMUNICATIONS OF PA LLC  
STEVE HAMULA DIRECTOR OF REG AFF  
211 LEON SULLIVAN WAY  
CHARLESTON WV 25301

CONVERSENT COMMUNICATIONS OF PA LLC  
ALAN M SHOER  
24 ALBION ROAD SUITE 230  
LINCOLN RI 02865

PENNSYLVANIA  
PUBLIC UTILITY COMMISSION  
Harrisburg, PA 17105-3265

Public Meeting held March 23, 2005

Commissioners Present:

Wendell F. Holland, Chairman  
Robert K. Bloom, Vice Chairman  
Kim Pizzingrilli

**DOCKETED**  
MAY 23 2005

Joint Application of Conversent Communications of Pennsylvania, LLC and FiberNet Telecommunications of Pennsylvania, LLC for approval of a change in control as a result of a combination of their current parents.

Docket Nos:  
A-310921 F0005  
A-310828 F0004

Securities certificates of Conversent Communications of Pennsylvania, LLC and FiberNet Telecommunications of Pennsylvania, LLC for the guaranty by each of two senior credit facilities to provide loans to the parents of the utilities.

S-00051038  
S-00051037

**ORDER**

**DOCUMENT  
FOLDER**

**BY THE COMMISSION:**

On January 13, 2005, Conversent Communications of Pennsylvania, LLC (Conversent PA) and FiberNet Telecommunications of Pennsylvania, LLC (FiberNet PA) filed the above-captioned joint application pursuant to Chapter 11 of the Public Utility Code, 66 Pa. C.S. §§1101, *et seq.* Copies of the application were served upon the Office of Consumer Advocate and the Office of Small Business Advocate. Further notice was not required to be published and no protests or comments have been received.

Also on January 13, 2005, each of the applicants filed a securities certificate for its guaranty of two senior credit facilities that will provide funds to the parents of the two utilities. With their securities certificates, each of the utilities volunteered an extension of the statutory consideration period until 60 days following the filing date, or until March 14, 2005. The utilities later granted a further extension of the consideration period to March 24, 2005.

### **The Parties**

Both Conversent PA and FiberNet PA hold authority in Pennsylvania to provide service as an IXC reseller, CLEC and CAP. Conversent PA received its approval for entry into service by Order entered January 29, 2001, at Docket Numbers A-310921, *et al.* FiberNet PA was certificated pursuant to our Order entered September 20, 1999, at Docket Numbers A-311188, *et al.* Conversent PA is an indirect subsidiary of Conversent Holdings, Inc. (Conversent Hldgs.) and has sister subsidiaries providing similar service in all the New England states plus New York and New Jersey. FiberNet is a direct subsidiary of Mountaineer Telecommunications, LLC (Mountaineer) and has sister subsidiaries in West Virginia and Ohio. Conversent PA does not now have any customers in Pennsylvania, but the applicants believe the proposed merger and the associated financing proposed in their securities certificates will strengthen Conversent PA's ability to market its services to Pennsylvania customers.

### **The Application**

Conversent Hldgs. and Mountaineer have signed a letter of intent to enter into a merger agreement by which they will form a new corporation, Conversent Communications, Inc. (Conversent Inc.) that will become the direct parent of

Conversent Hldgs. and Mountaineer. Conversent Inc. will thereby come to hold the ultimate control of Conversent PA and FiberNet PA, and for this change in control of the two utilities the applicants now seek our approval.

Under Conversent Inc., FiberNet PA and Conversent PA will retain their separate brands and identities and will provide service pursuant to the currently effective tariffs of each utility. Moreover, there will be no immediate change in the managements of the two Pennsylvania utilities. Therefore, there will be continuity of service and the merger will be transparent to customers. In their joint application, the utilities cite the operational advantages and the increased financial strength that the larger organization will make available to the utilities. Upon consideration, we conclude that the record provides substantial evidence of affirmative public benefit sufficient to warrant approval of the proposed transactions under *City of York v. Pennsylvania Public Utility Commission*, 449 Pa. 136, 295 A.2d 825 (1972).

### **The Securities Certificates**

By their substantially identical securities certificates, FiberNet PA and Conversent PA seek authority to enter as guarantors into proposed Senior Credit Facilities. The borrowers under both facilities will be the direct parents of the two utilities, Mountaineer and Conversent Hldgs. The newly formed Conversent Inc., and all the direct and indirect subsidiaries of the borrowers, including the two Pennsylvania utilities, will act as guarantors of both the term loans and the revolving loans. In addition, the loans will be secured by a pledge of substantially all the property and assets of all the borrowers and the guarantors.

The individual facilities will be a Term B Facility for \$200 million, and a Revolving Credit Facility having a maximum principal amount of \$25 million. The interest rate on each facility will float at specified margins over LIBOR or a base rate that is a function of the lead lender's prime rate and the federal funds rate. Preliminary loan documentation requires, however, that the borrowers obtain interest rate protection, which will reduce the lenders', and potentially the utilities', exposure to the vagaries of floating short-term interest rates. The Term B facility will have a final maturity six years from the closing date, while the revolver will terminate at the end of five years. Under certain conditions, loans under the Senior Credit Facilities may be increased by additional term loans or revolving loans totaling up to \$75 million, bringing the maximum principal amount under the two facilities to \$300 million.

\$100 million of the proceeds of the credit facilities will be used for the acquisition, as part of the merger, of ownership interests held by some of the investors in Mountaineer and Conversent Hldgs. Other uses will be the repayment of existing indebtedness of Conversent Hldgs., Mountaineer or their subsidiaries, and for working capital and general corporate purposes.

## **Conclusion**

Having thus reviewed the instant filings by Conversent PA and FiberNet PA, we find that the merger of Conversent Hldgs. and Mountaineer is necessary or proper for the service, accommodation, convenience, or safety of the public, and that the application should be approved. We have also determined that the guaranty of the Senior Credit Facilities by the two utilities is necessary or proper for the present and probable future capital needs of the utilities; **THEREFORE,**

**IT IS ORDERED:**

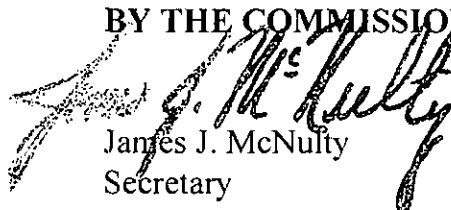
1. That the application concerning the merger of the parents of Conversent Communications of Pennsylvania, LLC and FiberNet Telecommunications of Pennsylvania, LLC is hereby approved.

2. That a certificate of public convenience be issued to each of the two applicants evidencing our approval, and the case be marked closed.

3. That the securities certificate of Conversent Communications of Pennsylvania, LLC for its guaranty of the Senior Credit Facilities is hereby registered.

4. That the securities certificate of FiberNet Telecommunications of Pennsylvania, LLC for its guaranty of the Senior Credit Facilities is hereby registered.

**BY THE COMMISSION**



James J. McNulty  
Secretary

(SEAL)

ORDER ADOPTED: March 23, 2005

ORDER ENTERED: **MAR 23 2005**