

STATE OF NEW HAMPSHIRE
Before the
PUBLIC UTILITIES COMMISSION
Docket No. DT 23-____

CONSOLIDATED COMMUNICATIONS HOLDINGS, INC.

and

CONDOR HOLDINGS LLC

**Joint Petition for Findings in Furtherance of an Indirect Transfer of Control of CCHI's
Operating Subsidiaries as part of Parent Transaction**

SUMMARY

Consolidated Communications Holdings, Inc. (“CCHI” or “Transferor”) and Condor Holdings LLC (“Condor” or “Transferee,” and together with Transferor, the “Petitioners”) request approval of the New Hampshire Public Utilities Commission (the “Commission”) to transfer indirect ownership and control of Transferor’s subsidiaries: Consolidated Communications of Northern New England Company, LLC (“CCNE”) and Consolidated Communications of Maine Company (“CCM,” and together with CCNE, the “Licensees”) to Condor pursuant to RSA 374:30, II. As detailed herein, Petitioners have entered into an Agreement and Plan of Merger (included as an exhibit to Andrew Frey’s Testimony on behalf of Condor) pursuant to which Condor will acquire all the issued and outstanding common stock of CCHI (the “Transaction”).

I. INTRODUCTION

CCHI and Condor respectfully petition the Commission pursuant to RSA 374:30, II for findings¹ regarding the indirect transfer of control of the Licensees. With the consummation of the

¹ The Petitioners seek all Commission findings and/or approvals as are required by law and have stated herein those findings they believe to be implicated by the terms of the Transaction.

Transaction described in Section III below, the Licensees will continue to own their respective New Hampshire franchise, works, and system as wholly owned subsidiaries of Consolidated Communications, Inc. (“CCI”), an Illinois corporation, which is itself a wholly owned subsidiary of CCHI. As described below, CCHI and Condor possess the technical, managerial and financial capabilities to ensure that the Licensees continue to maintain all of the obligations of incumbent local exchange carriers (“ILECs”) that are Excepted Local Exchange Carriers (“ELECs”) as set forth in RSA 362:8² and RSA 374:22-p.³

II. THE PETITIONERS AND RELATED PARTIES

A. Transferor – Consolidated Communications Holdings, Inc. (“CCHI”)

CCHI is a major broadband and business communications provider serving consumers, enterprise customers, and wireless and wireline carriers across rural and urban communities in a twenty-two-state service area, including in New Hampshire through Licensees. Leveraging an advanced fiber network spanning approximately 59,000 fiber route miles, CCHI offers a wide range of communications solutions, including: high-speed Internet access service, voice service, security services, managed services, cloud-based services, and wholesale carrier solutions. Since its

To the extent the Commission determines that other findings or approvals are necessary, the Petitioners request that the Commission issue an order making such findings and granting any and all such approvals and authorizations that are required in connection with or as a result of the transactions described in this Petition.

² These include obligations: (1) arising under the Commission’s authority under the federal Communications Act of 1934, as amended; (2) that arose prior to February 1, 2011, relating to availability of broadband services, soft disconnect processes and capital expenditure commitments within the state; (3) relating to the provision of services to competitive local exchange carriers, interexchange carriers, and wireless carriers, regardless of technology; and (4) arising under RSA 374:22-p (basic service, rate caps and reporting) and RSA 374:30, II (regarding transfer of utility franchise, works or system).

³ These obligations relate to the provision of basic service, rate caps and rate reporting.

founding approximately 125 years ago, CCHI has been dedicated to turning technology into solutions, connecting people and enriching how they work and live, including in rural areas of the Nation.

B. Licensee – Consolidated Communications of Northern New England Company, LLC (“CCNE”)

CCNE, a direct wholly owned subsidiary of CCI, is a Delaware limited liability company located at 770 Elm Street, Manchester, New Hampshire, 03101. It is registered in New Hampshire as an ILEC–ELEC. CCNE does not provide long distance or pay phone services in New Hampshire. CCNE also provides similar services in Maine as an ILEC and in Vermont through its subsidiary, Consolidated Communications of Vermont Company, LLC.

C. Licensee – Consolidated Communications of Maine Company (“CCM”)

CCM, a direct wholly owned subsidiary of CCI, is a Maine corporation located at 770 Elm Street, Manchester, New Hampshire, 03101. It is registered as an ILEC–ELEC. CCM does not provide long distance or pay phone services in New Hampshire. CCM also provides similar services in Maine as an ILEC.⁴

D. Transferee – Condor Holdings LLC

Condor, a Delaware limited liability company, is a wholly owned subsidiary of Searchlight III CVL, L.P. (“Searchlight III CVL”) that was recently formed for the purpose of the Transaction. Following the closing of the Transaction, and as described in greater detail below, investment funds affiliated with Searchlight Capital Partners, L.P. (“Searchlight”) will hold a majority equity interest in Searchlight III CVL, and investment vehicles affiliated with British Columbia

⁴ In addition to CCNE and CCM, CCHI’s indirect wholly owned subsidiary Consolidated Communications Enterprise Services, Inc. (“CCES”) is a Delaware corporation authorized to provide telecommunications services in New Hampshire. As a nondominant carrier operating as a CLEC and IXC, no approval of the change in indirect control with respect to CCES is required.

Investment Management Corporation (“BCI”), a corporation incorporated pursuant to the Public Sector Pension Plans Act (British Columbia), will hold an indirect, non-controlling minority equity interest in CCHI.

Searchlight, a Delaware limited partnership and registered investment adviser with the United States Securities and Exchange Commission, is a global private equity investment company whose funds invest in companies across various sectors, including communications, media, consumer, and business services. Searchlight has nearly \$12 billion in assets under management and has significant experience working with portfolio companies executing strategies that involve deploying broadband infrastructure, along with a proven track record of partnering with strong management teams to drive long-term value and shareholder returns. Investment funds affiliated with Searchlight (including funds in which BCI is a limited partner) currently hold voting and equity interests in CCHI of approximately 33.8 percent and 67.8 percent, respectively.⁵ These interests are held through Searchlight III CVL, which owns approximately 33.8 percent of CCHI’s common stock (which is voting stock) and 100 percent of CCHI’s Series A preferred stock (which is non-voting stock).

BCI is one of the largest institutional investors in Canada, with approximately C\$233 billion in gross assets under management as of March 31, 2023. Based in Victoria, British Columbia, with offices in Vancouver, New York, and London, BCI manages a portfolio of diversified public and private market investments on behalf of 32 British Columbia public sector clients, including publicly administered pension and trust funds, the Province of British Columbia, and provincial

⁵ All equity and voting interests set forth herein are approximate. The Searchlight-affiliated funds’ current equity interest referred to above is based on the price of CCHI’s common stock and the liquidation preference of the preferred stock as of November 13, 2023. For the avoidance of doubt, references to “voting” interests and “equity” interests refer to such interests as calculated through successive multiplication, and not beneficial ownership as defined in SEC rules.

government bodies. BCI and its affiliated funds and entities have a principal place of business at 750 Pandora Avenue, Victoria, BC, V8W 0E4, Canada. BCI currently holds no voting interest in CCHI, and its passive limited partnership interest in Searchlight III CVL currently represents a proportionate indirect equity interest in CCHI of approximately 13.0 percent with no corresponding voting interest.

III. DESCRIPTION OF THE PROPOSED TRANSACTION

In close proximity to consummation of the Transaction, Searchlight III CVL will be converted to a limited liability company and will contribute its common stock in CCHI to Condor, and Condor will assign all of the issued and outstanding stock of Condor Merger Sub Inc., a Delaware corporation and wholly owned subsidiary of Condor (“Merger Sub”), to CCHI. Pursuant to the Agreement and Plan of Merger (the “Agreement”), dated as of October 15, 2023, by and among Condor, Merger Sub, and CCHI, Merger Sub will merge with and into CCHI, with CCHI continuing as the surviving corporation, and all issued and outstanding common stock of CCHI (other than (i) common stock held by Condor, which will remain outstanding, (ii) treasury stock and common stock held by Merger Sub (if any), which will be cancelled and cease to exist, and (iii) common stock held by any direct or indirect wholly owned subsidiary of CCHI or Condor (other than Merger Sub) (if any), which will be converted into a number of shares of common stock of CCHI such that immediately following the Transaction, the ownership percentage of any such subsidiary in CCHI will equal the ownership percentage of any such subsidiary in CCHI immediately prior to the Transaction) will be converted into the right to receive consideration for the merger at the price of \$4.70 per share in cash. As a result, Condor, which will remain a wholly owned subsidiary of Searchlight III CVL, will own all of CCHI’s issued and outstanding common stock, and Searchlight III CVL will continue to hold 100 percent of CCHI’s Series A preferred

stock. Condor will thus become the direct holder of all of the common stock of CCHI and the indirect parent of the Licensees, and CCHI, which is currently a publicly traded company (NASDAQ: CNSL), will become privately held.

A Delaware limited partnership affiliated with Searchlight that will be formed in close proximity to the closing (“SCP Aggregator”) will hold an equity interest in Searchlight III CVL of approximately 76.8 percent, and IMCPE 2020 Inc., which is controlled by BCI, will hold an equity interest in Searchlight III CVL of approximately 23.2 percent.⁶ As noted above, Searchlight III CVL will also be converted from a Delaware limited partnership into a Delaware limited liability company prior to and in connection with the closing.

A copy of the Agreement and diagrams depicting the current and post-Transaction corporate ownership structure of the Licensees are provided as exhibits to Andrew Frey’s Testimony on behalf of Condor.

IV. STANDARD OF REVIEW

The proposed Transaction between CCHI and Condor involves a stock acquisition of and merger with a parent company of three operating entities that have ELEC status under New Hampshire law, two of which are ILECs. Because RSA 374:30, I and RSA Chapter 369 expressly do not apply in the case of ELECs, RSA 374:30, II governs this Transaction.⁷ That statute provides that

⁶ The precise percentage interests to be acquired at closing may differ in immaterial respects from those set forth herein due to accrual of dividends on the preferred stock over time and the amount funded by the Searchlight Funds (as defined below), co-investors, and BCI and its affiliates. The “Searchlight Funds” are: (1) Searchlight Capital III OPT, L.P.; (2) Searchlight Capital III OPT PV A, L.P.; (3) Searchlight Capital III OPT PV B, L.P.; (4) Searchlight Capital III CVL Co-Invest Partners, L.P.; (5) Searchlight Capital III CVL Co-Invest Partners II, L.P.; and (6) an additional fund that will be formed as a Delaware limited partnership prior to closing, referred to herein as “[Main Fund II], LP.”

⁷ Neither Commission action nor prior notice of the indirect transfer of control of CCES is required under RSA 374:30.

an ILEC that is an ELEC may transfer its New Hampshire franchise, works or system if the Commission finds that the utility to which the transfer is to be made is technically, managerially and financially capable of maintaining the obligations of an ILEC set forth in RSA 362:8 and RSA 374:22-p.

The obligations of an ILEC-ELEC under RSA 362:8 are those:

1. arising under the Commission's authority under the federal Communications Act of 1934, as amended;
2. that arose prior to February 1, 2011, relating to availability of broadband services, soft disconnect processes and capital expenditure commitments within the state;
3. relating to the provision of services to competitive local exchange carriers, interexchange carriers, and wireless carriers, regardless of technology; and
4. arising under RSA 374:22-p (basic service, rate caps and reporting) and RSA 374:30, II (relating to the transfer of utility franchise, works or system).

RSA 374:22-p, VIII, sets forth the following obligations for ILECs:

1. ILECs are prohibited from discontinuing basic service, regardless of technology used, in any portion of their franchise area unless the Commission determines that the public good will not be adversely affected by such withdrawal of service;
2. ILEC-ELECs' rates for basic service may not increase by more than 5 percent for Lifeline Telephone Assistance customers and by more than 10 percent for all other basic service customers in each of the 8 years after the effective date of this paragraph or the effective date of an existing alternative plan of regulation. However, the Commission may approve additional rate adjustments to reflect changes in federal, state, or local government taxes, mandates, rules, regulations, or statutes; and
3. ILEC-ELECs must report basic service rate changes to the Commission.

As stated above, the Transaction does not involve the transfer of the Licensees to a new utility but instead is structured as a change of ownership at the holding company level and will not affect any of the operations or legal identities of the Licensees. Therefore, as Petitioners demonstrate below, CCHI, which currently operates the Licensees, will continue to do so, and CCHI will continue to possess the necessary technical, managerial and financial capabilities, which Condor also possesses and will supplement, to maintain the above-stated obligations.

V. **CCHI'S AND CONDOR'S TECHNICAL, MANAGERIAL AND FINANCIAL CAPABILITIES TO MAINTAIN NEW HAMPSHIRE ILEC OBLIGATIONS**

A. **Technical Capabilities**

With over a century of experience in providing telecommunications services, CCHI possesses the technical, managerial and financial capabilities of operating ILEC-ELECs in New Hampshire and maintaining the ILEC obligations set forth in RSA 362:8 and RSA 374:22-p. CCHI traces its roots to the Mattoon Telephone Company, which was founded in 1894. It leverages a fiber-rich network to offer advanced telecommunications solutions to residential, commercial and wholesale customers in twenty-two states.

To serve its customers, CCHI employs a skilled workforce of over 3,200 employees with extensive telecommunications experience. In addition to its own resources, CCHI intends to draw upon Condor's strategic support, industry expertise, and financial resources to meet the ILEC obligations set forth in RSA 362:8 and RSA 374:22-p. Because CCHI is currently meeting those obligations and because CCHI will remain intact and continue its current systems and operations after the Transaction closes, the Commission may readily make the findings required by RSA 374:30, II. This operational continuity will ensure that Consolidated's existing obligations as New Hampshire ILEC-ELECs will continue to be fulfilled in a seamless fashion.

All of the Licensees' existing obligations under their interconnection agreements, tariffs, contracts and other arrangements, including obligations under the federal Communications Act to provide wholesale services (47 U.S.C. §§ 251 and 252) and to serve as an Eligible Telecommunications Carrier (47 U.S.C. §§ 214(e)(1) and 254(e)), will be unaffected by the Transaction. The Licensees will maintain their obligations arising under the Commission's authority under the federal Communications Act and those relating to the provision of services to competitive local exchange carriers ("CLECs"), rural local exchange carriers ("RLECs"), interexchange carriers

(“IXCs”) and wireless carriers. *See* RSA 362:8, I and III. Moreover, because there are no systems or billing conversions required in connection with the Transaction, the Transaction will be seamless to the Licensees’ wholesale and retail customers.

B. Managerial Capabilities

CCHI’s management has significant experience operating ILECs in rural and small urban markets, and has successfully served customers in such markets, bringing innovative broadband and video services while running a financially sound company with the ability to invest and maintain the network and foster growth. This management experience will be supplemented by the resources of Condor, as explained in Section II.D above. Searchlight possesses substantial and valuable experience and expertise in the infrastructure and telecommunications sectors. Indeed, Searchlight has significant experience working with portfolio companies executing strategies that involve deploying broadband infrastructure, along with a proven track record of partnering with strong management teams to drive long-term value and shareholder returns. Thus, CCHI, with Condor and its affiliates, will continue to possess the requisite management capabilities to meet its obligations.

C. Financial Capabilities

CCHI is a financially secure company with consistent financial results, and this Transaction adds to CCHI’s financial capabilities. CCHI’s operating revenues since 2017 have consistently been over \$1 billion; and earnings before interest, tax, depreciation and amortization (EBITDA) for 2020, 2021, and 2022 were \$529.2 million, \$506.9 million, and \$529.2 million, respectively. The value of the Transaction is \$3.1 billion, including the assumption of debt, as of the October 16, 2023 public announcement of the Transaction.⁸ No new debt financing is expected in

⁸ *Consolidated Communications Announces Agreement to be Acquired by Searchlight Capital Partners and British Columbia Investment Management Corporation*, Consolidated

connection with the Transaction. In 2020-21, CCI (the borrower under CCHI debt facilities) reduced its net debt by \$325 million and refinanced substantially all of its then \$2 billion of outstanding debt. The refinancing extended CCHI's debt maturities through late 2027 and enhanced liquidity through a substantial increase in the capacity of its revolving line of credit. The refinancing resulted in a new credit agreement that included a five-year \$250 million revolving credit facility and a seven-year term loan in the aggregate amount of \$1.25 billion. The term loan is priced at a coupon rate of 4.75%, plus LIBOR, with a 1.0% LIBOR floor and will amortize at 1.0% per year. The refinancing also included \$750 million in aggregate principal amount of 6.500% senior secured notes due 2028 in connection with a Rule 144A offering and a January 2021 \$150 million term loan on terms similar to the seven-year term loan. CCHI and Searchlight are committed to long-term investment in CCHI's network operations. As explained in Section VII, approving the Transaction will assist CCHI's fiber expansion strategy through the injection of additional capital investment and give CCHI additional flexibility to overcome economic headwinds as it transitions to fiber-based IP networks.

D. Other Commitments

CCHI will continue to perform its obligations that arise from the Commission's authority under the federal Communications Act. *See* RSA 362:8, I and II. The Licensees will continue to maintain all intercarrier obligations relating to the provision of services to CLECs, IXCs and wireless carriers, regardless of technology. *See* RSA 362:8, III. The Licensees will also adhere to the basic service, rate caps and rate reporting requirements of RSA 374:22-p, VIII.

Communications (Oct. 16, 2023), <https://ir.consolidated.com/news/news-details/2023/Consolidated-Communications-Announces-Agreement-to-be-Acquired-by-Searchlight-Capital-Partners-and-British-Columbia-Investment-Management-Corporation/default.aspx>.

In addition, the Transaction will have no impact on the day-to-day operations of the Licensees and have no detrimental impacts on ratepayers. Because the Transaction is structured as a change of ownership at the holding company level, it will not affect any of the operations or legal identities of the Licensees. The Transaction will not result in a change of carrier for any customers or assignment of any existing Commission authorizations. Further, Condor has no plans to change Licensees' current rates or terms and conditions of services in connection with the Transaction. Licensees' existing tariffs will not be affected by the Transaction and will remain in effect (subject to change in the ordinary course of business). Therefore, the Transaction will be seamless to customers, as they will not experience any changes in services or rates, terms, and conditions of service.

In addition, CCHI (with support of Condor) is committed to maintaining a local presence in the communities it serves and will continue to fulfill its historic community commitments. In 2022, CCHI's employees contributed 6,600 volunteer hours.

CCHI (with support of Condor) is also committed to continuing a collaborative relationship with the Commission and the New Hampshire Department of Energy and to honoring the Licensees' obligations as the largest ILEC-ELEC in New Hampshire. The Transaction reflects CCHI's commitment to the communities and customers it serves, and CCHI (with support of Condor) expects to continue the Licensees' collaborative process to carry forward its service obligations.

VI. BROADBAND CONSIDERATIONS

The proposed Transaction will benefit residents and business in New Hampshire as it will facilitate infrastructure investment, technological development, and economic expansion. Indeed, as Witness Shultz explains, issuing the findings requested in the Petition and approving the Transaction will allow CCHI to continue its multi-pronged fiber expansion strategy and position itself to become a leading fiber provider across the United States. And as a result of its fiber expansion

policy, CCHI will continue to bring broadband services to underserved and unserved communities across rural America, further bridging the digital divide.

The Transaction will also give CCHI additional flexibility to overcome the unique economic headwinds facing the telecommunications sector as it transforms from legacy copper-based TDM networks to fiber-based IP networks. The sector-wide conversion to fiber has resulted in many dynamic competitive pressures. These competitive pressures, in turn, created economic conditions that delayed CCHI's fiber buildout completion date until beyond 2026. This Transaction, however, will give CCHI the near-term financial and operational flexibility it needs to execute its fiber transformation while effectively navigating these dynamic competitive pressures.

CCHI will also be able to call on Searchlight's expertise as it pursues its fiber buildout. As explained in Section II.D above, Searchlight possesses substantial and valuable experience and expertise in the infrastructure and telecommunications sectors. In addition to CCHI leveraging this expertise for its fiber buildout, CCHI can also take advantage of new opportunities. Indeed, the Transaction will allow Searchlight to expand its role with respect to Consolidated's business by bringing to bear its full managerial expertise and extensive industry relationships in implementing a strategic plan for CCHI's fiber expansion.

VII. REQUESTS FOR RELIEF

For all the reasons stated above, the Petitioners respectfully request that the Commission:

- (A) Find, pursuant to RSA 374:30, II, that CCHI and Condor (and its affiliates) are technically, managerially and financially capable of causing the Licensees to maintain the obligations of an incumbent local exchange carrier set forth in RSA 362:8 and RSA 374:22-p; and
- (B) Grant such further relief as is necessary and appropriate.

Respectfully Submitted,

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Dated: December 27, 2023

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