



Agenda Date: 12/16/15  
Agenda Item: 4A

**STATE OF NEW JERSEY**  
**Board of Public Utilities**  
44 South Clinton Avenue, 9<sup>th</sup> Floor  
Post Office Box 350  
Trenton, New Jersey 08625-0350  
[www.nj.gov/bpu/](http://www.nj.gov/bpu/)

TELECOMMUNICATIONS

IN THE MATTER OF THE JOINT PETITION OF )  
ALTEVA, INC. AND MBS HOLDINGS, INC. FOR )  
APPROVAL OF A TRANSFER OF CONTROL )  
 )  
 ) DOCKET NO. TM15091046

**Parties of Record:**

**Stefanie A. Brand, Esq., Director**, New Jersey Division of Rate Counsel  
**William K. Mosca, Jr. Esq.**, of Bevan, Mosca & Giuditta, P.C., on behalf of Petitioners

BY THE BOARD:<sup>1</sup>

On September 11, 2015, MBS Holdings, Inc. ("MBS") and Alteva, Inc. ("Alteva") (together, the "Petitioners") submitted a verified Petition ("Petition") to the New Jersey Board of Public Utilities ("Board") pursuant to N.J.S.A. 48:2-51.1 and N.J.A.C. 14:1-5.14 requesting Board approval, or other authority as may be required, to consummate a transaction whereby Alteva, the corporate parent Alteva of Warwick, LLC ("Alteva of Warwick") and Alteva Long Distance, Inc. ("Alteva-LD") (together, the "Alteva Subsidiaries") will become indirect, wholly-owned subsidiaries of MBS (the "Transaction"). Following the proposed Transaction, the Alteva Subsidiaries will continue to offer the same services in New Jersey at the same rates, terms, and conditions.

**BACKGROUND**

Alteva is a public corporation organized under the laws of New York State, with its corporate headquarters in Philadelphia, Pennsylvania, and principal place of business at 400 Market Street, Suite 1100, Philadelphia, PA 19106. Alteva of Warwick is the incumbent local exchange carrier ("ILEC") in West Milford Township, Vernon Township and Franklin Borough, New Jersey, where it serves approximately 3,500 business and residential customers.<sup>2</sup> Alteva of Warwick

<sup>1</sup> Commissioner Joseph L. Fiordaliso was not present at the December 16, 2015 agenda meeting.

<sup>2</sup> See I/M/O the Petition of Warwick Valley Telephone Company for Authorization to Transfer Assets to Warwick Valley Telephone Restructuring Company, LLC and to Surrender its Certificate of Public Convenience and Necessity and; Petition of Warwick Valley Telephone Restructuring Company, LLC for (I) Issuance of a Certificate of Public Convenience and Necessity (II) Approval of its Adoption of Warwick Valley Telephone Company's Plan for Alternative Regulation and Intrastate Tariffs and (III) Related Relief, Docket No. TM12090812, Order dated October 23, 2012. The Board was notified via letter dated November 22, 2013 that Warwick Valley Telephone Restructuring Company, LLC changed its name to Alteva of Warwick, LLC.

also provides competitive local exchange services to approximately 100 New Jersey customers outside its ILEC service territory. Alteva of Warwick offers all of its local exchange customers broadband services (via xDSL), as well as a package of satellite video services via an arrangement with DirecTV. In addition, Alteva of Warwick is the ILEC in the towns of Warwick, Goshen and Walkill, New York. Alteva-LD operates solely as reseller in New Jersey and does not have facilities-based authority.

MBS is a privately owned Delaware corporation with its principal place of business at 880 Montclair Road, Suite 400, Birmingham, Alabama 35242. Through its operating affiliates, MBS provides wholesale VoIP for residential and business customers of cable operators and municipalities and is a provider of residential, small business, and enterprise VoIP services, broadband monitoring, provisioning, and managed support services.

According to the Petition, MBS has two Competitive Local Exchange Carrier (CLEC) affiliates operating in New Jersey: Momentum Telecom (“Momentum”) and ALEC, LLC (“ALEC”). Under the trade name Momentum Telecom, Momentum is a leading provider of wholesale hosted VoIP and unified communications services and serves as the wholesale “CLEC partner” and broadband system manager to Tier II and Tier III cable providers.<sup>3</sup> Momentum currently supports approximately 400 cable operators, broadband providers and reseller partners, manages almost one million high-speed data modems and powers almost 200,000 voice lines around the country. By letter to the Board dated October 6, 2015, Petitioners noted that ALEC surrendered its Authority to operate in New Jersey via notice provided to the Board on February 18, 2014.

## **DISCUSSION**

The Petition states that on September 2, 2015 MBS and Alteva entered into an Agreement and Plan of Merger whereby, among other things, MBS, through a wholly-owned subsidiary, will acquire 100% of the outstanding equity of Alteva. As a result of the Transaction, Alteva will become an indirect, wholly-owned subsidiary of MBS. The Alteva Subsidiaries, however, will continue to operate as they currently do, offering the same services at the same rates, terms and conditions as they currently do. The Petition further states that the Alteva of Warwick workforce will remain in place for the foreseeable future. Accordingly, the Transaction will be seamless and transparent to Alteva of Warwick’s customers, who will continue to receive uninterrupted service from Alteva.

Pursuant to N.J.S.A. 48:2-51.1(a), “the [B]oard shall evaluate the impact of [an] acquisition [of control of a public utility] on competition, on the rates of ratepayers affected by the acquisition of control, on the employees of the affected public utility or utilities, and on the provision of safe and adequate utility service at just and reasonable rates.” In evaluating this Petition, the Board must be “satisfied that positive benefits will flow to customers and the State of New Jersey and, at a minimum, that there are no adverse impacts on any of the criteria delineated in N.J.S.A. 48:2-51.1” as set forth above. N.J.A.C. 14:1-5.14(c). Also, pursuant to N.J.S.A. 48:3-7 and N.J.S.A. 48:3-10, the Board must determine whether the public utility, or a wholly owned subsidiary thereof, may be unable to fulfill its pension obligations to any of its employees.

Petitioners assert that proposed transaction will serve the public interest by resulting in a combined enterprise that can achieve greater economies of scale and scope than would

---

<sup>3</sup> I.e., *Numbering Policies for Modern Communications*, Notice of Proposed Rulemaking, Order, and Notice of Inquiry, 28 FCC Rcd. 5842, ¶ 45 (2013).

otherwise have been the case. Petitioners state that the Transaction will also enhance Alteva's local telephone business. Alteva of Warwick has experienced declines in access lines as customers have migrated towards cellular and VoIP providers for telephone services. The Petition states that MBS is committed to Alteva's local telephone business and asserts that its experience and resources will enable Alteva to compete more effectively than it has in the recent past. Petitioners also assert that the Transaction will not negatively affect Alteva of Warwick's ability to fulfill its current obligations to its employees.

Petitioners also state that Alteva of Warwick will continue to provide uninterrupted service to its customers and therefore the Board's Mass Migration rules, N.J.A.C. 14:10-12.1, et seq., do not apply. To the extent that the Board determines otherwise, Petitioners request a waiver from the notification and other requirements of the Mass Migration rules.

The New Jersey Division of Rate Counsel ("Rate Counsel") has reviewed this matter and by way of letter dated September 18, 2015, states that it "does not oppose the Board's grant of Joint Petitioners' requests contained in their application for transfer of control." Letter from Rate Counsel to the Board dated September 18, 2015, page 3.

### **FINDINGS AND CONCLUSIONS**

After a thorough review of the Petition, the Board concludes that there will be no negative impact on rates or service quality since Alteva of Warwick will continue to provide the same services at the same rates, through the same assets, provided by the same employees, and under the same terms and conditions. Also, the Board is satisfied that positive benefits will flow to customers based on the record presented by Petitioners as the Transaction will strengthen Petitioners' competitive posture in the telecommunications market due to their access to additional resources. In addition, the Board is persuaded that Petitioners will make every effort to minimize any potential adverse impact to employees in New Jersey.

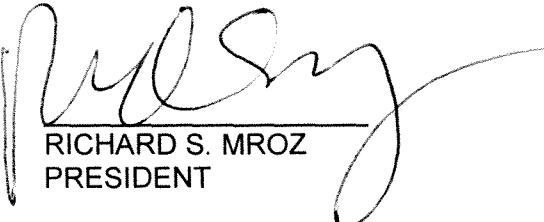
Regarding implication of the Board's Mass Migration regulations, the Board **FINDS** that those Rules do not apply in this instance because neither Alteva of Warwick nor Alteva-LD intends to depart its service territory. Alteva of Warwick will continue to provide uninterrupted service to its customers, and MBS will not be acquiring the end users of Alteva of Warwick as contemplated in N.J.A.C. 14:10-12.2(a) and (b). Because the Transaction does not involve Mass Migration, a waiver of the Board's Mass Migration Rules, found at N.J.A.C. 14:10-12.1 et seq., is unnecessary.

Accordingly, the Board **FINDS** that the proposed Transaction will have no material impact on the rates of current customers or on employees. The Board also **FINDS** that the Transaction will have no negative impact on the provision of safe, adequate and proper service, and will positively benefit competition. Therefore, after investigation, having considered the record and exhibits submitted in this proceeding, the Board **FINDS** that the proposed Transaction is in accordance with the law and in the public interest, and **HEREBY ORDERS** that Petitioner shall notify the Board of the closing of the proposed transaction within 7 days of consummation.

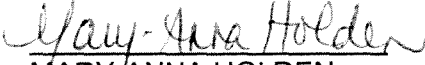
This Order shall be effective December 26, 2015.

DATED: 12/16/15

BOARD OF PUBLIC UTILITIES  
BY:



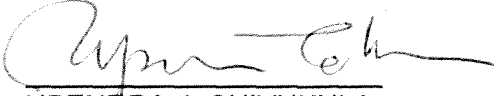
RICHARD S. MROZ  
PRESIDENT



MARY-ANNA HOLDEN  
COMMISSIONER




DIANNE SOLOMON  
COMMISSIONER



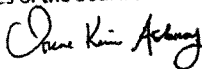
UPENDRA J. CHIVUKULA  
COMMISSIONER

ATTEST:



IRENE KIM ASBURY  
SECRETARY

I HEREBY CERTIFY that the within  
document is a true copy of the original  
in the files of the Board of Public Utilities



IN THE MATTER OF THE JOINT PETITION OF ALTEVA, INC. AND MBS HOLDINGS, INC.  
FOR APPROVAL OF A TRANSFER OF CONTROL  
DOCKET NO. TM15091046

SERVICE LIST

William K. Mosca, Jr., Esq.  
Bevan, Mosca & Giuditta, P.C.  
222 Mount Airy Rd., Suite 200  
Basking Ridge, NJ 07920  
[wmosca@bmqzlaw.com](mailto:wmosca@bmqzlaw.com)

Brian Callahan  
Chief Financial Officer  
400 Market Street, Suite 1100  
Philadelphia, PA 19106

Michael G. Conroy  
Chief Financial Officer  
MBS Holdings, Inc.  
2700 Corporate Drive, No. 200  
Birmingham, AL 35242

Michael C. Sloan  
Davis Wright Tremaine LLP, NW  
1919 Pennsylvania Avenue, Suite 800  
Washington, DC 20006

Irene Kim Asbury, Board Secretary  
Board of Public Utilities  
44 South Clinton Avenue, 9th Floor  
Post Office Box 350  
Trenton, NJ 08625-0350  
[irene.asbury@bpu.state.nj.us](mailto:irene.asbury@bpu.state.nj.us)

Rocco Della Serra  
Division of Telecommunications  
Board of Public Utilities  
44 South Clinton Avenue, 9th Floor  
Post Office Box 350  
Trenton, NJ 08625-0350  
[rocco.della-serra@bpu.state.nj.us](mailto:rocco.della-serra@bpu.state.nj.us)

Patricia A. Krogman, Esq.  
Deputy Attorney General  
Department of Law & Public Safety  
Division of Law  
124 Halsey Street  
Post Office Box 45029  
Newark, NJ 07101-45029  
[Patricia.Krogman@dol.lps.state.nj.us](mailto:Patricia.Krogman@dol.lps.state.nj.us)

Stefanie A. Brand, Esq., Director  
Division of Rate Counsel  
140 East Front Street, 4<sup>th</sup> Floor  
Post Office Box 003  
Trenton, NJ 08625-0003  
[sbrand@rpa.state.nj.us](mailto:sbrand@rpa.state.nj.us)

Maria T. Novas-Ruiz, Esq.  
Division of Rate Counsel  
140 East Front Street, 4<sup>th</sup> Floor  
Post Office Box 003  
Trenton, NJ 08625-0003  
[mnovas-ruiz@rpa.state.nj.us](mailto:mnovas-ruiz@rpa.state.nj.us)