



Agenda Date: 5/25/16  
Agenda Item: IVB

**STATE OF NEW JERSEY**  
**Board of Public Utilities**  
**44 South Clinton Avenue, 3<sup>rd</sup> Floor, Suite 314**  
**Post Office Box 350**  
**Trenton, New Jersey 08625-0350**  
**[www.nj.gov/bpu/](http://www.nj.gov/bpu/)**

TELECOMMUNICATIONS

IN THE MATTER OF THE VERIFIED PETITION OF )  
WEST TELECOM SERVICES, LLC FOR APPROVAL ) ORDER  
OF PRO FORMA INTRA-COMPANY CHANGES ) DOCKET NO. TM16030254

**Parties of Record:**

**Stefanie A. Brand, Esq., Director**, New Jersey Division of Rate Counsel  
**Dennis C. Linken, Esq., Scarinci & Hollenbeck, LLC**, on behalf of Petitioners

**BY THE BOARD:**

On March 23, 2016, West Telecom Services, LLC ("West Telecom" or "Petitioner") (f/k/a Hypercube Telecom, LLC), submitted a verified Petition ("Petition") to the New Jersey Board of Public Utilities ("Board") pursuant to N.J.S.A. 48:2-51.1 requesting Board approval of pro forma intra-company changes that will result in the elimination of Rubik Acquisition Company, LLC ("Rubik") and Annex Holdings HC LLC ("Annex") as intermediate holding companies in West Telecom's chain of ownership. West Telecom's direct parent, West Telecom Services Holdings, LLC ("West Telecom Holdings") (f/k/a HyperCube, LLC and previous to that, KMC Data, LLC), will not change as a result of this internal reorganization and neither will West Telecom's ultimate parent, West Corporation ("West"). Following the reorganization, West Telecom will continue to offer the same services in New Jersey at the same rates, terms, and conditions.

**BACKGROUND**

West Telecom is a Delaware limited liability company located in Lancaster, Texas. The Petition states that West Telecom provides wholesale local and national tandem switching and transport services, termination services, toll-free origination services, Direct Inbound Dial services to telecommunications and information service providers, including wireless carriers, wireline CLECs and IXCs, cable telephony providers, and VoIP providers. In New Jersey, West Telecom is authorized to provide resold and facilities-based local and interexchange services. See In the Matter of the Petition of KMC Data, LLC for Authority to Provide Local Exchange and Interexchange Telecommunications Services in the State of New Jersey, Docket No. TE01100637, Order dated October 23, 2003.

West Telecom is a direct, wholly-owned subsidiary of West Telecom Holdings, which is 74% owned by Rubik and 26% owned by Annex, both Delaware limited liability companies. Annex, in turn is wholly-owned by Rubik, which is wholly-owned by West, a publicly traded corporation.

West, Annex, Rubik and West Telecom Holdings do not provide and are not certified to provide telecommunications services in New Jersey or any other jurisdiction.

## **DISCUSSION**

The Petition states that in order to simplify its corporate structure, West plans to reduce the number of intermediate holding companies in West Telecom's chain of ownership by eliminating Annex and Rubik. Following the pro forma elimination of Annex and Rubik, West Telecom Holdings will be a direct, rather than indirect, wholly-owned subsidiary of West Telecom Holdings.

Petitioners state that approval of the pro-forma intra-company changes will serve the public interest by simplifying West's existing corporate structure and thereby reducing its reporting and accounting burdens and providing other operational efficiencies.

The Petition also points out that the pro forma changes will be seamless to customers and will not result in any change to West Telecom's services. West Telecom will continue to ultimately be owned by West and customers of West Telecom will continue to receive service under the same rates, terms and conditions.

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 note that because the Petitioner has no employees in New Jersey, there will be no negative impact on employees and the Board's requirement to determine whether the Petitioner may be unable to fulfill its pension obligation to any of its employees under N.J.S.A. 48:3-7 and therefore is not an issue.

By letter to the Board dated April 1, 2016, the New Jersey Division of Rate Counsel advised that it "has no objection to the Board's grant of Petitioners' request under the Verified Petition." (Letter from Rate Counsel at 2.)

## **FINDINGS AND CONCLUSIONS**

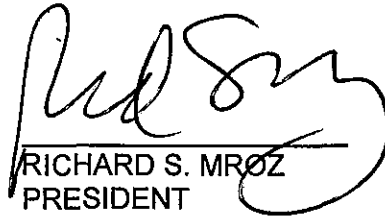
After a thorough review of the Petition and all related documents, the Board concludes that there will be no negative impact on rates or service quality since Petitioner's New Jersey customers will continue to receive the same services at the same rates and under the same terms and conditions. Also, the Board is satisfied that positive benefits will flow to customers based on the record presented by Petitioner, as the transaction will strengthen Petitioner's competitive posture in the telecommunications market, and the reorganization will result in a corporate structure that will enable Petitioner to more efficiently achieve potential operational, administrative and strategic objectives. In addition, since Petitioner does not have any employees in New Jersey, there will not be any adverse impact to employees in New Jersey.

Accordingly, the Board **FINDS** that the proposed transaction is consistent with the applicable law, is not contrary to the public interest and will have no material impact on the rates of current customers, or on New Jersey employees. The Board also **FINDS** that the proposed transaction will have no 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 **HEREBY AUTHORIZES** Petitioner to complete the proposed transaction.

This Order shall be effective June 4, 2016.

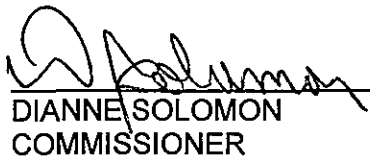
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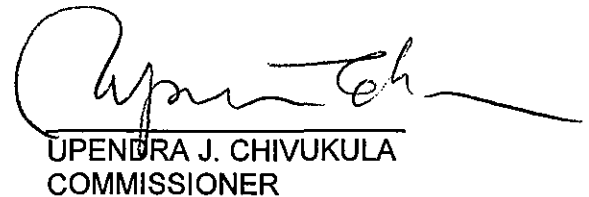
BOARD OF PUBLIC UTILITIES  
BY:

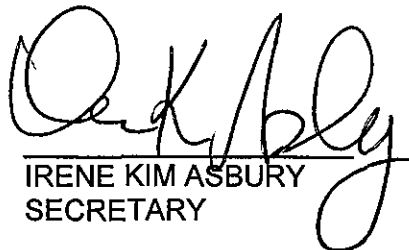
  
RICHARD S. MRÓZ  
PRESIDENT

  
JOSEPH L. FIORDALISO  
COMMISSIONER

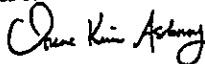
  
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COMMISSIONER

  
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



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DOCKET NO. TM16030254

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