



**STATE OF NEW JERSEY**  
**Board of Public Utilities**  
44 South Clinton Avenue, 1<sup>st</sup> Floor  
Post Office Box 350  
Trenton, New Jersey 08625-0350  
[www.nj.gov/bpu/](http://www.nj.gov/bpu/)

OFFICE OF CABLE TELEVISION  
AND TELECOMMUNICATIONS

IN THE MATTER OF THE VERIFIED PETITION OF ) ORDER  
MAGNA5 HOLDINGS, LLC, MAGNA5 LLC, AND )  
INTERNATIONAL TELCOM, LLC FOR APPROVAL OF )  
TRANSFER OF CONTROL OF MAGNA5 LLC AND )  
APPROVAL OF RELATED FINANCING ) DOCKET NO. TM21081054

**Parties of Record:**

**Laura M. Miller, Esq., of Norris McLaughlin, P.A.,** on behalf of Petitioners  
**Brian O. Lipman, Esq., Acting Director,** New Jersey Division of Rate Counsel

BY THE BOARD:

On August 6, 2021, Magna5 Holdings, LLC a Delaware limited liability company (the "Transferor"), on behalf of its subsidiary Magna5 LLC (the "Licensee" or "Magna5"), and International Telcom, LLC (the "Transferee" or "International Telcom")(collectively, "Petitioners"), submitted a Verified Petition ("Petition") with the New Jersey Board of Public Utilities ("Board") pursuant to N.J.S.A. 48:2-51.1 and N.J.S.A. 48:3-7 requesting Board approval for Petitioners to consummate a purchase by Transferee to acquire all ownership units of the Licensee and, indirectly, the Licensee's 100% direct subsidiary, Magna International LLC, resulting in the ultimate control of the Licensee and its subsidiary to be held by International Telecom (the "Transaction"), and to participate in certain related financing arrangements. Following the transaction, Licensee will continue to provide competitive services to existing customers in New Jersey at the same rates, terms, and conditions.

**BACKGROUND**

Transferor is the parent company of Licensee headquartered in Frisco, Texas. Through its operating subsidiaries, Transferor provides local telecommunications, long distance, and/or interconnected VoIP services primarily to business customers on both a retail and wholesale basis across the United States. Transferor's operating subsidiaries offer services in New Jersey, in 47 additional states, and in the District of Columbia. In addition to providing non-regulated information technology products and services, these services include local exchange service,

point-to-point private line service, Multiprotocol Label Switching service, local area network service, direct inward dialing service, and Integrated Services Digital Network, including both Basic Rate Interface and Primary Rate Interface service. Licensee (previously known as X5 OpCo LLC) is authorized in New Jersey to provide facilities-based and non-facilities based local exchange and interexchange services.<sup>1</sup>

## **DISCUSSION**

The Petition states that pursuant to a Unit Purchase Agreement dated July 8, 2021 between Transferor and Transferee, Transferee will acquire all the ownership units of Licensee and, indirectly, Licensee's 100% direct subsidiary, Magna International LLC. As a result, upon closing, the ultimate control of Licensee and its subsidiary will be held by Transferee. Immediately following closing, Licensee will continue to operate as before; none of its service, prices, or billing systems will be changed. Any changes in service offerings, prices, and such will occur over time in the normal course of business. Further, Petitioners state that the proposed Transaction contemplates new ownership interests in Licensee only, and the Transaction will not involve a change of service provider for any customer of the Licensee and will not affect any of Licensee's operations. There will be no disruption to any customer-facing operations such as ordering, service installation, customer service, and billing, which will continue to be provided as before. The Petition also states that the Transaction is not expected to result in any adverse impacts on the Licensee's employees in New Jersey.

Petitioners assert that the proposed Transaction will advance the public interest. The Transaction will provide the Licensee with improved financial flexibility, uninterrupted service, and an increased capability to compete to bring advanced services. The Transaction will allow the Transferee to leverage its decades of experience in the telecommunications industry to invest in the Licensee's operations and consolidate its systems with Transferee's, resulting in an enhanced service experience for consumers. Following the transfer, Licensee's customers will continue with uninterrupted access to the same services from the same service providers at the same rates and under the same terms and conditions as before. In addition, the Transaction will not adversely affect competition or customer choice in New Jersey because it will not result in a reduction of available service providers. Licensee and Transferee will continue to exist after the Transaction. The Transaction, therefore, does not reduce the service choices available to consumers nor does it eliminate any market participants. Instead, Licensee will continue to provide telecommunications services to the public. New Jersey customers will continue to have access to the same number of competitive alternatives they have today. Moreover, the Transaction will not otherwise engender anticompetitive behavior. Neither Transferee nor Licensee, considered individually or in combination, possess any market power in any geographic or product market.

To finance the Transaction, Transferee and Licensee will jointly incur long-term debt commitments. The purchase price will be funded through a combination of the refinancing of current vendor and institutional debt, seller financing, cash on hand, and new bank debt in the amount of \$14 million from Investors Bank at an interest rate of 6.5% for a period of 5 years.

The New Jersey Division of Rate Counsel ("Rate Counsel") submitted comments to the Board on September 13, 2021 stating that Rate Counsel would not oppose a Board grant of approval

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<sup>1</sup> In re: I/M/O Verified Petition of X5 OpCo LLC for an Order of Approval to Provide Competitive Intrastate Interexchange, Local Exchange, and Switched Access Telecommunications Services Throughout the State of New Jersey, Docket No. TE15101214, Order dated December 16, 2015.

following the Board's determination that the contemplated Transaction yields positive benefits to New Jersey customers and is in the public interest.

Board Staff's review indicates that the Transaction is appropriate. While there is no guarantee in this regard, especially given the competitive environment in which Petitioners operate, the Board is satisfied that the Transaction will not have an adverse impact on the operations of Petitioners in New Jersey.

### **FINDINGS OF FACT AND CONCLUSIONS OF LAW**

In considering a transfer of control request, the Board shall evaluate the impact of acquisition 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. 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. 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. As the Petitioners' assets will secure the debt being used to fund the Transaction, Board approval must also be based upon a finding that the debt is made according to law and serves a beneficial purpose consistent with N.J.S.A. 48:3-9 and N.J.A.C. 14:1-5.9.

After careful review of this matter, the Board **FINDS** that the proposed Transaction is consistent with the applicable law, is in 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. NOW, **THEREFORE**, after investigation, and having considered the record and exhibits submitted in this proceeding, the Board **HEREBY AUTHORIZES** Petitioners to complete the Transaction.

The Board also **FINDS** that the proposed financing Transaction is consistent with the applicable law and is in the public interest. The Board, **THEREFORE**, approves the purposes thereof.

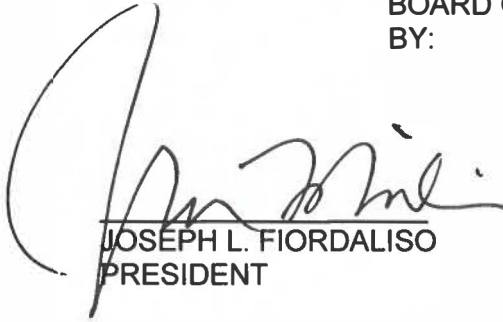
This Order is subject to the following provisions.

1. This Order shall not affect or in any way limit the exercise of the authority of the Board or the State in any future petition with respect to rates, franchises, services, financing, accounting, capitalization, depreciation, or any other matters affecting the Petitioners.
2. Notwithstanding anything to the contrary in the documents executed pursuant to the financing transactions or other supporting documents, a default or assignment under such agreement does not constitute an automatic transfer of Petitioners' assets. Board approval must be sought pursuant to N.J.S.A. 48:1-1 et seq., where applicable.
3. This Order shall not be construed as directly or indirectly fixing for any purposes whatsoever any value of tangible or intangible assets now owned or hereafter to be owned by Petitioners.
4. Petitioners shall notify the Board, within five (5) business days, of any material changes in the proposed financing, and shall complete details of such transaction including any anticipated effects upon service in New Jersey.
5. Petitioners shall notify the Board of any material default on the terms of the financing within five (5) business days of such occurrence.

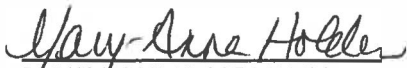
This Order shall be effective October 13, 2021.

DATED: 10/6/21

BOARD OF PUBLIC UTILITIES  
BY:




JOSEPH L. FIORDALISO  
PRESIDENT



MARY-ANNA HOLDEN  
COMMISSIONER




DIANNE SOLOMON  
COMMISSIONER



UPENDRA J. CHIVUKULA  
COMMISSIONER



ROBERT M. GORDON  
COMMISSIONER

ATTEST:   
AIDA CAMACHO-WELCH  
SECRETARY

**IN THE MATTER OF THE VERIFIED PETITION OF MAGNA5 HOLDINGS, LLC, MAGNA5  
LLC, AND INTERNATIONAL TELCOM, LLC FOR APPROVAL OF TRANSFER OF  
CONTROL OF MAGNA5 LLC AND APPROVAL OF RELATED FINANCING**

**DOCKET NO. TM21081054**

**SERVICE LIST**

<p>James Laskey, Esq. Laura M. Miller, Esq. Norris McLaughlin, P.A. 400 Crossing Boulevard, 8<sup>th</sup> Floor Bridgewater, New Jersey 08807-5933 <a href="mailto:jlasky@norris-law.com">jlasky@norris-law.com</a> <a href="mailto:lmiller@norris-law.com">lmiller@norris-law.com</a></p> <p>Danielle Frappier Heather Moelter Davis Wright Tremaine LLP 1301 K Street NW, Suite 500 East Washington, DC 20005 <a href="mailto:daniellefrappier@dwt.com">daniellefrappier@dwt.com</a> <a href="mailto:heathermoelter@dwt.com">heathermoelter@dwt.com</a></p> <p>Leon Nowalsky Partner, Nowalsky &amp; Gothard 1420 Veterans Memorial Blvd. Metairie, LA 70005 <a href="mailto:lnowalsky@nbgglaw.com">lnowalsky@nbgglaw.com</a></p> <p><b>Division of Rate Counsel</b> 140 Front Street, 4<sup>th</sup> Floor Post Office Box 003 Trenton, NJ 08625-0003</p> <p>Brian Lipman, Esq., Acting Director <a href="mailto:blipman@rpa.state.nj.us">blipman@rpa.state.nj.us</a></p> <p>Maria Novas-Ruiz, Esq. <a href="mailto:mnovas-ruiz@rpa.state.nj.us">mnovas-ruiz@rpa.state.nj.us</a></p>	<p><b>Board of Public Utilities</b> 44 South Clinton Avenue, 1<sup>st</sup> Floor Post Office Box 350 Trenton, NJ 08625-0350</p> <p><u>Office of Cable Television and Telecommunications</u></p> <p>Lawanda R. Gilbert, Director <a href="mailto:Lawanada.gilbert@bpu.nj.gov">Lawanada.gilbert@bpu.nj.gov</a></p> <p>Rocco Della Serra <a href="mailto:rocco.dellaserra@bpu.nj.gov">rocco.dellaserra@bpu.nj.gov</a></p> <p><u>Economist Office</u></p> <p>Christine M Lin <a href="mailto:christine.lin@bpu.nj.gov">christine.lin@bpu.nj.gov</a></p> <p><u>General Counsel's Office</u></p> <p>Lanhi Saldana, Esq. Legal Specialist <a href="mailto:lanhi.saldana@bpu.nj.gov">lanhi.saldana@bpu.nj.gov</a></p> <p><b>Division of Law</b> 25 Market Street Post Office Box 112 Trenton, NJ 08625</p> <p>Pamela Owen, Esq. Assistant Section Chief <a href="mailto:Pamela.owen@law.njoag.gov">Pamela.owen@law.njoag.gov</a></p> <p>Terel Klein, Esq. Deputy Attorney General <a href="mailto:Terel.Klein@law.njoag.gov">Terel.Klein@law.njoag.gov</a></p>
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