



Agenda Date: 4/27/16
Agenda Item: IVB

STATE OF NEW JERSEY
Board of Public Utilities
44 South Clinton Avenue, 3rd Floor, Suite 314
Post Office Box 350
Trenton, New Jersey 08625-0350
www.nj.gov/bpu/

TELECOMMUNICATIONS

IN THE MATTER OF THE VERIFIED JOINT PETITION)
OF DSCI HOLDINGS CORPORATION, DSCI, LLC AND) ORDER
U.S. TELEPACIFIC CORP. FOR APPROVAL FOR THE)
TRANSFER OF CONTROL OF DSCI, LLC TO U.S.)
TELEPACIFIC CORP.) DOCKET NO. TM16030230

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 14, 2016, DSCI Holdings Corporation ("Parent"), DSCI, LLC, and U.S. TelePacific Corp. ("TelePacific" and collectively, "Petitioners") submitted a verified joint petition ("Petition") to the New Jersey Board of Public Utilities ("Board") pursuant to N.J.S.A. 48:2-51.1, and N.J.S.A. 48:3-10 requesting Board approval for TelePacific to acquire control of DSCI, LLC, through a merger of DSCI, LLC with a TelePacific direct subsidiary ("Transaction"). Following the proposed Transaction, DSCI, LLC will continue to offer the same services in New Jersey at the same rates, terms, and conditions.

BACKGROUND

Parent is a privately held Massachusetts corporation and DSCI, LLC is a privately held Delaware limited liability company. Both Parent and DSCI, LLC have their principal offices located in Waltham, Massachusetts. DSCI, LLC is a competitive local exchange carrier and provider of hosted communications, managed IT and connectivity services. In New Jersey, DSCI, LLC is authorized to provide facilities-based local and long distance telecommunications services pursuant to authority granted by the Board. See In the Matter of the Petition of DSCI, LLC for Authority to Provide Resold and Facilities-Based Competitive Intrastate Local Exchange and Interexchange Telecommunications Services throughout the State of New Jersey, Docket No. TE14091038, Order dated December 17, 2014.

TelePacific is a California corporation with its headquarters located in Los Angeles, California. TelePacific Managed Services ("Merger Sub") is a California corporation and wholly owned subsidiary of TelePacific. TelePacific provides facilities-based business communications

services, including local, long distance, data and Internet services to small-to-medium sized businesses in California, Nevada and Texas. TelePacific's affiliate Mpower Communications Corp., a Nevada corporation, also serves customers in Nevada and California; TelePacific's affiliate Arrival Communications, Inc., a Delaware corporation, serves customers in California; and TelePacific's affiliate TelePacific Communications Co. f/k/a Tel West Network Services Corporation, a Washington corporation, serves customers in Texas. TelePacific is a wholly owned subsidiary of U.S. TelePacific Holdings Corp. ("TPAC Holdings"). Currently, two entities that own 10% or more of TPAC Holdings are Investcorp S.A. (39.6%) and Clarity Partners, L.P. (23.97%).

DISCUSSION

The Petition states that pursuant to an Agreement and Plan of Merger ("Agreement") dated March 1, 2016, TelePacific will acquire ownership and control of DSCI, LLC by merging Merger Sub with and into DSCI, LLC, with DSCI, LLC surviving the merger as a wholly owned subsidiary of TelePacific. As a result, DSCI, LLC will be a direct, wholly owned subsidiary of TelePacific. Petitioners state that following the proposed Transaction, DSCI, LLC's customers will remain customers of DSCI, LLC and will continue to receive services under the same rates, terms and conditions as those services are presently provided to them. Furthermore, the Petition states that the Transaction is not expected to change or affect the day-to-day operations of DSCI, LLC.

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 the proposed Transaction will serve the public interest by promoting competition among telecommunications providers. Petitioners state that DSCI, LLC will have access to the financial, operational and managerial resources of TelePacific, and such support will strengthen its competitive position. DSCI, LLC will continue to be managed and operated by the same officers and personnel. The Petition states that DSCI, LLC has two employees that reside in New Jersey. Upon consummation of the Transaction, there are no immediate plans to change these employment positions. Further, the Petition states that DSCI, LLC does not have an employee pension plan.

Petitioners claim that the Transactions will be transparent to customers of DSCI, LLC and is not expected to result in the discontinuance, reduction, loss or impairment of service to any customer.

By letter to the Board dated April 4, 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 Joint Petition." (Letter from Rate Counsel at 2.)

FINDINGS AND CONCLUSIONS

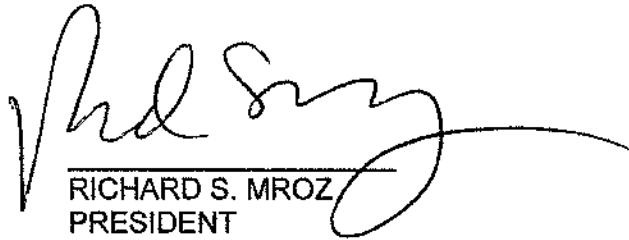
After a thorough review of the Petition and all related documents, the Board concludes that there will be no negative impact on rates or service quality since Petitioners' New Jersey customers will continue to receive the same services at the same rates and under the same terms and conditions. Also, the Board is satisfied that positive benefits will flow to customers based upon the record, and that the Transaction will strengthen Petitioners' competitive posture in the telecommunications market due to their access to additional resources.

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** Petitioners to complete the proposed Transaction.

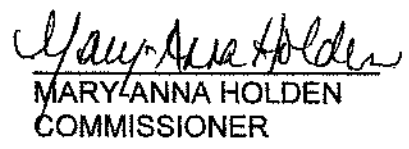
This Order shall be effective May 7, 2016.

DATED: 4/27/16

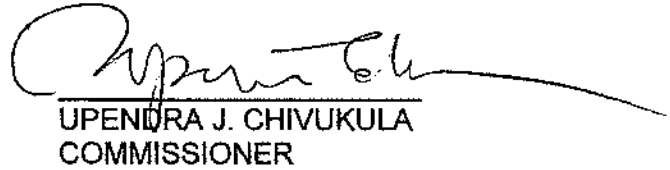
BOARD OF PUBLIC UTILITIES
BY:

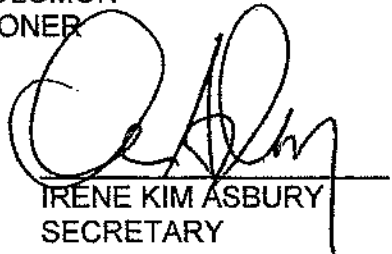

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ATTEST: 
IRENE KIM ASBURY
SECRETARY

IN THE MATTER OF THE VERIFIED JOINT PETITION OF DSCI HOLDINGS CORPORATION,
DSCI, LLC AND U.S. TELEPACIFIC CORP. FOR APPROVAL FOR THE TRANSFER OF
CONTROL OF DSCI, LLC TO U.S. TELEPACIFIC CORP.
DOCKET NO. TM16030230

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