



STATE OF DELAWARE

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MEMORANDUM

TO: The Chairman and Members of the Commission

FROM: Lisa B. Driggins, Public Utilities Analyst 

DATE: August 13, 2015

SUBJECT: IN THE MATTER OF THE JOINT APPLICATION OF ODYSSEY ACQUISITION, LLC AND EXTENET SYSTEMS, INC. FOR APPROVAL OF THE TRANSFER OF INDIRECT CONTROL OF EXTENET SYSTEMS, INC. TO ODYSSEY ACQUISITION, LLC AND FOR EXTENET SYSTEMS, INC. TO PARTICIPATE IN CERTAIN FINANCING ARRANGEMENTS - (FILED AUGUST 6, 2015) – PSC DOCKET NO. 15-1261

Application

On August 6, 2015, Odyssey Acquisition, LLC (“Buyer”) and ExteNet Systems, Inc. (“ESI”) (together, the “Applicants”) filed an application with the Delaware Public Service Commission (“PSC” or “Commission”) seeking approval for (1) the transfer of indirect control of ESI to Buyer (the “ExteNet Transaction”) and (2) for ESI to participate in a financing arrangement in an aggregate amount of up to \$475 million. On August 13, 2015, Buyer filed a Supplement regarding its current ownership.

Applicants

Odyssey Acquisition, LLC

Buyer is a Delaware limited liability company and a wholly owned direct subsidiary of Odyssey Intermediate Holdings. (“Holdco”), a Delaware corporation and a wholly owned direct subsidiary of Mount Royal Holdings, LLC (“Parent”), a Delaware limited liability Company.

The Buyer has executive offices at 750 Park of Commerce Drive, Suite 200, Boca Raton, Florida 33487.

ExteNet Systems, Inc.

ESI is a privately-held, Delaware corporation and a wholly owned direct subsidiary of ExteNet Holdings, Inc. (ExteNet Holdings"), a Delaware Corporation. The executive office of ESI and ExteNet Holdings is at 3030 Warrenville Rd., Suite 340, Lisle, Illinois 60532. ESI and its subsidiaries (collectively, "ExteNet") deploy distributed networks to enhance coverage and capacity and enable superior wireless service in both outdoor and indoor environments. ESI is a "carrier's carrier" providing point-to-point telecommunications services to its wireless service provider customers, and does not provide services directly to retail customers. ExteNet is authorized to provide services in 34 states and operates distributed networks in Alabama, Arizona, California, Connecticut, District of Columbia, Florida, Illinois, Indiana, Kansas, Louisiana, Massachusetts, Michigan, Nevada, New York, Pennsylvania, Rhode Island, Texas, Virginia and Wisconsin. ExteNet was granted a CPCN to provide local exchange and competitive intrastate telecommunications services in Delaware pursuant to Order No. 7231 issued in PSC Docket No. 07-151 on July 24, 2007.

Transaction

On July 17, 2015, Buyer, Odyssey Merger Sub, Inc. ("Merger Sub"), ExteNet Holdings and EHI Seller Rep, LLC as representatives of the equity holders of ExteNet Holdings, entered into an Agreement and Plan of Merger (the "Agreement"). Merger Sub will merge with and into ExteNet Holdings, leaving ExteNet Holdings the surviving entity. After the close of the transaction, ExteNet Holdings will be a direct wholly owned subsidiary of Buyer and ESI will remain a direct, wholly owned subsidiary of ExteNet Holdings. ESI will become an indirect wholly owned subsidiary of Buyer. The current and post-closing entity ownership structures of the Applicants are provided.

Financing Arrangement

Buyer is seeking approval for ESI, to participate in new, amended or future financing arrangement in an aggregate amount of up to \$475 million (the "Financing Arrangements"), in the form of notes or debentures, conventional credit facilities, such as revolving credit facilities and term loans, letters of credit and bridge loans or a combination of all of these. The Applicants request approval for ESI to be a borrower under amended or future financing arrangements up to the aggregate amount. The Applicants further request approval of the financing with a maturity of up to ten years after issuance or amendment depending on the type of facility; request

approval of the financing arrangement at the interest rate(s) at the then current market conditions; and the borrower and its subsidiaries are expected to be required to pledge their assets as security for some or all of the new financing arrangements and may be required to pledge their assets as security for some or all of any amended or future financing arrangements. The financing arrangements will be used, in part, to fund the consideration for the ExteNet Transaction. The Financing Arrangement may also be used for other acquisitions, refinancing of current debt, working capital requirements and general corporate purpose of Buyer and its subsidiaries.

Public Interest

The Applicants assert that the public interest will be served and that the ExteNet Transaction is in accordance with the law and is for a proper purpose. According to the Applicants, the financial and managerial resources that the Buyer brings will strengthen the ability of ExteNet in the telecommunications marketplace. Further, since ExteNet is not providing services in Delaware, the proposed ExteNet Transaction will have no adverse impact on the carrier customers of ESI and its subsidiaries. The only change will be after the closing of the transaction the Buyer will become the new indirect owner of ESI.

According to the Applicants, the proposed Financing Arrangements will serve the public interest by providing competition among telecommunications carriers by providing Buyer and its subsidiaries with access to greater financial resources that will allow Buyer's subsidiaries to deploy additional communications infrastructure and compete more effectively. Further, the Financing Arrangements will be transparent to its carrier customers and will not disrupt service or cause customer confusion or inconvenience.

In addition, the Applicants have shown that the ExteNet Transaction and the Financing Arrangements are for a proper purpose and are seeking the approvals for the regulatory authorities which are necessary for the ExteNet Transaction and the Financing Arrangements to demonstrate that it is in accordance with the law.

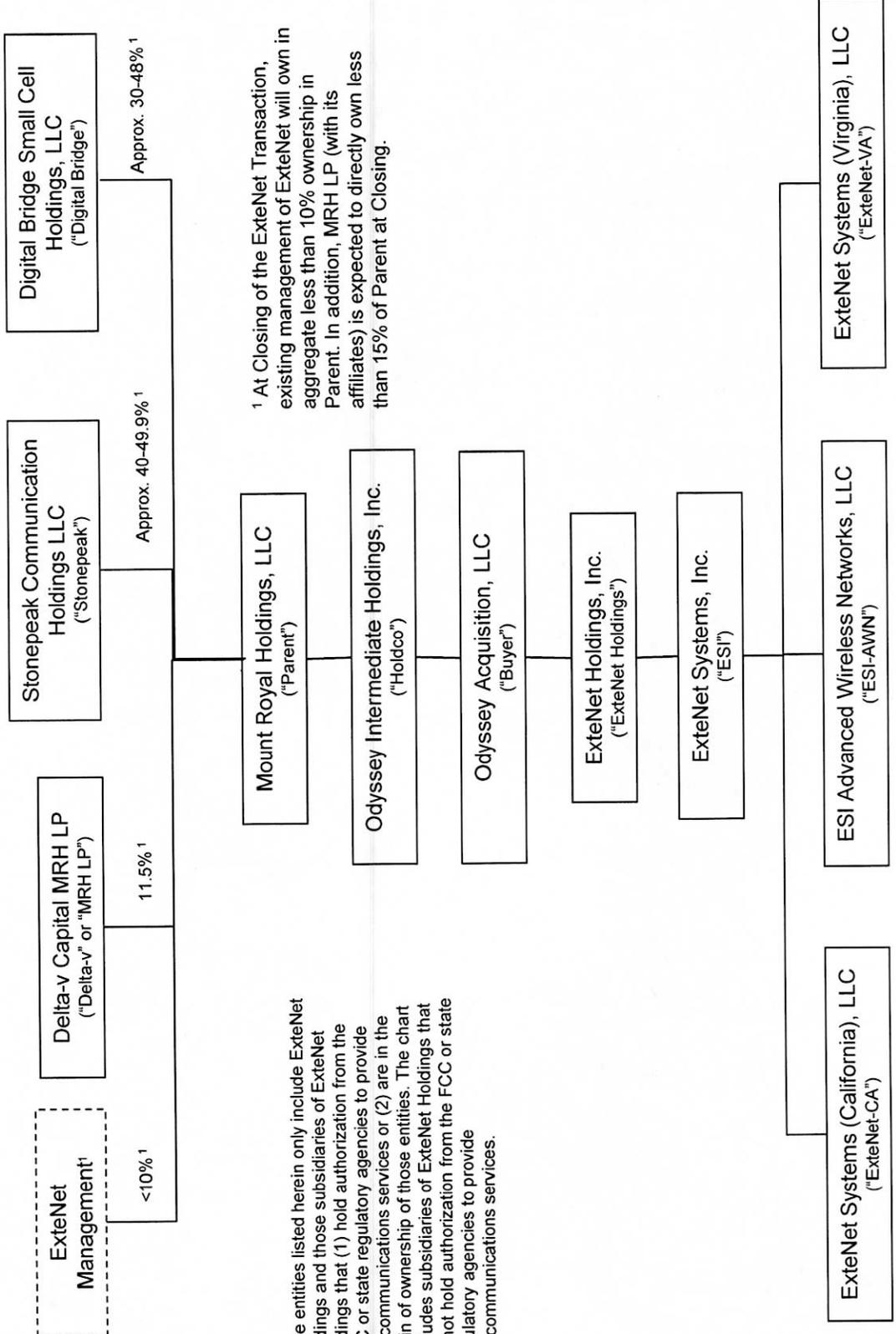
Staff Recommendation

Applications seeking approval of transfer of indirect control and financing by large multi-state competitive intrastate telecommunications providers technically come under the provisions of 26 *Del. C.* §215 because the companies are deemed to be public utilities. The Applicants have represented that the proposed ExteNet Transaction and Financing Arrangements are in accordance with law, for a proper purpose, and consistent with the public interest. The Commission has previously allowed such applications to become effective by statutory approval without Commission action. The result seems appropriate under the circumstances. Staff,

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therefore, recommends that the Commission not act on this application. Under 26 Del. C. §215(d), the effect will be that the application is deemed to be approved by the Commission. Staff will also acquire verification from the Applicants that the proposed ExteNet Transaction and Financing Arrangements have been completed.

Post-Closing Entity Structure of Buyer and ExteNet*



¹ At Closing of the ExteNet Transaction, existing management of ExteNet will own in aggregate less than 10% ownership in Parent. In addition, MRH LP (with its affiliates) is expected to directly own less than 15% of Parent at Closing.

* The entities listed herein only include ExteNet Holdings and those subsidiaries of ExteNet Holdings that (1) hold authorization from the FCC or state regulatory agencies to provide telecommunications services or (2) are in the chain of ownership of those entities. The chart excludes subsidiaries of ExteNet Holdings that do not hold authorization from the FCC or state regulatory agencies to provide telecommunications services.

Unless otherwise indicated, all ownership percentages are 100%.