



STATE OF DELAWARE

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MEMORANDUM

TO: The Chairman and Members of the Commission

FROM: Joshua Bowman, Public Utility Analyst

DATE: December 2, 2015

SUBJECT: IN THE MATTER OF THE APPLICATION OF GARRISON TNCI LLC, TNCI OPERATING COMPANY LLC, IMPACT TELECOM, INC. AND MATRIX TELECOM, INC. FOR APPROVAL (1) OF THE PROPOSED TRANSFER OF INDIRECT CONTROL OF MATRIX TELECOM, INC. TO GARRISON TNCI LLC AND RELATED TRANSACTIONS AND (2) FOR TNCI OPERATING COMPANY LLC AND MATRIX TELECOM, INC. TO PARTICIPATE IN CERTAIN FINANCING ARRANGEMENTS.
(FILED NOVEMBER 18, 2015). – PSC DOCKET NO. 15-1573

Application

On November 18, 2015, Garrison TNCI LLC (“Transferee”), TNCI Operating Company LLC (“TNCI OpCo”), Impact Telecom, Inc. (“Impact”), and Matrix Telecom, Inc. (“Matrix”) (collectively, the “Applicants”), filed an application with the Delaware Public Service Commission (“PSC” or “Commission”) seeking approval for (1) the transfer of indirect control of Matrix to Transferee (the “Impact Transaction”) and related transactions and (2) for TNCI OpCo and Matrix to participate in financing arrangements in an aggregate amount of up to \$75 million.

Applicants

Garrison TNCI LLC and TNCI Operating Company LLC

Transferee is a Delaware limited liability company and is owned by funds managed by the Garrison Investment Group¹, a leading middle market credit and asset-based investor. The principal office of Transferee and the Garrison Funds is located at 1290 Avenue of the Americas, Suite 914, New York, New York 10104.

TNCI OpCo is a Delaware limited liability company and a direct, wholly owned subsidiary of TNCI Holdings LLC ("TNCI Holdings"), a Delaware limited liability company. TNCI Holdings is a direct, wholly owned subsidiary of Transferee. TNCI OpCo has a principal office located at 114 E. Haley Street, Suite I, Santa Barbara, California 93101. TNCI OpCo was formed in January 2013 and specializes in wholesale voice and enterprise voice, data, and cloud solutions. TNCI OpCo is authorized to provide competitive local telecommunications exchange services and other competitive intrastate telecommunications services in Delaware pursuant to Order No. 8440 issued in PSC Docket No. 13-190. TNCI OpCo also holds authority from the Federal Communications Commission ("FCC") to provide domestic interstate and international telecommunications services.

Impact Telecom, Inc. and Matrix Telecom, Inc.

Matrix is a Texas corporation and wholly owned direct subsidiary of Impact, a Nevada corporation, (Impact and its subsidiaries, including Matrix, collectively referred to herein as "Impact Telecom"). Impact Telecom has a principal office located at 9000 E. Nichols Avenue, Suite 230, Englewood, CO 80112. Impact does not have a majority owner. The following shareholders of Impact hold greater than 10 percent of its stock: Robert M. Beaty, Charles Griffin, William Beaty, Jason McKesson, and Doug Funsch. Impact, through its subsidiaries Matrix and Matrix Telecom of Virginia, Inc., provides various domestic and international retail and wholesale telecommunications services. In Delaware, Matrix, which is the only Impact Telecom entity operating in Delaware, is authorized to provide (1) facilities-based competitive local exchange telecommunications services pursuant to Order No. 7136 issued in PSC Docket No. 07-05 on February 27, 2007 and (2) resold interexchange long distance telecommunications services pursuant to Order No. 4426 issued in PSC Docket No. 96-319 on March 4, 1997.

¹ The following Garrison Funds own greater than 10% of Transferee: Garrison Opportunity Fund III A LLC (approximately 64%) and GOF II A Series A-2 LLC (approximately 36%) (together, the "Garrison Funds").

Matrix also holds FCC authority to provide interstate and international telecommunications services.

Transaction

On November 3, 2015, Robert Beaty, Charles Griffin, William Beaty, Jason McKesson, Doug Funsch, Impact Telecom Holdings, Inc. ("Newco"), Impact Acquisition LLC ("Acquisition"), and TNCI Impact LLC ("TNCI Impact") entered into a Securities Purchase Agreement (the "Agreement") in which Acquisition will acquire all the equity of Impact. As a result, indirect ownership of Matrix will be transferred to Acquisition and Transferee will be the ultimate majority owner (90%) of Acquisition. Before the Agreement is consummated, the following intermediate steps will occur:

1. TNCI OpCo's direct owner will change from TNCI Holdings to TNCI Impact, a Delaware limited liability company that will be directly wholly owned by Transferee;²
2. TNCI Impact will form Acquisition, a Delaware limited liability company;
3. a new Delaware corporation will be formed, Newco, and will become the direct owner of Impact, with the current shareholders and warrant holders of Impact owning Newco³; and
4. Impact, a Nevada corporation, will convert to a Nevada limited liability company, Matrix, a Texas corporation, will convert to a Texas limited liability company⁴; and Matrix Telecom Virginia, Inc. a Virginia corporation will convert to a Virginia limited liability company.

The current and post-closing entity ownership structures of the Applicants are provided.

² At closing of the Impact Transaction, Newco will be granted a 10% ownership interest in TNCI Impact.

³ Acquisition will acquire all of the equity of Impact from Newco, resulting in the transfer of direct control of Impact to Acquisition and ultimately Transferee.

⁴ Matrix will submit the conversion documents, updated qualification to transact business as a foreign entity, and other necessary documents upon completion of the conversion.

Financing Arrangement

Applicants are seeking approval for TNCI OpCo and Matrix to participate in new, amended, restated or future financing arrangements (the “Financing Arrangements”) in an aggregate amount of up to \$75 million (the “Aggregate Amount”) 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 TNCI OpCo and Matrix to be a borrower under existing, new, amended, restated, or future Financing Arrangements up to the Aggregate Amount. The Applicants further request approval for TNCI OpCo and Matrix to participate in financing with a maturity of up to ten years after issuance or amendment depending on the type of facility and to participate in Financing Arrangements at the interest rate(s) at the then current market conditions. Following the transactions related to the Agreement, TNCI Impact and each of its U.S. subsidiaries, including TNCI OpCo and Matrix, may be required to pledge their assets as security for some or all of the Financing Arrangements, and therefore approval is sought for TNCI OpCo and Matrix to provide a security interest in its assets for the full Aggregate Amount of the Financing Arrangements. Lastly, the Applicants seek approval for TNCI OpCo and Matrix to participate as a guarantor or co-guarantor in Financing Arrangements up to the Aggregate Amount.

The Financing Arrangements may be used for acquisitions, including the Impact Transaction, refinancing existing debt, working capital requirements, and general corporate purposes of TNCI Impact and its subsidiaries.

Public Interest

The Applicants submit that the Impact Transaction is in the public interest. The Impact Transaction will bring together two enterprises that have demonstrated a long-standing commitment to excellence in a highly competitive marketplace. The Impact Transaction will enable the companies to better meet the local, national and global needs of enterprises, wholesale buyers, and other customers. Customers will benefit from the extensive telecommunications experience and expertise as well as the financial, technical, and managerial resources of the combined company.

The Impact Transaction will be conducted in a manner that will be transparent to Matrix customers and will not result in any immediate change of carrier for customers or any assignment of authorizations, and in no event will it result in the discontinuance, reduction, loss, or impairment of service to customers. Matrix will continue to provide high-quality communications services to its customers without interruption and without immediate change in rates, terms or conditions. The only change immediately following closing of the Impact

Transaction from a consumer's perspective is that Acquisition, and ultimately Transferee, will be the new owners of Matrix.

According to the Applicants, the proposed Financing Arrangements will serve the public interest by providing competition among telecommunications carriers by providing TNCI Impact and its subsidiaries with access to greater financial resources that will allow TNCI OpCo and Matrix to become more effective competitors to larger incumbent telecommunications providers. The Financing Arrangements will be transparent to the customers of TNCI OpCo and Matrix and will not disrupt service or cause customer confusion or inconvenience.

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

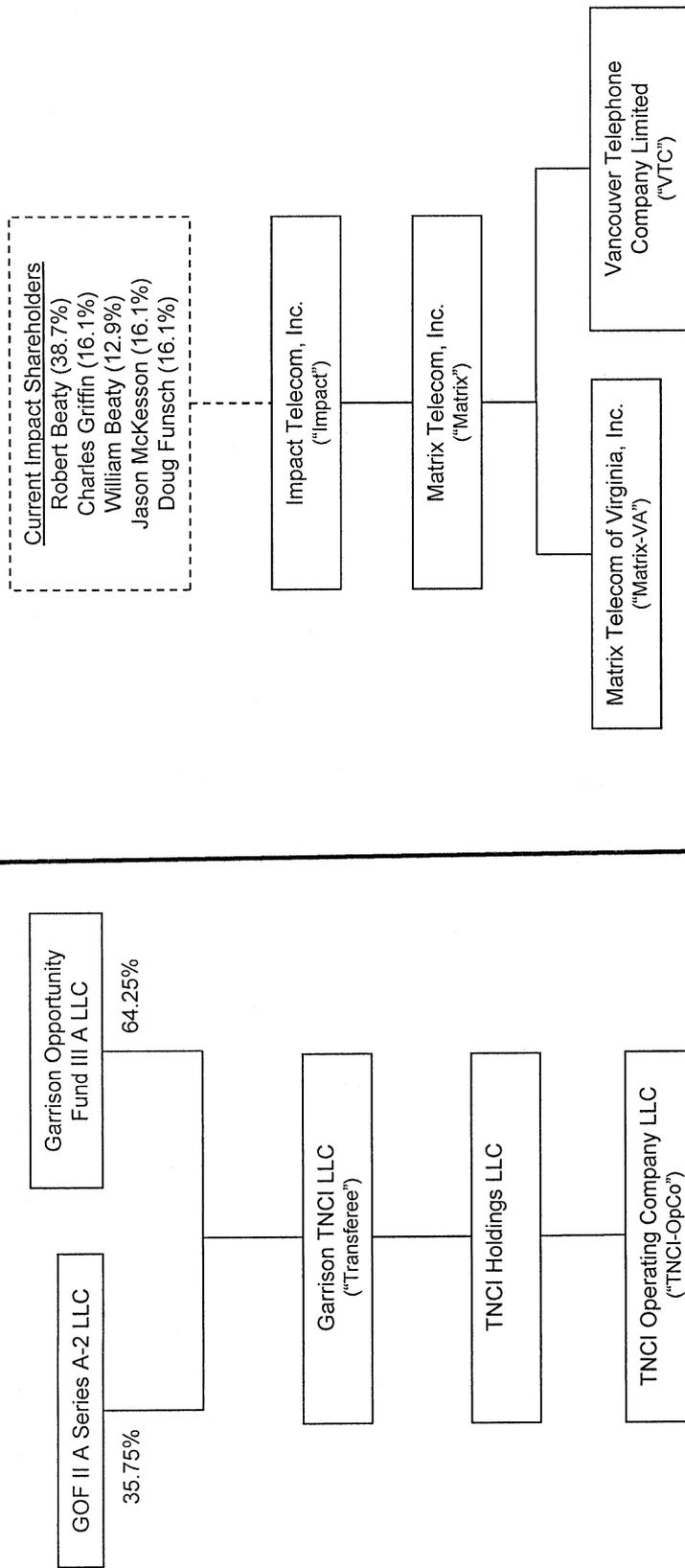
Staff Recommendation

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 Impact Transaction and Financing Arrangements are in accordance with the 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, 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 Impact Transaction and Financing Arrangements have been completed.

EXHIBIT B

Current and Post-Closing Entity Structure

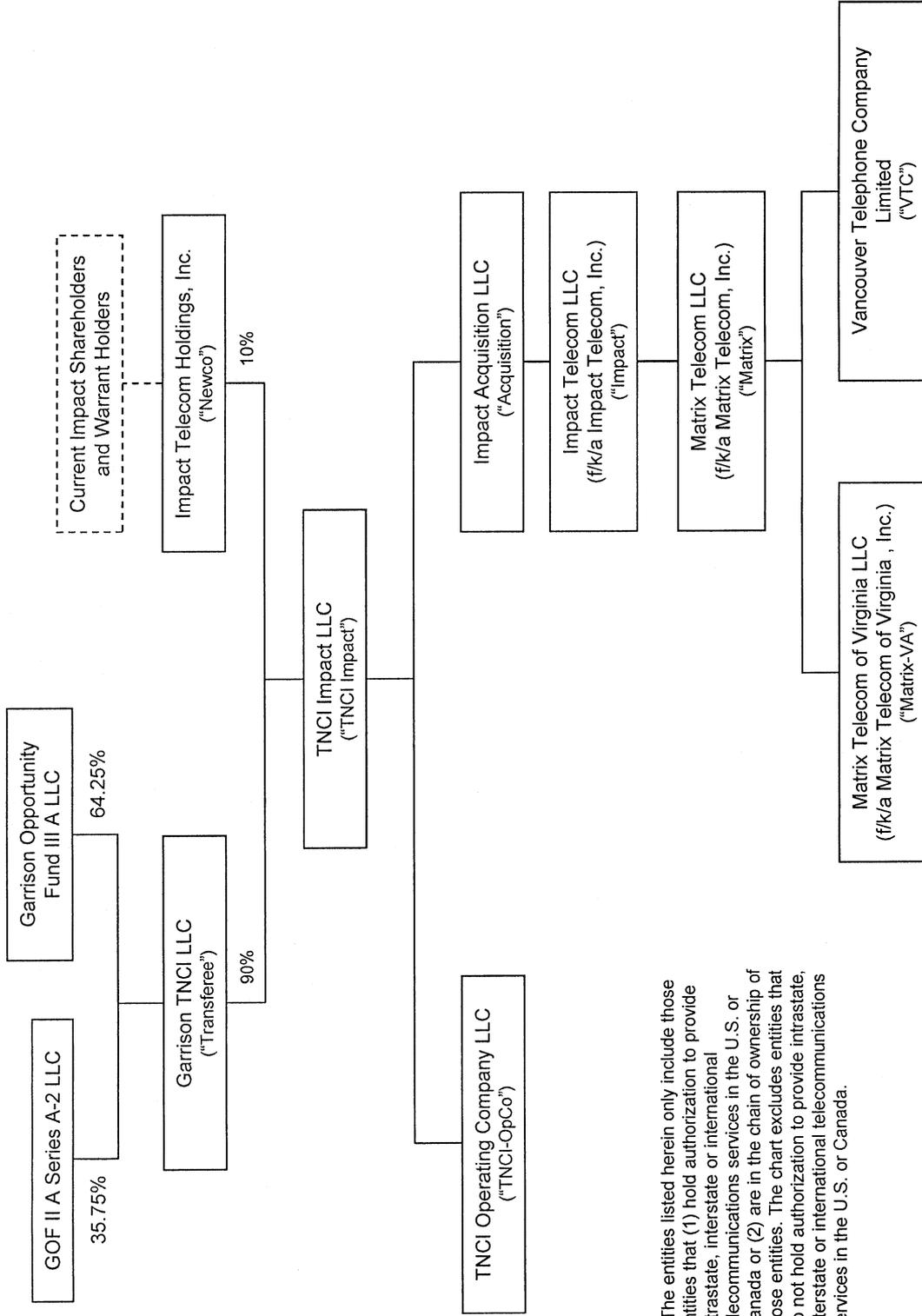
Current Organizational Structure of Impact and TNCI OpCo*



* The entities listed herein only include those entities that (1) hold authorization to provide intrastate, interstate or international telecommunications services in the U.S. or Canada or (2) are in the chain of ownership of those entities. The chart excludes entities that do not hold authorization to provide intrastate, interstate or international telecommunications services in the U.S. or Canada.

Unless otherwise indicated all ownership percentages are 100%.

Post-Closing Organizational Structure of Impact and TNCI OpCo*



* The entities listed herein only include those entities that (1) hold authorization to provide intrastate, interstate or international telecommunications services in the U.S. or Canada or (2) are in the chain of ownership of those entities. The chart excludes entities that do not hold authorization to provide intrastate, interstate or international telecommunications services in the U.S. or Canada.

Unless otherwise indicated all ownership percentages are 100%.