



STATE OF DELAWARE

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May 22, 2018

MEMORANDUM

TO: The Chair and Members of the Commission

FROM: Kevin Neilson, Regulatory Policy Administrator *KAN*

SUBJECT: IN THE MATTER OF THE JOINT APPLICATION OF MLN TOPCO LTD., MITEL NETWORKS CORPORATION, AND MITEL CLOUD SERVICES, INC. F/K/A MITEL NETSOLUTIONS, INC. FOR APPROVAL FOR MITEL CLOUD SERVICES, INC. TO PARTICIPATE IN CERTAIN FINANCING ARRANGEMENTS (FILED MAY 17, 2018) - PSC DOCKET NO. 18-0339

Application

On May 17, 2018, MLN TopCo Ltd. (“TopCo” or “Transferee”), Mitel Networks Corporation (“Mitel” or “Transferor”), and Mitel Cloud Services, Inc. (“MCSI” or “Licensee” and collectively, “Applicants”) filed an application (“Application”) seeking Delaware Public Service Commission (the “Commission”) approval for MCSI to participate in certain financing arrangements in connection with a transfer of control of MCSI to Transferee (the “Transaction”).¹

Applicants

Mitel Networks Corporation

Mitel, is a leading global provider of cloud and on-site communications and collaboration solutions for business customers, serving more than 70 million end users around the world. Mitel is headquartered in Ottawa, Canada, with offices, partners and resellers worldwide.

¹ Applicants also filed an application seeking Commission approval of the Transaction; see PSC Docket No. 18-0338. Staff is also presenting a memo concerning the Transaction approval requested in that docket.

Mitel Cloud Services, Inc.

MCSI is a Texas corporation and a wholly owned indirect subsidiary of Mitel. MCSI resells local communications services, domestic and international long-distance services, calling card services, 800 services, dedicated data services, internet, DSL, MPLS services and web voice and videoconferencing, disaster recovery solutions, and network monitoring and management. In Delaware, MCSI was approved to by the Commission to provide in-state long-distance services in Docket No. 02-269 and competitive local exchange services in Docket No. 08-386.

MLN TopCo Ltd.

TopCo is a Cayman Islands exempted company formed for the purposes of implementing the Transaction. TopCo is a wholly owned subsidiary of Searchlight II MLN, L.P., a Cayman Islands exempted limited partnership and master aggregator of an investor group led by funds affiliated with Searchlight Capital Partners, L.P. (“Searchlight”).

Financing Arrangements

Applicants are requesting Commission approval for MCSI to participate in the financing arrangements (the “Financing Arrangements”) in connection with the Transaction. In order to maintain adequate flexibility to respond to market condition and requirements and to fund some or all of the purchase price for the Transaction, Applicants are seeking authority for MCSI to participate in the Financing Arrangements with an aggregate amount up to \$1.480 billion (the “Aggregate Amount”). Applicants currently expect that MLN US HoldCo LLC will be the borrower. In order to maintain flexibility, Applicants are seeking authority for Licensee to be a borrower, co-borrower, or guarantor under the Financing Arrangements. The Financing Arrangements may include one or more of the following debt instruments: notes or debentures (including notes convertible into equity and private notes that may be exchanged for public notes); conventional credit facilities, such as revolving credit facilities and term loans; letters of credit; and bridge loans; or a combination thereof. Maturity will be up to eight (8) years after issuance or amendment depending on the type of facility. The interest rates will be the market rate for similar financings, may be fixed or floating or a combination of fixed and floating, and will not be determined until the Financing Arrangements are finalized. Some or all of the Financing Arrangements may be secured facilities, which may include a grant of a security interest in the assets of TopCo and certain of its current and future subsidiaries. For the secured facilities, the equity of TopCo and certain of its current and future subsidiaries may be pledged as additional security. Further, TopCo and certain of its current and future subsidiaries, including MCSI, may provide a guaranty as security for the full Aggregate Amount of the Financing Arrangements. The Financing Arrangement will be used for the purchase price of the Transaction and associated fees

and costs and may be used for future refinancing(s) of existing debt, working capital requirements and other general corporate purposes of the company.

Public Interest

Applicants assert that approval of the Financing Arrangements will serve the public interest, is in accordance with the law, and is for a proper purpose. According to Applicants, the Financing Arrangements will promote competition among telecommunications carriers by providing Licensee with access to greater financial resources that will allow Licensee to become a more effective competitor to larger telecommunications providers. Among other things, the Financing Arrangements may be used to fund some or all of the purchase price for the Transaction, support strategic growth initiatives, and provide for ongoing working capital and other corporate purposes. The Financing Arrangements are necessary and appropriate, are consistent with the performance by Licensee of its services to the public, will not impair its ability to perform such services, and will promote its corporate purposes. The Financing Arrangements will have no adverse impact on the customers or Licensee and will not disrupt service or cause customer confusion or inconvenience.

Staff Recommendation

Applications seeking financing approvals by large multi-state resellers of competitive intrastate telecommunications services technically lie within the provisions of 26 *Del. C.* § 215 because the companies are deemed to be public utilities. Applicants have represented that the 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. That result appears appropriate under these 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 Applicants that the proposed Financing Arrangements have been completed.