



BOARD OF PUBLIC UTILITIES

JUL 27 2017

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CHRIS CHRISTIE  
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STEFANIE A. BRAND  
Director

**Via Electronic and Regular Mail**

July 27, 2017

Irene K. Asbury, Board Secretary  
New Jersey Board of Public Utilities  
44 South Clinton Avenue, 3<sup>rd</sup> Fl., Ste. 314  
P.O. Box 350  
Trenton, New Jersey 08625-0350

**Re: I/M/O the Verified Petition of DSCI, LLC for Approval to Participate  
in Certain Financing Arrangements. BPU Docket No. TF17050556**

Dear Secretary Asbury:

The New Jersey Division of Rate Counsel (“Rate Counsel”) has reviewed the above referenced Petition of DSCI, LLC seeking the New Jersey Board of Public Utilities’ (“Board”) approval for DSCI, LLC to participate in financing arrangements entered into by its Parent, U.S. TelePacific Corp., dba TPx Communications (“TPx”), a wholly owned subsidiary of U.S. TelePacific Holdings Corp., (“Holdings”). Rate Counsel submits the within comments on this matter for the Board’s consideration. Enclosed with this original please find ten copies. Kindly return a date/stamped “Received” and/or “Filed” copy to Rate Counsel. For the reasons that follow, Rate Counsel does not object to approval of Petitioner’s request in its Verified Petition.

Petitioner and Transaction

DSCI, LLC, a wholly owned subsidiary of TPx,<sup>1</sup> is a Delaware limited liability company, headquartered in Los Angeles, California that provides facilities-based and resold business communications and managed hosting services to small and medium customers throughout the U.S. including resold local exchange and long distance in New Jersey.<sup>2</sup>

In May 2017, TPx and Holdings entered into a Credit Agreement (“2017 Financing”) in the aggregate amount of up to \$690 million which refinances a 2014 Credit Agreement and a 2016 Financing totaling \$530 million and \$130 million respectively. DSCI, LLC seeks Board approval to serve as a security guarantor in the 2017 Financing in the aggregate amount of up to \$690 million. The 2017 Financing takes advantage of favorable market conditions and

<sup>1</sup> Board docket TM16030230, dated March 14, 2016.

<sup>2</sup> Board docket TE14091038, dated December 14, 2014.

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restructures existing credit facilities and long-term debt.<sup>3</sup> Petitioner states there is no negative impact on employee pensions and the additional financing will strengthen the company and enable Petitioners to continue to provide expansion of networks and enhanced quality services to customers and strengthen competition for these services in New Jersey.<sup>4</sup>

### Conclusion

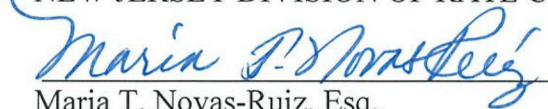
Prior Board approval is required in order to effectuate a transfer of assets, a sale or merger pursuant to *N.J.S.A. 48:3-7, -9 and -10, N.J.S.A. 48:2-51.1*, and *N.J.A.C. 14:1-5.9*, and/or approval of any encumbrance or mortgage of a telecommunications service provider as contemplated in the Petition otherwise, the transaction is void under New Jersey law.<sup>5</sup> The Board is required to evaluate the impact of the transaction on rates and employees of the utilities involved. In addition, because the Petitioners' assets will secure the debt, in part, the Board's approval must also be based on its satisfaction that the debt is made according to law and that the debt serves a beneficial purpose.<sup>6</sup> Petitioners have provided the information required under the statute and the Board's regulations supporting their assertion that the financing contemplated is not contrary to the public interest and will serve a beneficial purpose for New Jersey customers.

Rate Counsel supports action which promotes increased competition and innovation in the New Jersey telecommunications market for the benefit of both residential and business customers in this state. Accordingly, Rate Counsel does not oppose the Board's grant of Petitioners' requests under the Verified Petition.

Thank you for your attention in this matter.

Very truly yours,

STEFANIE A. BRAND,  
DIRECTOR  
NEW JERSEY DIVISION OF RATE COUNSEL



Maria T. Novas-Ruiz, Esq.  
Assistant Deputy Rate Counsel

c: Service List

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<sup>3</sup> Petition at pp. 3-4.

<sup>4</sup> Petition at pp. 4-5.

<sup>5</sup> The *N.J.S.A. 48:3-9, et seq.* states that if the Board finds that after investigation there is doubtful benefit to the petitioner, the Board may withhold approval. See, *Interstate Telephone & Telegraph Co. v. Board of Public Utility Commissioners*, 84 NJL 184 (Sup. Ct. 1913), wherein the court interpreted the 'approval of the purpose' provision to empower the Board with the authority to withhold approval if in its judgment the purpose of the debt incurred will have doubtful benefit to the applicant.

<sup>6</sup> Rate Counsel notes that Petitioner has also provided detailed data responses to the Board's data requests in connection with this financing petition

**Petition of DSCI, LLC for Approval  
to Participate in Certain Financing  
Arrangements**

**BPU Docket No. TF17050556**

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