

Decision _____

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Joint Application of Securus Technologies, Inc. (U6888C), T-NETIX Telecommunications Services, Inc. (U5324C), and Securus Investment Holdings, LLC for Approval of Acquisition by Securus Investment Holdings, LLC of Indirect Control over Securus Technologies, Inc. and T-NETIX Telecommunications Services, Inc.

Application 13-03-017
(Filed March 22, 2013)

**DECISION AUTHORIZING ACQUISITION
AND PARTIAL TRANSFER OF CONTROL**

1. Summary

This decision grants the unopposed joint application of Securus Technologies, Inc. (STI), T-NETIX Telecommunications Services, Inc. (T-NETIX) and Securus Investment Holdings, LLC (SIH) (together the Applicants) for authorization, pursuant to Public Utilities Code Section 854,¹ to transfer control of STI and T-NETIX to SIH.

This proceeding is closed.

2. Parties to the Transaction

Securus Technologies, Inc. (STI) is a Delaware corporation with its principal business office located in Dallas, Texas. STI holds a certificate of public

¹ All Code references are to the Public Utilities Code, unless otherwise stated.

convenience and necessity (CPCN) to operate as a non-dominant interexchange carrier.²

T-NETIX Telecommunications Services, Inc., (T-NETIX) is a Texas corporation. It also holds a CPCN authorizing it to provide resold interexchange services to customers in California.³

3. Proposed Transaction

Under the Applicants' proposed transaction, an entity named Securus Investment Holdings, LLC (SIH) will acquire indirect control over STI and T-NETIX.⁴ SIH is majority owned/controlled 59.51 percent by ABRY Partners VII, LP with minority ownership by multiple investors.⁵ ABRY Partners VII, LP

² See Decision (D.) 04-05-049, in which the Commission authorized STI, then operating under the name, Evercom Systems, Inc., to provide resold interLATA and intraLATA services in California. According to its application, STI notified the Commission of its name change by advice letter filed on September 21, 2010.

³ See D.93-08-012, in which the Commission authorized T-NETIX, then operating under the name, Gateway Technologies, Inc., to provide resold interLATA and intraLATA services in California. T-NETIX notified the Commission of its name change by advice letter filed on March 14, 2001.

⁴ There was a similar joint application by STI, T-NETIX and Castle Harlan Partners V, L.P. (Castle Partners) filed on April 15, 2011. In that application, Securus Holdings, Inc., a Texas corporation founded in 2010, was identified as "the ultimate parent company with ownership of 100 percent of STI and T-NETIX." That application culminated in D.11-12-041. This Decision authorized Castle Partners (a Delaware limited liability partnership) to indirectly acquire 100 percent of the stock of Securus Holdings, Inc. through Connect Acquisition Corp. Following that transaction, Castle Partners had ownership of Securus Holdings, Inc. and indirect control of STI and T-NETIX.

⁵ The balance of ownership in SIH is as follows: HarbourVest Partners 2013 Direct Fund LP (11.76 percent), Red Oak Investments LLC (11.76 percent), Mesirov Financial Capital Partners X, L.P. (9.41 percent), ABRY Partners VII Co-Investment Fund, L.P. (1.95 percent), Paribas North America, Inc. (1.76 percent) and ABRY Investment Partnership, L.P. (0.04 percent). Management members hold a combined 3.81 percent of ownership.

is itself owned/controlled by ABRY VII Capital Partners, LP and ABRY VII Capital Investors, LLC, which is owned/ controlled by Mr. Jay Grossman and Ms. Peggy Koenig.

Applicants represent that with SIH's acquisition of indirect control, STI and T-NETIX will continue to operate as separate entities, with no changes in rates, terms or conditions of service resulting from this transaction.

Applicants further represent that the reason for entering into the transaction is to provide STI and T-NETIX and their affiliates with refinancing of current indebtedness and improved access to capital, in order to meet operating needs.

4. Discussion

The Applicants request Commission authorization pursuant to § 854 for the transfer of indirect control of STI and T-NETIX to SIH. Section 854 states, in relevant part, as follows:

No person or corporation...shall merge, acquire, or control either directly or indirectly any public utility organized and doing business in this state without first securing authorization to do so from the commission...Any merger, acquisition, or control without that prior authorization shall be void and of no effect.

Section 854 requires that the Commission review a proposed transaction, before it takes place, in order to assure that it is in the public interest. The Commission has broad discretion under § 854 to approve or reject a proposed transaction. If necessary and appropriate, the Commission may attach conditions to a transaction in order to protect and promote the public interest.⁶

⁶ D.01-06-007, 2001 Cal. PUC LEXIS 390, *24.

When a company that does not possess a CPCN desires to acquire control of a company or companies that do possess a CPCN, the Commission will apply the same requirements to the acquiring company as would be applied to an initial applicant seeking the type of CPCN held by the company being acquired.

4.1. Financial Qualifications

An applicant who desires to operate as a provider of resold interexchange services must demonstrate that it has a minimum of \$25,000 in cash or cash equivalent for operations of the company, plus the costs of deposits to be paid to other carriers. In confidential exhibits to the application, Applicants have provided financial documents which demonstrate that SIH meets the Commission's financial requirements for the issuance of a CPCN authorizing the provision of resold interexchange services.

If, as promised, the transaction will provide STI and T-NETIX with increased access to capital, the companies could become stronger competitors in California's telecommunications marketplace. The transaction will be transparent to customers, and will not harm the public. In addition, the application is unopposed.

4.2. Technical Qualifications

An applicant is required to make a reasonable showing of technical expertise in telecommunications or a related business. Since, after the merger, the day-to-day management of STI and T-NETIX will remain the same, Applicants have met the Commission's requirement for a showing of technical expertise in telecommunications.

The Commission has received certifications made under penalty of perjury, from STI, T-NETIX, SIH and ABRY VII Capital Partners, L.P. that no affiliate, officer, director, partner, or owner of more than 10 percent, or any person acting

in that capacity, has filed for bankruptcy or been sanctioned by any state regulatory commission for failure to comply with any regulatory statute, rule or order; and no such person has been found criminally or civilly liable for a violation of § 17000 *et seq.* of the California Business and Professions Code or for any actions that involved misrepresentations to consumers, or is currently under investigation for similar violations. Thus, applicants satisfy the Commission's requirements for regulatory disclosures.

SIH discloses that its affiliate Grande Communications Networks, LLC received a Notice of Apparent Liability from the Federal Communications Commission (FCC) in June 2012 and that its affiliate RCN Corporation received an adverse decision from the FCC in April 2011. We have reviewed the FCC decisions and conclude that they are not related to the subject matter of this application.

4.3 California Environmental Quality Act (CEQA)

CEQA requires the Commission as the designated lead agency, to assess the potential environmental impact of a project in order that adverse effects are avoided, alternatives are investigated, and environmental quality is restored or enhanced to the fullest extent possible.

The indirect transfer of control that is the subject of this application proposes no new construction. Accordingly, there is no possibility that the transaction described herein may have any significant impact on the environment.

4.4 Summary

Based on the above analysis of financial and technical qualifications we find that the transaction is not adverse to the public interest and grant the application pursuant to § 854.

5. Categorization and Need for Hearings

In Resolution ALJ 176-3312, dated April 4, 2013, the Commission preliminarily categorized this application as ratesetting, and preliminarily determined that hearings were not necessary. No protests have been received, and it is not necessary to disturb the preliminary determinations.

6. Waiver of Comment Period

This is an uncontested matter in which the decision grants the relief requested. Accordingly, pursuant to Section 311(g)(2) of the Public Utilities Code and Rule 14.6(c)(2) of the Commission's Rules of Practice and Procedure, the otherwise applicable 30-day period for public review and comment is waived.

7. Motion for Protective Order

Pursuant to Pub. Util. Code § 583 and General Order 66-C, Applicant SIH requests that the financial information submitted in the application be kept under seal. According to the Applications, the financial information, comprised of audited consolidated financial statements of ABRY Partners VII, LP as well as balance sheet and income statements of Securus Holdings, Inc., is proprietary and sensitive. We have granted similar requests in the past and will do so here. The financial information will be kept under seal for a period of two years after the effective date of this order.

8. Assignment of Proceeding

Catherine J.K. Sandoval is the assigned Commissioner and Gary Weatherford and Patricia B. Miles are jointly the assigned Administrative Law Judges in this proceeding.

Findings of Fact

1. STI, a Delaware corporation, was granted a CPCN authorizing the company to provide resold interLATA and intraLATA interexchange services in California, under its former name, Evercom Sytems, Inc., in D.04-05-049.

2. T-NETIX, a Texas corporation, was granted a CPCN authorizing the company to provide resold interLATA and intraLATA interexchange services in California, under its former name, Gateway Technologies, Inc., in D.93-08-012.

3. Both STI and T-NETIX have previously filed advice letters to notify the Commission of the change in their company names. SIH, a Delaware limited liability company formed March 4, 2013, is the ultimate parent company of STI and T-NETIX.

4. SIH is 59.51 percent owned/controlled by ABRY VII Capital Partners, LP and ABRY VII Capital Investors, LLC, which is owned/ controlled by Mr. Jay Grossman and Ms. Peggy Koenig.

5. ABRY Partners is a private equity investment firm founded in 1989, that focuses on media, communications, business and information services investments.

6. ABRY Partners VII, LP (ABRY) does not hold a CPCN authorizing the company to provide telecommunications services in California.

7. In this transaction, ABRY will acquire indirect control of STI and T-NETIX through its affiliate SIH. SIH became the ultimate parent company of STI and T-NETIX through acquisition of 100 percent of the interests of Connect Acquisition Corp.

8. After the acquisition, STI and T-NETIX will retain their CPCNs, will continue to operate as separate companies, and will provide the same range of services to California customers under the same terms and for the same rates.

9. STI and T-NETIX will retain their current day-to-day management after the merger.

10. Applicants have filed financial documents under seal which show that SIH, as well as ABRY and its affiliates, meet the Commission's financial requirements for issuance of a CPCN authorizing the provision of resold interexchange service.

11. STI and T-NETIX will retain their current day-to-day management after the merger. Applicants have demonstrated sufficient technical expertise in telecommunications to meet Commission requirements for approval of this transaction.

12. The proposed transaction is intended to strengthen the competitive position of STI and T-NETIX by increasing the companies' access to capital and refinancing their indebtedness.

13. Pursuant to Rule 11.4, Applicants have filed a motion for leave to file confidential materials contained in Exhibits C and E to the application, under seal.

14. Notice of this application appeared on the Commission Daily Calendar on March 29, 2013.

15. No protests to this application were filed.

16. No hearing is necessary.

Conclusions of Law

1. Under Section 854, the Commission must approve any transfer of control of a regulated utility in order to ensure that the transfer is in the public interest and is not adverse to the interests of customers.

2. The Commission will apply the same requirements to a request for approval of an agreement for the transfer of control of a provider of

telecommunications services within California as it does to an initial applicant for authority to provide such services.

3. STI and T-NETIX will retain their current day-to-day management after the merger and will therefore have sufficient technical expertise in telecommunications to meet Commission requirements for approval of this transaction.

4. Applicants have met the Commission's requirements for approval of a transfer of control.

5. This transaction is in the public interest.

6. Applicants' motion to file their Exhibits C and E to the application under seal is granted for two years.

7. Since this matter is uncontested, the decision should be effective on the date it is signed.

O R D E R

IT IS ORDERED that:

1. The joint application of Securus Technologies, Inc., T-NETIX Telecommunications Services, Inc., and Securus Investment Holdings, LLC for authorization to transfer indirect control of Securus Technologies, Inc., and T-NETIX, Inc., to Securus Investment Holdings, LLC, is approved.

2. Securus Technologies Inc. and T-NETIX Telecommunications Services Inc. must each obtain a performance bond of at least \$25,000 in accordance with Decision 13-05-035. The performance bond must be a continuous bond (*i.e.*, there is no termination date on the bond) issued by a corporate surety company authorized to transact surety business in California, and the Commission must be listed as the obligee on the bond. Within

five (5) days of the transfer of control approved in Ordering Paragraph 1, Securus Technologies Inc. and T-NETIX Telecommunications Services Inc. must each submit a Tier-1 advice letter, containing a copy of the license holder's executed bond, to the Director of Communications. Thereafter, Securus and T-NETIX must each submit a Tier-1 advice letter annually, but not later than March 31.

3. Securus Technologies Inc. and T-NETIX Telecommunications Services Inc. must not allow their performance bond to lapse during any period of its operation. Pursuant to Decision 13-05-035, the Commission may revoke a Certificate of Public Convenience and Necessity if a carrier is more than 120 days late in providing the Director of the Communications Division a copy of its executed performance bond and the carrier has not been granted an extension of time by the Communications Division.

4. Within five (5) days of the closing of the transaction, the surviving entities shall notify the Commission's Communications Division, by letter, of the consummation of the transaction.

5. The joint motion of Securus Technologies, Inc., T-NETIX Telecommunications Services, Inc., Securus Investment Holdings, LLC and ABRY Partners to file their Exhibits C and E to the application under seal is granted. The information will remain under seal for a period of two years after the date of issuance of this order. During this two-year period, this information may not be viewed by any person other than the assigned Commissioner, the assigned Administrative Law Judges, the Assistant Chief Administrative Law Judge, or the Chief Administrative Law Judge, except as agreed to in writing by the parties or their successors in interest, or as ordered by a court of competent jurisdiction. If Securus Technologies, Inc., T-NETIX Telecommunications Services, Inc., Securus Investment Holdings, LLC, ABRY Partners VII, LP or their

successors in interest, believe that it is necessary for this information to remain under seal for longer than two years, they or their successors in interest may file a new motion at least 30 days before the expiration of this limited protective order.

6. Application 13-03-017 is closed.

This order is effective today.

Dated _____, at San Francisco, California.