

Decision _____

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Joint Application of Cequel Corporation, Cebridge Telecom CA, LLC (U6996C), and Patrick Drahi, an Individual; and Altice N.V., for Approval of Transfer of Control of Cebridge Telecom CA, LLC (U6996C) Pursuant to California Public Utilities Code Section 854(a).

Application 15-06-005
(Filed June 3, 2015)

DECISION AUTHORIZING ACQUISITION AND PARTIAL TRANSFER OF CONTROL OF CEBRIDGE TELECOM CA, LLC TO ALTICE N.V.

Summary

This decision grants the unopposed joint application of Cequel Corporation, Cebridge Telecom CA, LLC, Patrick Drahi, an individual and Altice, N.V. (together the "Joint Applicant") for authorization, pursuant to Public Utilities Code Section 854¹, to transfer control of Cebridge Telecom CA from Cequel Corporation to Altice N.V.

This proceeding is closed.

1. Background**1.1. Parties to the Transaction**

This is a Joint Amended Application of Cequel Corporation, Cebridge Telecom CA, LLC, Patrick Drahi, an individual and Altice N.V. for Approval of

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

Transfer of Control of Cebridge Telecom CA, LLC (U6996C) Pursuant to Public Utilities Code (Pub. Util. Code) § 854(a) (Application").²

Cequel Corporation (Cequel) is a Delaware corporation with its principal business office located in St. Louis, Missouri.³ Cequel indirectly controls 100% of the interests of Cebridge Telecom CA, LLC (Cebridge),⁴ which does business as Suddenlink Communications, a cable operator providing cable television, voice over internet protocol (VoIP), broadband internet access and telecommunication services in California and sixteen other states.⁵

Cebridge is a Delaware limited liability company. Its business address is the same as Cequel's. Cebridge is certificated to provide limited facilities-based and resold local exchange and interexchange telecommunications services in California.⁶ According to Cebridge's 2015 annual report, filed with the

² Following the filing of Application (A) .15-06-005 on June 3, 2015, Altice S.A., a publicly traded Luxembourg company and joint applicant, was reorganized on August 9, 2015 as a Dutch company, Altice N.V. On August 13, 2015, the joint applicants filed an amendment to this A.15-06-005 to substitute Altice N.V. for Altice S.A. The amendment indicates that, for all purposes relevant to the Commission's consideration of the application for transfer of control of Cebridge Telecom CA, LLC, the ownership interests, control and management of Altice N.V. are the same as Altice S.A. As a result, all references to Altice S.A. in the Application are changed to Altice N.V.

³ Cequel's business address is 520 Maryville Centre Drive, Suite 300, St. Louis, MO 63141.

⁴ This Commission approved acquisition of control of Cebridge by Cequel in Decision (D.) 12-11-037.

⁵ In addition to California, Suddenlink also does business in Arizona, Arkansas, Idaho, Kansas, Kentucky, Louisiana, Mississippi, Missouri, New Mexico, Nevada, North Carolina, Ohio, Oklahoma, Texas, Virginia and West Virginia.

⁶ In California, Cebridge provides services to school and libraries under the federal E-rate program, and provides wholesale telecommunications service and point-to-point transport services to a limited number of non-residential customers.

Commission in April 2015⁷, Cebridge's California intrastate revenues from its certificated telecommunications services total less than \$500,000.

Altice N.V. (Altice) is a Dutch public company with its principal place of business located in Amsterdam, the Netherlands.⁸ Altice resulted from the August 8, 2015 merger of a publicly traded Luxembourg company called Altice S.A. with and into New Athena B.V., a Dutch private limited liability company.⁹ Altice is a provider of fixed and mobile voice, video and broadband services in a range of markets throughout Western Europe, Israel and the Caribbean. The acquisition of Cequel and Cebridge will give Altice entry into the U.S. market for the first time.¹⁰

Patrick Drahi is the Executive Chairman of Altice N.V. and a controlling shareholder of that company. He has been involved in marketing and acquisition of cable and commercial television networks in Europe and Asia. He has a post graduate degree in Optics and Electronics.¹¹ Mr. Drahi held a 58.5% ownership interest in Altice S.A. before its merger, and is anticipated to own approximately 40.95% ownership interest in Cebridge upon completion of the transfer of control.¹²

⁷ The Annual Report is Exhibit A to the Application.

⁸ Amended Exhibit G, the Certificate of Incorporation of Altice N.V. reflects Altice's business address as Cattenbroekerdijk 4 B, 3446 HA Woerden, the Netherlands.

⁹ Following the merger, Altice S.A. ceased to exist and New Athena B.V. was converted into a Dutch public company and renamed Altice N.V. Shareholders of Altice S.A. where Cequel's business address is 520 Maryville Centre Drive, Suite 300, St. Louis, MO 63141.

¹⁰ Application at 3.

¹¹ Mr. Drahi graduated from the Ecole Polytechnique and Ecole Nationale Supérieure de Télécommunications de Paris in 1986.

¹² Application, Section II at 8-9.

2.2. Proposed Transaction

Cequel and Altice entered into a Purchase and Sale Agreement dated May 19, 2015¹³ (Agreement) under which the end result will be that Altice will acquire and indirectly hold 70% of the equity of Cequel and the existing shareholders of Cequel will retain approximately 30 percent.¹⁴ Following the acquisition, only Patrick Drahi (through his ownership in Altice N.V.), and two other entities – CPPIB and BC Partners Group¹⁵ – will hold more than a 10% or greater ownership interest in Cequel.¹⁶

The proposed acquisition occurs entirely at the parent ownership level and the Applicants indicate that the transaction will be “seamless and transparent to consumers in terms of current services, rates, terms and conditions.”¹⁷ Cebridge will continue to operate as Suddenlink under its current Commission authority and will continue to provide the services it currently provides to its existing customer base.¹⁸

¹³ The Agreement is Exhibit J to the Application. Applicants have requested the Commission treat Exhibit J as competitively sensitive, proprietary, confidential information which could result in unfair business disadvantage if disclosed.

¹⁴ Application at 8.

¹⁵ CVPPIB is an investment management organization incorporated in Canada which invests the assets of the Canada Pension Plan. It is located at One Queen Street East, Suite 2500, Toronto, ON M5C 2W5, Canada. BC Partners Group is 100% controlled by BC Partners Holdings Limited, a limited corporation organized under the laws of Guernsey, and located at Heritage Hall, La Merchant Street, St. Peter Port, Guernsey GY1 4HY, Channel Islands. CPPIB and BC Partners Group were initial investors in Cequel fka Nespresso, when the Commission approved Nespresso’s acquisition of control of Cebridge CA in D.12-11-037.

¹⁶ Application at 9. Also see Exhibit K – Altice Post-Closing Organizational Chart.

¹⁷ Application at 2.

¹⁸ Application at 2.

Applicants represent that Commission-approval of the acquisition will be beneficial to Cebridge. The acquisition will give Cebridge access to Altice's operational expertise, scale and capital resources, which will allow Cebridge to become an even more robust competitor in the telecommunications marketplace. This will ultimately benefit consumers by contributing to a competitive environment for local exchange and interexchange service in the markets Cebridge serves.

3. Discussion

The Applicants request Commission authorization for the transfer of control under § 854. 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 not adverse to the public interest.¹⁹ 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.²⁰

¹⁹ D.03-12-033 at 6; D.01-06-007 at 15.

²⁰ D.01-06-007, 2001 Cal. PUC LEXIS 390, *24.

3.1. Financial Qualifications

When a company that does not possess a Certificate of Public Convenience and Necessity (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.

Cebridge has authority to provide facilities-based local exchange and interexchange telecommunications services in California pursuant to D.06-06-022 issued on June 16, 2006. Because Altice N.V. (who seeks to acquire control of Cebridge) is not itself certificated in California, it must demonstrate that it has a minimum of \$100,000 in cash or cash equivalent, and sufficient additional resources to cover all deposits required by local exchange carriers and/or interexchange carriers.²¹

The Application includes an audited consolidated December 31, 2014 financial statement of Altice and its subsidiaries, which incorporate consolidated 1) balance sheets, 2) statements of income, 3) statements of changes in equity, and 4) statements of cash flow. The auditor's report on the consolidated financial statements certify that the audited financial statement provides an accurate picture of the assets, liabilities, and overall financial position of Altice and its subsidiaries which conform with International Financial Reporting Standards as adopted in the European Union.

²¹ D.95-12-056 (Appendix C) sets forth financial requirements for Competitive local exchange carriers (LECs), and D.91-10-041/D.93-05-010 set forth financial requirements for Non-Dominant Interexchange Carriers.

Applicants have provided financial documents²² which demonstrate that the acquiring company, Altice, has sufficient financial resources to operate Cebridge, if the transfer of control is authorized. Altice meets the Commission's financial requirements for providing facilities-based local exchange and interexchange telecommunications services in California.

3.2. Technical Qualifications

An applicant is required to make a reasonable showing of technical expertise in telecommunications or a related business. The Applicants have provided information that reflects that the proposed change in ownership will not change the day-to-day management or operations at Cebridge. Applicants have provided biographical information and organizational charts describing the management of the company in Exhibits F and amended Exhibits I and K.

Altice certifies, as required by Decision 13-05-035 that, neither Altice nor any of its officers, directors, partners, agents or owners, including but not limited to Mr. Drahi, (directly or indirectly) of more than 10% of Altice, and no one acting in a management capacity directly for Altice, has: (a) held one of these positions with a company that filed for bankruptcy; (b) been personally found liable, or held one of these positions with a company that has been found liable for fraud, dishonesty, failure to disclose, or misrepresentations to consumers or others; (c) been convicted of a felony; (d) been the subject of a criminal referral by a judge or public agency; (e) had a telecommunications license or operating authority denied, suspended, revoked, or limited in any jurisdiction; (f) personally entered into a settlement, or held one of these

²² See Application, Exhibit H.

positions with a company that has entered into settlement or criminal or civil claims involving violations of sections 17000 et. seq. or 17500 et. seq. of the California Business & Professions Code, or of any other statute, regulation, or decisional law relating to fraud, dishonesty, failure to disclose, or misrepresentations to consumers or others; (g) been found to have violated any statute, law, or rule pertaining to public utilities or other regulated industries; or (h) entered into any settlement agreements or made any voluntary payments or agreed to any other type of monetary forfeitures in resolution of any action by any regulatory body, agency, or attorney general.²³

Altice qualifies its certification above by noting that it only encompasses management of Altice, but not management within its subsidiaries in other parts of the world, who are not part of the operational management of Altice and who will not have control over Cebridge upon completion of the transfer of control.²⁴

In addition, in the Application, Altice discloses the following pending matters involving actions by regulatory entities with respect to certain of its subsidiary telecommunications companies, even though it does not appear that they fall within the compliance certification:

- a. European regulatory authorities have taken adverse action against two Altice subsidiaries, PT Comunicações and PT Portugal Telecom SGPS - related to conduct that occurred before Altice acquired them on June 2, 2015.²⁵

²³ See Application pages 14 - 15 and Exhibits N and O.

²⁴ See Application, page 14 footnote 24.

²⁵ See Application, page 15, footnote 25. Altice represents that the Portuguese Competition Authority fined PT Comunicações in 2008 for an alleged abuse of a dominant position. There is a pending appeal in that matter. Altice discloses that in 2013, the European Commission issued an unfavorable decision against PT Portugal Telecom SGPS regarding an alleged non-compet

Footnote continued on next page

- b. A fine was imposed in December 2013 by the French Competition Authority (ADLC) against its subsidiary SFR, related to alleged anti-competitive practices on the call termination and mobile markets.²⁶
- c. Two additional proceedings instituted by ADLC, relate to Altice subsidiary Numericable-SFR. Altice indicates that it is complying with requirements associated with these proceedings.²⁷

Altice represents that it has either appealed decisions against its subsidiaries or that it is in compliance with ongoing proceedings. Altice has disclosed no pending disputes or compliance issues within state or federal agencies within the United States.

Cebridge discloses one information request, received in May 2015 from the Attorney General for the state of West Virginia, related to the Cebridge's internet data usage practices.²⁸ Cebridge also discloses that the Commission sanctioned it in Decision (D.) 14-06-004.²⁹

The disclosures by Altice and Cebridge satisfy the Commission's requirement for regulatory disclosures but do not contravene the preceding

agreement with respect to Iberian telecommunications markets. PT Portugal Telecom SGPS is seeking annulment of that decision before the General Court of the European Union.

²⁶ See Application at 15, footnote 25. Altice acquired SFR in November 2014.

²⁷ Applicants attached detail concerning these two proceedings in Exhibit L "Compliance Proceedings" to the Application, along with a Motion for a Protective Order, to request that the matters be kept confidential.

²⁸ The disclosure is made in Section 3.8 of Exhibit J, which is included in the Motion for a Protective Order filed by the Applicants.

²⁹ In D.14-06-004, the Commission required Cebridge, Cequel Communications Holdings, LLC and Nespresso Acquisition Corporation to pay a fine of \$130,000 based on their failure to obtain Commission approval under section 854(a) prior to closing a previous transaction. Other disclosures by Cebridge and Cequel are detailed in the Application at 13, footnote 22.

compliance certification concerning activities of Altice's officers, directors, partners, agents or owners. Details provided in the Application about the disclosures demonstrate that management at Altice and Cebridge are engaged with regulatory authorities to challenge or resolve the above described disputes. There is also no basis to conclude that the above described disputes adversely impact the operations or financial status of Altice.

We find that Altice has sufficient managerial and technical expertise to operate Cebridge and that its acquisition by Altice will permit Cebridge and Cequel to become stronger competitors in California's telecommunications marketplace. This will be favorable for the public and consumers, as well as existing customers.

4. California Environmental Quality Act (CEQA)

CEQA requires the Commission 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. A project is defined as any "activity which may cause either a direct physical change in the environment, or a reasonably foreseeable indirect physical change in the environment."³⁰

This application proposes no new construction, as it is simply a transfer of equity interests. As such, the transaction does not constitute a "project" under CEQA.

³⁰ California Public Resources Code, Section 21065.

5. Safety Considerations

With the adoption of the *Safety Policy Statement of the California Public Utilities Commission* on July 10, 2014, the Commission has, among other things, heightened its focus on the potential safety implications of every proceeding. We have considered the potential safety implications here. We feel satisfied that Cebridge and Altice will meet the Commission's minimum safety goals and expectations of CLEC's because: (1) Altice has taken steps to meet the financial requirements as set forth in this decision for a facilities-based CLEC, and (2) Cebridge is a public utility that is required pursuant to Pub. Util. Code § 451 to "... furnish and maintain such adequate, efficient, just and reasonable service, instrumentalities, equipment, and facilities, including telephone facilities ... as are necessary to promote the safety, health, comfort, and convenience of its patrons, employees, and the public." Should Altice seek to construct its own facilities in the future, it must file for additional authority, and undergo the requisite environmental (CEQA) review before commencing any construction.

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.

6. Categorization and Need for Hearings

In Resolution ALJ 176-3359, dated June 25, 2015, 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.

7. Assignment of Proceeding

Liane M. Randolph is the assigned Commissioner and Patricia B. Miles is the assigned Administrative Law Judges in this proceeding.

8. Motion for Protective Order

Pursuant to Rule 11.4, Pub. Util. Code § 583 and General Order 66-C, Applicants filed a motion for leave to file Exhibits B, J and L, which were submitted as part of the Application be kept under seal. These exhibits contain proprietary and sensitive information pertaining to the financial transactions and underlying agreements between the Applicants to consummate the proposed acquisition. Applicants indicate that disclosure of the details of the information in these Exhibits could place them at an unfair business disadvantage if disclosed. We have granted similar requests in the past and will do so here. The Exhibits will be kept under seal for a period of two years after the Commission issues a decision granting the Application.

Findings of Fact

1. Cequel is a Delaware corporation which indirectly controls 100% of the interests of Cebridge.
2. Cebridge (U6996C) is a Delaware limited liability company which is certificated to provide facilities-based local exchange and interexchange telecommunications services in California.
3. Altice is a Dutch public company.
4. Patrick Drahi is the Executive Chairman of Altice and a controlling shareholder of that company. He is anticipated to own a significant ownership interest in Cebridge upon completion of the transfer of control.
5. The proposed transaction will result in the transfer of control of Cebridge from Cequel to Altice.

6. After the acquisition, Cebridge will retain its current day-to-day management, will continue to operate under its current Commission authority, and will continue to provide the services, rates, terms and conditions that it currently provides to its existing customer base.

7. Altice has filed an audited financial statement and other financial documents that demonstrate that Altice has sufficient financial resources and technical expertise to operate as a provider of local exchange and interexchange services.

8. No new construction is proposed as a result of the proposed transfer of control.

9. The proposed transaction is intended to strengthen the competitive position of Cebridge.

10. Pursuant to Rule 11.4, Applicants have filed a motion for leave to file confidential materials contained in B, J and L to the application, under seal.

11. Notice of this application appeared on the Commission Daily Calendar on June 11, 2015.

12. No protests to this application were filed.

13. No hearing is necessary.

Conclusions of Law

1. The Commission must apply the same requirements to a request for approval of an agreement to transfer control of a telecommunications company that it applies to an initial application for authority to provide such services.

2. Altice, N.V. demonstrates sufficient financial and technical expertise to acquire Cebridge Telecom CA, LLC.

3. The transfer of control of Cebridge Telecom CA, LLC from Cequel Corporation to Altice, N.V. would not be adverse to the public interest.

4. The transfer of control of Cebridge Telecom CA, LLC from Cequel Corporation to Altice, N.V. does not constitute a “project” under the CEQA because it will not result in a direct or indirect physical change in the environment.

5. The transfer of control should be authorized pursuant to Pub. Util. Code § 854(a).

6. The application is uncontested, therefore, the decision should be effective on the date it is signed.

O R D E R

IT IS ORDERED that:

1. Pursuant to Public Utilities Code Section 854(a), the joint application of Cequel Corporation, Cebridge Telecom CA, LLC (U-6996-C), Patrick Drahi, an individual and Altice, N.V. for authorization to transfer control of Cebridge Telecom CA, LLC to Altice, N.V. is authorized.

2. Within five days of the closing of the transaction, Altice, N.V. shall notify the Commission’s Communications Division, by letter, of the consummation of the transaction.

3. Altice, N.V. shall continue to adhere to all Commission rules and procedures relating to Certificate of Public Convenience and Necessity holders, as set forth for Cebridge Telecom CA, LLC in Decision 06-06-022.

4. The motion of Altice, N.V. to file Exhibits B, J and L 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 publicly disclosed except on further California Public Utilities Commission order or Administrative Law Judge ruling. If Altice, N.V. believes that it is necessary for this information to remain under seal for longer

than two years, Altice, N.V. may file a new motion showing good cause for extending this order by no later than 30 days before the expiration of this order.

5. Application 15-06-005 is closed.

This order is effective today.

Dated _____, 2015, at San Francisco, California.