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September 24, 2012

**VIA OVERNIGHT AND ELECTRONIC MAIL**

Hon. Jaclyn A. Brillling  
Secretary of the Commission  
New York State Public Service Commission  
3 Empire State Plaza  
Albany, NY 12223-1350

**Re: Petition of Telscape Communications, Inc., for Approval to Participate in  
Various Financing Arrangements**

Dear Secretary Brillling:

On behalf of Telscape Communications, Inc., transmitted herewith are an original and four (4) copies of a petition for approval to participate in various financing arrangements. Pursuant to the Guidelines for Filing Documents with the Secretary found on the Public Service Commission's website, this filing is also being submitted via e-mail to the Commission. Also enclosed is the Method of Service Form indicating consent to receive all Commission-issued documents electronically.

Please date-stamp the extra copy of this filing, and return it to us in the postage paid, self-addressed envelope provided. Should you have any questions with respect to this matter, please do not hesitate to contact the undersigned at (202) 344-8065.

Respectfully submitted,



Tony S. Lee

Counsel to Telscape Communications, Inc.

Enclosures

**BEFORE THE  
STATE OF NEW YORK  
PUBLIC SERVICE COMMISSION**

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Petition of \_\_\_\_\_ )  
\_\_\_\_\_ )  
**TELSCAPE COMMUNICATIONS, INC.,** ) Case No. \_\_\_\_\_ )  
\_\_\_\_\_ )  
For Approval *Nunc Pro Tunc* to )  
Participate in Various Financing Arrangements )  
\_\_\_\_\_ )

**PETITION**

**I. INTRODUCTION**

Telscape Communications, Inc. (“Telscape” or “Petitioner”), by and through its undersigned counsel, and pursuant to Section 101 of the Public Service Law, N.Y. Pub. Serv. Law § 101, hereby requests Commission approval *nunc pro tunc* to participate in various debt financing arrangements of its corporate parent, TSC Acquisition Corporation (“TSC Acquisition”). Petitioner seeks approval to (1) participate in senior secured credit facilities in the aggregate amount of \$12.19 million; and (2) participate in an \$8.1 million subordinated mezzanine loan issued to TSC Acquisition (the “Financing”). Approval is being requested *nunc pro tunc*<sup>1</sup> because the timing of the closing of the financing transaction was uncertain due to the difficulties in agreeing to terms for the acquisition (the “Acquisition”) of Sage Telecom, Inc. (“Sage Telecom”) and Sage Telecom of Texas, LP (“Sage Texas”) (Sage and Sage Texas together referred to as the “Sage Entities”). Furthermore, the volatility of the markets dictated that TSC Acquisition consummate the Acquisition as soon as the parties reached agreement after

<sup>1</sup> Petitioner understands that the Commission generally does not approve financing transactions on a *nunc pro tunc* basis. Accordingly, to the extent necessary, Petition requests that the Commission approve the transaction as of the effective date of an Order approving the transaction.

long and protracted negotiations with the seller. Accordingly, post-closing approval is being sought for the Financing.

In support hereof, the following is respectfully shown:

**II. DESCRIPTION OF THE PARTIES**

**A. Telscape Communications, Inc. and TSC Acquisition Corporation**

TSC Acquisition is a Delaware corporation headquartered in Los Angeles, California. TSC Acquisition is owned by GP/T Holdings, LLC (approximately 57% ownership), Gemini Partners, Inc. (approximately 17% ownership) and other investors (none of whom individually directly or indirectly own 10% or more of TSC Acquisition). Through its operating subsidiary, Telscape Communications, Inc., TSC Acquisition provides innovative communications solutions through a comprehensive line of telecommunications, Internet, and wireless services.

In New York, Telscape is authorized to provide resold and facilities-based local exchange, exchange access, and interexchange service pursuant to certification issued in Case No. 04-C-0951. Telscape is a premier competitive local exchange carrier servicing the U.S. Hispanic market. The company was founded in 1999 on the premise that the Hispanic market has unique and identifiable communications needs. Telscape meets these requirements by offering a customized telecommunications experience. Telscape is authorized to provide service in Arizona, California, Florida, Illinois, Nevada, New Jersey, New York, and Texas.

**B. Designated Contacts**

Questions, correspondence or other communications concerning this Petition should be directed to Petitioner's counsel of record:

Tony S. Lee, Esq.  
Venable LLP  
575 7<sup>th</sup> Street, N.W.  
Washington, D.C. 20004

Tel: (202) 344-4000  
Fax: (202) 344-8300  
Email: TSLee@Venable.com

With a copy to:

Sherri Flatt  
Executive Director, Regulatory Affairs  
Sage Telecom, Inc.  
3300 E. Renner Rd., Suite 350  
Richardson, TX 75082  
Tel: (214) 495-4847  
Fax: (214) 495-4790  
Email: sflatt@sagetelecom.net

### **III. PETITIONER'S PARTICIPATION IN VARIOUS FINANCING ARRANGEMENTS**

As mentioned above, Telscape seeks approval to (1) participate in senior secured credit facilities in the aggregate amount of \$12.19 million (the "Senior Secured Credit Facilities"); and (2) participate in an \$8.1 million subordinated mezzanine loan issued to Telscape's parent, TSC Acquisition (the "Mezzanine Loan"). Telscape will be a co-borrower for the Senior Secured Credit Facilities, and it will be a co-guarantor for the Mezzanine Loan.<sup>2</sup>

The Senior Secured Credit Facilities are comprised of the following: (a) a \$10 million revolving credit facility (the "Revolver") at a variable interest rate per annum equal to the prime rate plus 0.75%; (b) a \$1.19 million real estate term loan (the "Real Estate Term Loan") at a variable interest rate per annum equal to the prime rate plus 4.00%; and (c) a \$1 million over advance term loan (the "Over Advance Term Loan") at a variable interest rate per annum equal to the prime rate plus 4.00%. Telscape and the co-borrowers will be required to pledge substantially all of their assets to secure the facilities. The proceeds of the Senior Secured Credit

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<sup>2</sup> The other co-borrowers and co-guarantors for the Senior Secured Credit Facilities and Mezzanine Loan, respectively, will be Sage Telecom and Sage Texas. Sage Telecom and Sage Texas are telecommunications service providers. However, they are not certificated by the Commission to provide telecommunications services in New York, and they are not regulated by the New York Public Service Commission. Therefore, approval is not required for Sage Telecom and Sage Texas to participate in the financing arrangements described herein.

Facilities are to be used to (i) finance a portion of the consideration associated with the acquisition of Sage Telecom and Sage Texas;<sup>3</sup> (ii) refinance any existing indebtedness of Telscape; (iii) finance the ongoing working capital needs of the borrowers; (iii) finance the general corporate purposes of the borrowers; and (iv) pay fees and expenses associated with the Acquisition and the Senior Secured Credit Facilities.

The Mezzanine Loan is subordinate to the Senior Secured Credit Facilities, and it has a four year term with a fixed annual interest rate of 13%. TSC Acquisition is the borrower for the Mezzanine Loan, with Telscape as co-guarantor.<sup>4</sup> The loan is secured by a pledge of all of TSC Acquisition's assets, and each corporate guaranty is secured by a pledge of all the guarantor's assets. The proceeds of the Mezzanine Loan are to be used to (i) finance a portion of the consideration associated with the Acquisition; (ii) refinance any existing indebtedness of Telscape; (iii) finance the ongoing working capital needs of the companies; (iii) finance the general corporate purposes of the companies; and (iv) pay fees and expenses associated with the acquisition and the Mezzanine Loan.

## **V. PUBLIC INTEREST CONSIDERATIONS**

Grant of this Petition will serve the public interest by enabling Telscape's parent, TSC Acquisition, to complete the acquisition of Sage Telecom and Sage Texas. This, in turn, will serve the public interest by enabling Telscape and the Sage entities to offer customers a compelling alternative to legacy carriers through the combined footprint of the companies, and a comprehensive suite of telecommunications services. Specifically, Telscape anticipates that the complementary strengths, product sets, and geographic footprints of the combined companies

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<sup>3</sup> TSC Acquisition used a portion of the proceeds of the Financing to acquire the Sage Entities in a stock transaction. Approval for that transaction is not required because, as mentioned above, *see* n.2, *supra*, the Sage Entities are not regulated by the Commission.

<sup>4</sup> *See* n.2, *supra*, for information regarding the co-guarantors.

will position them to strengthen their ability to enhance service offerings and provide more advanced communications services to a broader customer base. Moreover, grant of the Petition will allow TSC Acquisition to improve its capital structure, and enhanced its market position by enabling the operating companies to expand and improve their operations and service offerings.

The financing arrangements will not result in the transfer of authorizations, assets or customers. Immediately following consummation of the transactions, Telscape will continue to provide service to customers pursuant to its existing authorizations with no immediate change in its rates or terms and conditions of service as a result of the transactions. With regard to New York, Telscape does not currently have any customers in the state. Therefore, no customers will be affected by the transactions in New York.

## **VI. CONCLUSION**

WHEREFORE, for the foregoing reasons, Petitioner respectfully requests that the Commission grant this Petition, and authorize Telscape to participate in the financing arrangements as described herein. As discussed above, due to unforeseen difficult and protracted negotiations, and the volatility in the markets, Petitioner closed on the financing transactions in July 2012. Accordingly, Petitioner respectfully requests grant of this Petition *nunc pro tunc* to the extent necessary.<sup>5</sup>

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<sup>5</sup> See n.1, *supra*.

Respectfully submitted,



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Counsel for Telscape Communications, Inc.

Dated: September 24, 2012


**VERIFICATION**

STATE OF CALIFORNIA       §  
                                          §  
COUNTY OF LOS ANGELES   §

I, Nathan Johnson, hereby verify under penalty of perjury that I am a managing partner of Gemini Partners, Inc., and GP/T Holdings, LLC, which, in turn, are majority owners of TSC Acquisition Corporation (“TSC Acquisition”). TSC Acquisition is the parent company for Telscape Communications, Inc. (“Telscape”), and I am authorized by Telscape to make this verification on its behalf. I verify that I have read the foregoing document and know the contents thereof; and that the same are true of my own knowledge, except to those matters therein stated upon information and belief, and as to those matters I believe them to be true.

  
\_\_\_\_\_  
Nathan Johnson  
Managing Partner  
Gemini Partners, Inc. and GP/T Holdings, LLC

Subscribed and sworn to before me on this 15 day of September, 2012.

  
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My commission expires: October 2, 2014

