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and ExteNet Asset Entity, LLC*

BEFORE THE UTAH PUBLIC SERVICE COMMISSION

In the Matter of the Joint Application of EXTENET SYSTEMS, INC. and EXTENET ASSET ENTITY, LLC for Ap- proval to Transfer Customers and Certain Assets	Docket No. 21-2586-01 Docket No. 21-2628-02 JOINT APPLICATION
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JOINT APPLICATION

ExteNet Systems, Inc. (“ESI”) and ExteNet Asset Entity, LLC (“EAE”), by their under-
signed counsel, submit this Joint Application pursuant to Utah Code Ann. § 54-4-30 and the rules
of the Public Service Commission of Utah (the “Commission”), including R746-349-7. Applicants
request approval, to the extent required, for the transfer of certain assets, including customer con-
tracts and related telecommunications network infrastructure, between EAE and its indirect parent,
ESI (the “Transaction”), and request a waiver of state and federal anti-slamming provisions to
transfer customer contracts.

As a result of the Transaction, EAE will become the service provider for certain customers
transferred from ESI, and ESI will become the service provider for certain customers transferred
from EAE. As described below, the Transaction is part of a plan to expand the ExteNet family of

authorized operating companies to better align their businesses with current and future customer focus and growth. The Transaction will be seamless to customers with respect to the services that those customers receive and the rates and terms of those services. The Transaction will not cause confusion or disruption to customers because EAE and ESI will market and perform services under the “ExteNet” brand with which customers are familiar, will maintain the same rates and terms of service, and will use the same customer service, technical, operational and managerial personnel.

In support of this Joint Application, Applicants provide the following information:

I. DESCRIPTION OF THE APPLICANT

Founded in 2002, ESI and its subsidiaries (collectively, “ExteNet”) design, build, own and operate distributed networks for use by national and regional wireless service providers (“WSPs”) in key strategic markets in North America. Using fiber-fed distributed antenna systems, small cells, Wi-Fi and other technologies, ExteNet deploys distributed networks to enhance coverage and capacity and enable superior wireless service in both outdoor and indoor environments. Primary markets addressed by ExteNet include outdoor distributed networks in a variety of densely occupied or heavily traveled settings, and venues used for sports and entertainment events, the hospitality industry, commercial buildings, and healthcare facilities. ExteNet also provides private lines or IP-based transport services to other carrier customers.

EAE is a Delaware limited liability company and direct, wholly owned subsidiary of ExteNet Issuer, LLC, which in turn is wholly owned by ExteNet Guarantor, LLC, which in turn is wholly owned by ESI. ESI is a privately held Delaware corporation and a direct, wholly owned subsidiary of Odyssey Acquisition, LLC (“Odyssey”), a Delaware limited liability company. Odyssey is an indirect, wholly owned subsidiary of Mount Royal Holdings, LLC (“Parent”), a Delaware limited liability company. Parent has executive offices located at 750 Park of Commerce Drive, Suite 200, Boca Raton, Florida 33487. Parent has no majority owner, but rather is owned

by multiple private equity firms, an insurance company, and certain individuals in management of ESI.

Collectively, ExteNet currently holds authorizations to provide intrastate telecommunications services in the District of Columbia and every state except Alaska, Iowa, Maine, Montana, North Dakota, Vermont, and Wyoming.¹ In Utah, ESI holds Certificate No. 2586 for services limited to distributed antenna system through which it may provide transport and backhaul services to other carriers and may not offer telecommunications services to the general public; and EAE is holds Certificate No. 2628 to provide public telecommunications services within the State of Utah, excluding operation in any area with fewer than 5,000 access lines that is served by an incumbent local exchange carrier that has fewer than 30,000 total access lines.² ESI also holds authorization from the FCC to provide domestic (interstate) telecommunications services.

¹ ESI subsidiaries that are authorized to provide intrastate telecommunications services in one or more states are: ExteNet Asset Entity, LLC, ExteNet Systems (Virginia) LLC, ExteNet Systems (California) LLC, ExteNet Systems (New York), Inc., Telecommunication Properties, LLC, Hudson Fiber Network Inc, and Hudson Fiber Network (Virginia), LLC.

² See Application of ExteNet Asset Entity, LLC for a Certificate of Public Convenience and Necessity to Provide Resold and Facilities-Based Public Telecommunications Services within the State of Utah (Docket No. 21-2628-01).

II. DESIGNATED CONTACTS

Questions, correspondence or other communications concerning this Joint Application should be directed to:

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III. DESCRIPTION OF THE TRANSACTION

The Transaction is part of a plan to expand the ExteNet family of authorized operating companies to better align their businesses with current and future customer focus and growth. As a result of the Transaction, certain contracts and related network assets will be assigned from ESI to EAE and from EAE to ESI, including customer accounts and contracts, antennas, fiber, and other telecommunications equipment. Following this intra-corporate Transaction, EAE will primarily provide service and networks targeted to wireless service providers (“WSPs”), other telecommunications carriers, and communications providers. ESI will continue to operate under its existing certificate and will continue to develop, sell, and construct new distributed networks,

along with providing “lit” services to commercial users and new services. A depiction of the Transaction is provided in Exhibit A.

IV. INFORMATION REQUIRED BY R746-349-7

Pursuant to R746-349-7, Applicants provide the following information:

a. identification that it is not an ILEC,

Applicants confirm that neither of the Applicants or their affiliates is an ILEC in Utah.

b. identification that it seeks approval of the Application pursuant to this rule,

Applicants confirm that they seek approval of the Joint Application pursuant to the informal adjudication process set forth in this rule.

Applicants further request that the Commission issue a report and order granting this Joint Application without a hearing consistent with Utah Code Ann. § 54-8b-3 and R746-110. If Applicants’ request for informal adjudication is uncontested, the Joint Application in the present case meets the conditions of Utah Code Ann. § 54-8b-3(1)(b) because this matter is not one of the proceedings described in Section 54-1-3(2)(a)³, and Applicants have requested that the Joint Application be adjudicated informally. In that situation, the Commission should designate this Joint Application as an informal adjudicative proceeding, presume that approval of the Transaction is in the public interest pursuant to R746-349-7(A)(3), and grant the Joint Application without a hearing.

c. a reasonably detailed description of the transaction for which approval is sought,

³ Utah Code Ann. § 54-1-3(2)(a) provides:

The following proceedings shall be heard by at least a majority of the commissioners:

(i) general rate proceedings to establish rates for public utilities which have annual revenues generated from Utah utility service in excess of \$200,000,000; or

(ii) any proceeding which the commission determines involves an issue of significant public interest.

A reasonably detailed description of the transaction is provided in Section III, above.

d. a copy of any filings required by the Federal Communications Commission or any other state utility regulatory agency in connection with the transaction, and

In connection with this transaction, the following jurisdictions have obtained approval or indicated no further action is needed in this matter: the District of Columbia, Indiana, Louisiana, Maryland, Minnesota, New York, New Jersey, Oklahoma, Pennsylvania, and Virginia. Besides Utah, the Applicants have requested approval or plan to request approval in connection with the transaction in Arizona and North Carolina. Due to the voluminous nature of the state filings, most of which contain the same or substantially similar information, Applicants have only attached as **Exhibit B** a copy of the New York filing requesting approval. Applicants also has provided notice or will provide notice to certain other PUCs. Due to the voluminous and repetitive nature of the notices to be sent to the PUCs, Applicants have not included copies of the notice filings. Applicant will provide any additional filings or notices at the request of the Commission or the parties to this docket.

e. copies of any notices, correspondence or orders from any federal agency or any other state utility regulatory agency reviewing the transaction which is the subject of the Application.

Due to the voluminous nature of the state filings, Applicants have only attached as **Exhibit C** a copy of the New York approval letter. Applicants have not been denied any requests for approval of the Transaction. To the extent requested by the Commission, Applicants will forward any orders or similar actions granting or denying the request for approval of the Transaction.

V. REQUEST FOR WAIVER OF ANTI-SLAMMING PROVISIONS

To the extent required, EAE and ESI request a waiver of any state or federal anti-slamming provisions regarding the transfer of customers. To assure seamless and uninterrupted service, all of the customers transferred between ESI and EAE will continue to receive service from under the same rates, terms and conditions of services as governed their existing contracts. EAE will offer

point-to-point telecommunications services to WSPs, other telecommunications carriers, and communications providers. ESI will continue to operate under its existing certificate and will continue to develop, sell, and construct new distributed networks, along with providing “lit” services to commercial users and new services. Future changes in the rates, terms and conditions of service to the affected customers will be undertaken pursuant to customer contracts and the applicable federal and state notice and tariff requirements.

Moreover, the transfer of customers will be virtually invisible to customers and will not cause confusion or disruption because EAE and ESI will market and perform services under the “ExteNet” brand with which customers are familiar. The existing customers will be provided the same rates and terms of service, and will operate through the same customer service, technical, operational and managerial personnel, who shall remain employed by ESI. Sending notice of the transfer to customers stating that customers of “ExteNet” are moving to “ExteNet” would likely cause confusion among customers. The FCC has stated that a change in corporate structure that is invisible to the affected customers does not constitute a “transfer” for purposes of Section 258. “Indeed, in such cases, requiring notice of a change that is imperceptible to the affected subscribers might cause confusion where there would otherwise be none.”⁴

VI. PUBLIC INTEREST CONSIDERATIONS

Applicants respectfully submit that the proposed Transaction serves the public interest. The Transaction will result in the assignment of customers and assets to an affiliated company that will continue to provide telecommunications services to such assigned customers without interruption. Following grant of requested authority, EAE and ESI will offer services at the same rates and on

⁴ First Report and Order in CC Docket No. 00-257 and Fourth Report and Order in CC Docket No. 94-129, 2000 Biennial Review- Review of Policies and Rules Concerning Unauthorized Changes of Consumers Long Distance Carriers, FCC 01-156.

the same terms and conditions as previously provided under the “ExteNet” brand (subject to future changes pursuant to applicable law and contract provisions). Given that EAE and ESI share the same management team, customers will benefit from that team’s knowledge and experience in the Utah market. EAE will operate its networks and offer services designed to meet the individual needs of its WSP, other telecommunications carrier, and communications provider customers in providing high quality services in an efficient and cost-effective manner. ESI will continue to operate under its existing certificate and will continue to develop, sell, and construct new distributed networks, along with providing “lit” services to commercial users and new services.

VI. CONCLUSION

WHEREFORE, Applicants submit that the public interest, convenience, and necessity would be furthered by the Transaction described above, and respectfully request that the Commission grant the relief requested in this Joint Application and that this matter be adjudicated informally pursuant to R746-349-7.

Respectfully submitted this 2nd day of July, 2021.

/s William J. Evans
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Attorneys for Applicants

LIST OF EXHIBITS

EXHIBIT A Depiction of Transaction Chart

EXHIBIT B New York Petition

EXHIBIT C New York Approval Letter

VERIFICATION