



**STATE OF NEW JERSEY**  
**Board of Public Utilities**  
44 South Clinton Avenue, 9<sup>th</sup> Floor  
Post Office Box 350  
Trenton, New Jersey 08625-0350  
[www.nj.gov/bpu/](http://www.nj.gov/bpu/)

TELECOMMUNICATIONS

IN THE MATTER OF THE VERIFIED JOINT PETITION )  
OF RUBIK ACQUISITION COMPANY, LLC, WEST ) ORDER  
CORPORATION, HYPERCUBE TELECOM, LLC AND )  
HYPERCUBE, LLC FOR APPROVAL OF A TRANSFER )  
OF CONTROL OF AN AUTHORIZED )  
TELECOMMUNICATIONS PROVIDER ) DOCKET NO. TM11120849

Parties of Record:

**James H. Laskey, Esq., Norris, McLaughlin and Marcus**, on behalf of Petitioners  
**Stefanie A. Brand, Esq., Director**, New Jersey Division of Rate Counsel

BY THE BOARD:

On December 2, 2011, HyperCube Telecom, LLC ("HyperCube"), HyperCube, LLC ("Parent"), Rubik Acquisition Company, LLC ("Rubik") and West Corporation ("West" and collectively with HyperCube, Parent and Rubik, "Petitioners"), by their counsel, filed a verified Petition with the New Jersey Board of Public Utilities ("Board") pursuant to N.J.S.A. 48:2-51.1 requesting authority from the Board to consummate a transaction that will result in the transfer of control of HyperCube to Rubik ("Transaction"). Following the transfer, HyperCube will continue to offer services at the same terms, rates and conditions on which it currently offers such services in the state.

**BACKGROUND**

HyperCube is a limited liability company organized under the laws of the State of Delaware with its principal place of business in Lancaster, Texas. According to the petition, HyperCube is a wholly-owned subsidiary of Parent, a Delaware limited liability company and a holding company. No person or entity has a majority ownership or control of Parent. HyperCube provides wholesale tandem switching and transport services, termination services, toll-free origination services, and Direct Inbound Dial services. HyperCube's customers are telecommunications and information service providers, including wireless carriers, wireline CLEC's and IXC's, cable telephony

providers, and Voice over Internet Protocol (“VoIP”) providers. HyperCube currently holds certificates to provide local exchange and/or intrastate interexchange services in 43 states and the District of Columbia. In New Jersey, Hypercube (f/k/a KMC Data, LLC) received its authority to provide local exchange and interexchange telecommunications services in New Jersey on October 23, 2003. See I/M/O the Petition of KMC Data, LLC for Authority To Provide Local Exchange and Interexchange Telecommunications Services in the State of New Jersey, Docket No. TE01100637. Currently, HyperCube does not have any employees in New Jersey.

Rubik, a limited liability company organized under the laws of Delaware, was created specifically to acquire HyperCube. Rubik is a wholly owned subsidiary of West, a corporation organized under the laws of Delaware. Through its subsidiaries, West provides a broad range of communications and network infrastructure solutions to business customers throughout the United States and globally. The petition states that Funds of Thomas H. Lee (“THL”) is a private equity firm that holds an aggregate interest of approximately 60 percent in West and that THL’s investment strategy is to acquire ownership positions in large growth orientated companies where THL can contribute managerial and strategic expertise to create value.

By letter dated December 16, 2011, the Division of Rate Counsel advised that it does not object to Board approval of the petition.

## **DISCUSSION**

According to the petition, pursuant to the terms of a Securities Purchase Agreement (“Agreement”) dated November 23, 2011, by and among West, Rubik, Parent, and certain individuals and entities holding directly or indirectly the membership interests in Parent, Rubik will acquire all of the membership interests in Parent. As a result of these equity acquisitions, HyperCube will become a wholly owned indirect subsidiary of Rubik. Petitioners state that HyperCube’s customers will continue to receive their existing services at the same rates, terms and conditions that they have prior to the Transaction and, therefore, the Transaction will be seamless and transparent to customers.

Petitioners assert that the Transaction described herein will serve the public interest. The financial, technical, and managerial resources that West will bring to HyperCube will enhance HyperCube’s ability to compete in the telecommunications and information marketplace and to provide cost-effective alternatives.

In evaluating this petition, the Board must be satisfied that positive benefits will flow to customers and the State of New Jersey and, at a minimum, that there are no adverse impacts on any of the criteria delineated in N.J.S.A. 48:2-51.1; N.J.A.C. 14:1-5.14(c).

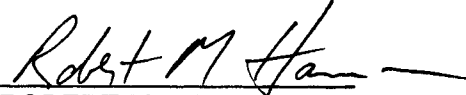
## **FINDINGS AND CONCLUSIONS**

After a thorough review of the petition and all related documents, the Board concludes that there will be no negative impact on rates or service quality since HyperCube’s New Jersey customers will continue to receive the same services from the same entities at the same rates and under the same terms and conditions; nor will there be a negative impact on employees, since HyperCube does not have any employees in New Jersey. Moreover, the Board is satisfied that positive benefits will flow to customers based on the record presented by Petitioners as the transaction will strengthen HyperCube’s competitive posture in the telecommunications market due to its access to additional resources.

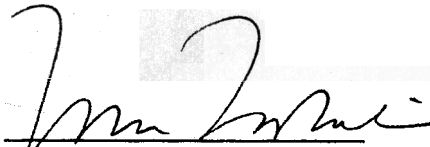
The Board HEREBY ORDERS that Petitioners shall notify the Board of the closing of the proposed transaction within ten (10) days of consummation of the transfer. The Board FURTHER ORDERS that this approval will expire if the transaction is not fully consummated on or before January 31, 2013.

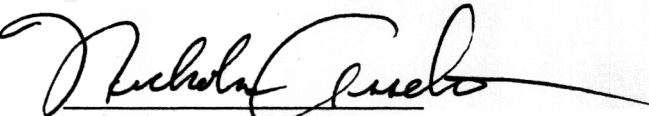
DATED: 1/18/12


BOARD OF PUBLIC UTILITIES  
BY:

  
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JEANNE M. FOX  
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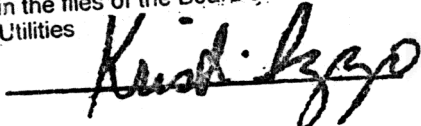
  
NICHOLAS ASSELTA  
COMMISSIONER

  
MARYANNA HOLDEN  
COMMISSIONER

ATTEST:

  
KRISTI IZZO  
SECRETARY

I HEREBY CERTIFY that the within  
document is a true copy of the original  
in the files of the Board of Public  
Utilities



II/M/O THE VERIFIED JOINT PETITION OF RUBIK ACQUISITION COMPANY, LLC, WEST CORPORATION, HYPERCUBE TELECOM, LLC AND HYPERCUBE, LLC FOR APPROVAL OF A TRANSFER OF CONTROL OF AN AUTHORIZED TELECOMMUNICATIONS PROVIDER  
DOCKET NO. TM11120849

SERVICE LIST

James H. Laskey  
Norris McLaughlin & Marcus, P.A.  
721 Route 202-206, Suite 200  
Bridgewater, NJ 08807  
[ilaskey@nmmlaw.com](mailto:ilaskey@nmmlaw.com)

Brad Mutschelknaus  
Joan M. Griffin  
Winafred Brantl  
Kelley Drye & Warren LLP  
3050 K Street NW, Suite 400  
Washington, DC 20007-5108  
[wbrantl@kelleydrye.com](mailto:wbrantl@kelleydrye.com)

David C. Mussman  
West Corporation  
11808 Miracle Hills Dr.  
Omaha, NE 68154  
[dcmussman@west.com](mailto:dcmussman@west.com)

Eric Branfman  
Brett P. Ferenchak  
Bingham McCutchen LLP  
2020 K Street, N.W.  
Washington, D.C. 20006  
[eric.branfman@bingham.com](mailto:eric.branfman@bingham.com)  
[brett.ferenchak@bingham.com](mailto:brett.ferenchak@bingham.com)

Robert W. McCausland  
HyperCube, LLC  
3200 W. Pleasant Run Rd, #300  
Lancaster, TX 75146-1086  
[Robert.mccausland@h3net.com](mailto:Robert.mccausland@h3net.com)

Stefanie A. Brand  
Director, Division of Rate Counsel  
31 Clinton Street, 11<sup>th</sup> Floor  
P.O. Box 46005  
Newark, NJ 07101  
[sbrand@rpa.state.nj.us](mailto:sbrand@rpa.state.nj.us)

James F. Murphy  
Rocco Della Serra  
Board of Public Utilities  
Division of Telecommunications  
44 South Clinton Street, 9th Floor  
Trenton, New Jersey 08625  
[james.murphy@bpu.state.nj.us](mailto:james.murphy@bpu.state.nj.us)  
[rocco.della-serra@bpu.state.nj.us](mailto:rocco.della-serra@bpu.state.nj.us)

Alex Moreau  
Department of Law & Public Safety  
Division of Law  
124 Halsey Street – 5<sup>th</sup> Floor  
P.O. Box 45029  
Newark, New Jersey 07101  
[alex.moreau@dol.lps.state.nj.us](mailto:alex.moreau@dol.lps.state.nj.us)