



**Committee:** Directly to Council  
**Committee Review:** N/A  
**Staff:** Robert H. Drummer, Senior Legislative Attorney  
**Purpose:** Final action – vote expected  
**Keywords:** #

AGENDA ITEM 4C  
April 27, 2021  
Introduction/Action

## SUBJECT

RCN/Starpower Transfer of control of cable franchise to Stonepeak Associates IV, LLC

Lead Sponsors: Council President at the request of the County Executive

## EXPECTED ATTENDEES

None

## COUNCIL DECISION POINTS & COMMITTEE RECOMMENDATION

- To introduce Franchise Agreement followed by Action – Council vote expected

## DESCRIPTION/ISSUE

Resolution to approve the transfer a cable franchise from the current franchisee, Starpower Communications, LLC (doing business as RCN) to Stonepeak Associates IV, LLC.

## SUMMARY OF KEY DISCUSSION POINTS

### This report contains:

<u>This packet includes:</u>	<u>Circle</u>
Draft resolution	©1
Executive transmittal memorandum	©2
Form 394	©7
Transfer agreement	©80
Warranty	©92
Cable Office report	©96

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**MEMORANDUM**

April 22, 2021

TO: County Council

FROM: Robert H. Drummer, Senior Legislative Attorney

SUBJECT: **Introduction/Action:** RCN/Starpower Transfer of control of cable franchise to Stonepeak Associates IV, LLC

On April 19, 2021, County Executive Elrich submitted a request to the Council to approve the transfer a cable franchise from the current franchisee, Starpower Communications, LLC (doing business as RCN) to Stonepeak Associates IV, LLC. A resolution to approve the transfer for introduction and action is at ©1. The Starpower Franchise was renewed in May 2016.

The proposed transfer is not a transfer of the franchise agreement from Starpower to another entity. Rather, the proposed transfer is a transfer of Starpower's parent company (Radiate Holdings, L.P.) to another company, Stonepeak Associates IV, LLC.

The Executive retained outside counsel, Best Best & Krieger LLC to assist with the review of this transaction. Best Best & Krieger LLC retained A & S to conduct a financial review of the transaction and CTC to identify technical concerns. The Cable staff, working with outside counsel, negotiated a Transfer Agreement and obtained a Warranty from Stonepeak General Partner Investors Manager, LLC, the sole member of Stonepeak Associates IV, LLC.

This transfer is governed by Federal law and County law. Under Federal law, the transfer application must be acted on by the County within 120 days of receipt of a completed transfer application and all information required by the franchise authority (See 47 C.F.R. §76.502 and 47 U.S.C. §537). Although the 120 days would expire on April 23, 2021, the applicant agreed to extend this date until May 5, 2021. Chapter 8A of the County Code governs cable franchise agreements and Section 8A-23 governs transfers of franchise agreements. Under County law, the proposed transfer is not a transfer of an interest, which can be approved by Executive action alone. Rather, this proposed transfer is a transfer of control, which must have Council approval.

As required by County Code §8A-23, the Executive held a public hearing on the transfer on March 1, 2021 with 3 speakers. The speakers represented the County, the current franchisee, and the applicant.

The transfer agreement includes a representation that the transfer must not require an increase in subscriber rates and several representations and warranties. The transferee also agreed to pay \$10,000 to the County to cover the administrative costs to review the application. Based on the review described above and the transfer agreement, the Office of Broadband Programs recommended the Executive approve the transfer. The Executive recommends the Council approve the transfer also. The Report to the Executive is at ©96-115.

<u>This packet includes:</u>	<u>Circle</u>
Draft resolution	1
Executive transmittal memorandum	2
Form 394	7
Transfer agreement	80
Warranty	92
Cable Office report	96

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Resolution No.: \_\_\_\_\_  
Introduced: \_\_\_\_\_  
Adopted: \_\_\_\_\_

**COUNTY COUNCIL  
FOR MONTGOMERY COUNTY, MARYLAND**

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Lead Sponsor: Council President at the request of the County Executive

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**SUBJECT:** Transfer of control of cable franchisee Starpower Communications, L.L.C.

**Background**

1. Chapter 8A of the County Code governs franchise agreements for cable systems. Section 8A-23 governs transfers of franchise agreements. Under Section 8A-23(g), the County Council must take final action on an application for transfer of a franchise after receiving a recommendation from the County Executive.
2. On May 3, 2016, the County Council approved Resolution No. 18-469, which approved a Cable Franchise Agreement with Starpower Communications L.L.C.
3. On April 19, 2021, the Council received the Executive’s recommendation to approve a transfer of control of Starpower Communications, L.L.C. from Radiate Holdings, L.P. to Stonepeak Associates IV, LLC.
4. Under Federal law, the County has until May 5, 2021 to act on the application for transfer for a franchise.
5. The Executive held a public hearing on this proposed transfer on March 1, 2021 as required by Code §8A-23.

**Action**

The County Council for Montgomery County, Maryland approves the following resolution:

The County Council approves the transfer of control of cable franchisee Starpower Communications, L.L.C. from Radiate Holding, L.P. to Stonepeak Associates, IV, LLC under the terms of the attached Transfer Agreement.

This is a correct copy of Council action.

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Selena Mendy Singleton, Esq., Clerk of the Council

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**OFFICE OF THE COUNTY EXECUTIVE**

**Marc Elrich**  
*County Executive*

**MEMORANDUM**

April 19, 2021

TO: Tom Hucker, President, County Council

FROM: Marc Elrich, County Executive

SUBJECT: RCN/Starpower Transfer of Control Approval

**BACKGROUND:**

Starpower Communications, LLC (“Franchisee”), currently holds a franchise (“Franchise”) to own and operate a cable system (“System”) in Montgomery County (“County”). That Franchise was renewed in May, 2016, after full consideration of the qualifications of the Franchisee by the County Council. Franchisee’s parent, Radiate Holdings, LP (“Radiate Holdings”) and Stonepeak Associates IV, LLC (“Stonepeak”) have requested that the County consent to the transfer of control of Franchise from Radiate Holdings to Stonepeak.

The transaction does not involve a change in the Franchisee. The analysis of this transaction focused on whether the transfer of control alters those qualifications, creates a risk that the Franchisee will be unable to perform as promised, or otherwise may adversely affect the Franchisee’s services as well as a technical assessment of the system operated by Franchisee. For that reason, this report concludes that the Transfer of Control should be approved.

The application is governed by federal law, the Montgomery County Code 2014, as amended, known as the Cable Communications Law (the “Cable Law”) and the Franchise, adopted May 3, 2016 by Resolution No. 18-469, and available at <https://www.montgomerycountymd.gov/cable/Resources/Files/RCNFranchiseRenewal/2016%20RCN%20Franchise%20Agreement.pdf>. The most relevant section of the Franchise is Section 3, which provides that transfers will be governed by the Cable Law. Under the Cable Law, a particularly high bar is established for any transaction that involves another County cable franchisee. Section 3 expressly requires the transferee to agree in writing that it will abide by and accept the terms of the Franchise and the Cable Law, and that it will accept responsibility for the acts and omissions of the previous Franchisee for all purposes, unless the condition is expressly waived in whole or in part.

The Cable Law establishes relevant procedural and substantive requirements for consideration of the transfer application.

The Cable Law establishes slightly different procedures for consideration of transactions that constitute a transfer of an interest in a franchise, and transactions that constitute a transfer of a franchise. While the transaction here involves a change of control at the parent level, it is a transfer of a franchise as defined in the Cable Law. Section 8A-3. A transfer of an interest can be approved by the Executive, after a public hearing. A transfer of a franchise does not require a public hearing, but requires approval by the County Council, which acts on the application after receiving the recommendation of the Executive. Substantively, the Cable Law, Section 8A-23, provides that:

Before approving transfer of a franchise, the County must consider the legal, financial, technical and character qualifications of the transferee to operate the system, and whether operation by the proposed franchisee will adversely affect the cable services to subscribers or otherwise be contrary to the public interest.

In addition, Section 8A-23(a) provides that a “transfer of a franchise will not be approved by the County when the transferor has held the franchise less than 3 years unless the County finds that the transfer is necessary and in the best interests of the County and its residents.”

The federal law and corresponding regulations governing the transfer or sale of a cable television franchise are set forth in Section 617 of the Communications Act of 1934, 47 U.S.C. § 37, and Section 76.502(a), 47 C.F.R. § 76.502(a), of the Rules and Regulations of the Federal Communications Commission (“FCC”). Any cable operator wishing to transfer a cable system is required to submit a Transfer Application to the franchising authority on FCC Form 394. Upon receipt of a complete FCC Form 394, the franchising authority has thirty (30) days to request any additional information necessary to act on the application. Upon receipt of the requested information, the franchising authority has 120 days to approve or deny the requested transfer unless the 120-day review period is extended by agreement with the cable operator. If no action is taken, the transaction is deemed approved.

An application for transfer dated November 30, 2020 was filed with the County on or about December 10, 2020, triggering the 120-day federal law deadline. The applicants, Radiate Holdings the Transferor and Stonepeak the Transferee, requested that the County consent to the transfer of the control of Franchisee from Radiate Holdings to Stonepeak. Under the federal law, if a franchising authority fails to act on a complete application within 120 days, it is deemed approved unless the applicant is timely notified that its application is incomplete. The applicants were notified that the application was incomplete on January 5, 2021, and the information the County requested to complete the application was not received until January 13, 2021. Applicants, however, contended that the application was complete from the date of application. The County and the applicants have agreed that the County has until April 23, 2021 to act upon the application. The transaction may close on or about any time prior to June 30, 2021 whether or not the County has consented. A copy of the application as filed is attached.

The transaction before the County is part of a large transaction through which Stonepeak will obtain control of systems previously owned by RCN (which include the Montgomery County system) and systems controlled by Grande Communications Networks, LLC. The transaction occurs entirely at the parent level. The transaction itself involves many interim steps, but post-closing, Stonepeak will control the Franchisee. Stonepeak, in turn, is a subsidiary of Stonepeak GP Investors IV, LLC (“SGP”) who will control it.

### **ANALYSIS OF TRANSACTION:**

To assist it in the review, the County, in conjunction with its outside counsel, Best Best & Krieger LLC retained A&S to conduct a financial review of the transactions, and CTC to conduct a review of the transaction to identify technical concerns. CTC was asked to inspect and conduct a detailed field testing of the Franchisee system.

The A&S report did not identify significant problems based on the proposed transaction itself. It did raise concerns about the companies responsible for operating the system having sufficient capital to meet both outstanding debt obligations and needed capital expenditures. In addition to the existing Parental Guarantee, A&S recommended a Warranty from Stonepeak.

The CTC report found most parts of the cable system to be compliance with the current Franchise’s technical requirements, based on CTC’s inspection in the area around five test points. Of the one test point that did not meet standards due to variations in signal levels that exceeded the FCC requirements, CTC recommended that Franchisee run tests to verify the extent to which this is a broader problem and make the needed adjustments for compliance. It did note that there were deviations from safety code in several places of the sample inspection and recommended that Franchisee perform a drive-through inspection of its system and, as necessary, work with Pepco and other utilities to address problems in the plant. Moreover, the CTC report also notes that the cable system may need to upgrade its system capacity and expand fiber optics to keep at the standard that Comcast is building into its major cable systems in the next couple of years. This led staff to seek information and assurances regarding the future management of the system.

Aside from the issues noted above, the review did not disclose significant issues associated with the proposed transaction. After receiving the reports, staff discussed issues with the applicants, and it then developed a Transfer Agreement and worked with applicants to obtain a Warranty from Stonepeak GP Investors Manager, LLC (“SGPIM”), the sole member of Stonepeak.

Based on the documents that are attached to this report, staff believes that concerns identified during the review of the proposed transaction and noted above are reasonably addressed. The Transfer Agreement binds the County, Franchisee, RCN Telecom Services, LLC,

Stonepeak, as well as RHGP and Radiate Holdings in regards to the existing Parental Guarantee that is still valid, and the Warranty contains representations from SGPIM.

Staff examined the transaction in light of the legal standards discussed above, and based on that analysis, concludes that the Executive should recommend approval.

### **Franchise, Section 3 (Promise to Comply).**

The WHEREAS clauses to the proposed Transfer Agreement specifically provides that “Franchisee reaffirms its continuing obligations under the Cable Law and the Franchise Documents; and Transferee agrees to abide by and accept all terms of the Franchise Documents and the Cable Law, as they may be amended, to the extent applicable to it; and agrees that from and after the transaction, it will take no action inconsistent with the same and Franchisee will continue to be responsible for the obligations and liabilities, and continue to have responsibility for all acts and omissions, known and unknown, under the Franchise Documents and the Cable Law for all purposes, including renewal, unless waived, in whole or in part, by the County and Participating Municipalities.” This clause is specifically incorporated by reference through Section 1.1 of the Transfer Agreement.

### **8A-23(a) (Must Have Held Franchise for Three Years).**

Franchisee has held the renewal franchise since 2016 and thus satisfies the 3 year requirement under Section 8A-23(a) of the Cable Law.

The A&S Report determined the Stonepeak is financially qualified, but raised concerns regarding the capacity of Franchisee as promised. Those issues were addressed, among other things, through the existing Performance Guarantee provided by RHGP; through the Warranty provided by SGPIM, which provides certain assurances as to debt limits that may be assumed; and by Section 2.6 of the Transfer Agreement, which provides that the companies signing the Transfer Agreement will “not take any action inconsistent with the promises contained in the Franchise Documents” and the Transfer Agreement.

The CTC Report did not make note of any detailed information regarding the effect of the transaction on technical aspects of the system. As noted above, this is the same entity that has had responsibility for the operation of the RCN systems. In addition, the Transfer Agreement provides that “under the Proposed Transaction, the Franchisee will continue to be run by highly experienced, well-qualified personnel, and that, the Proposed Transaction will not adversely affect the System, or have a detrimental effect on, or result in material change to, the service provided to existing customers and to the County.”



Other public interest concerns are also addressed in the Transfer Agreement. For example, Section 2.2 makes it clear that the scope of the Franchise (now limited to authorizing construction and operation of a cable system to provide cable services) is not changing. Section 4 states that the transaction will not adversely affect rates, and in Section 5.2, the Franchisee represents and warrants that the transaction will not affect its ability to comply with its obligations.

Taken together, the documents appear to provide the County reasonable assurances that neither it or the public will be adversely affected by the transaction, and may provide remedies should any of the representations or warranties prove to be misleading. As Franchisee is also the County's ISP, these assurances are important to the County as a customer.

The County has been paid \$10,000 to cover its administrative costs associated with reviewing the transaction.

**RECOMMENDATION:**

Based on the results of the negotiation, and developments in the system, Staff believes it is reasonable to recommend approval, subject to full execution of the attached Transfer Agreement, which includes the existing Parental Guarantee, and Warranty.

Attachments:  
Form 394  
Transfer Agreement [signed] with Parental Guarantee  
Warranty (redacted) [signed]

**FCC 394**

**APPLICATION FOR FRANCHISE AUTHORITY  
CONSENT TO ASSIGNMENT OR TRANSFER OF CONTROL  
OF CABLE TELEVISION FRANCHISE**

FOR FRANCHISE AUTHORITY USE ONLY

SECTION I. GENERAL INFORMATION

DATE November 30, 2020	1. Community Unit Identification Number: MD0452
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2. Application for:  Assignment of Franchise  Transfer of Control

3. Franchising Authority: County of Montgomery County	
4. Identify community where the system/franchise that is the subject of the assignment or transfer of control is located: Montgomery County	
5. Date system was acquired or (for system's constructed by the transferor/assignor) the date on which service was provided to the first subscriber in the franchise area:	5/3/2016
6. Proposed effective date of closing of the transaction assigning or transferring ownership of the system to transferee/assignee:	As soon as possible and ideally prior to June 30, 2021

7. Attach as an Exhibit a schedule of any and all additional information or material filed with this application that is identified in the franchise as required to be provided to the franchising authority when requesting its approval of the type of transaction that is the subject of this application.

Exhibit No. <b>N/A</b>
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PART I - TRANSFEROR/ASSIGNOR

1. Indicate the name, mailing address, and telephone number of the transferor/assignor.

Legal name of Transferor/Assignor (if individual, list last name first) <b>Radiate Holdings, L.P.</b>			
Assumed name used for doing business (if any)			
Mailing street address or P.O. Box <b>650 College Road East, Suite 3100</b>			
City <b>Princeton</b>	State <b>NJ</b>	ZIP Code <b>08540</b>	Telephone No. (include area code) <b>(609) 452-8197</b>

2. (a) Attach as an Exhibit a copy of the contract or agreement that provides for the assignment or transfer of control (including any exhibits or schedules thereto necessary in order to understand the terms thereof). If there is only an oral agreement, reduce the terms to writing and attach. (Confidential trade, business, pricing or marketing information, or other information not otherwise publicly available, may be redacted).

Exhibit No. <b>I.1.2</b>
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(b) Does the contract submitted in response to (a) above embody the full and complete agreement between the transferor/assignor and the transferee/assignee?  Yes  No

If No, explain in an Exhibit.

Exhibit No. <b>I.1.2</b>
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PART II - TRANSFEREE/ASSIGNEE

1.(a) Indicate the name, mailing address, and telephone number of the transferee/assignee.

Legal name of Transferee/Assignee (if individual, list last name first) <b>Stonepeak Associates IV, LLC</b>			
Assumed name used for doing business (if any)			
Mailing street address or P.O. Box <b>c/o Stonepeak infrastructure Partners, 55 Hudson Yards 550 W 34th Street, 48th Floor</b>			
City <b>New York</b>	State <b>NY</b>	ZIP Code <b>10001</b>	Telephone No. (include area code) <b>(212) 907-5125</b>

(b) Indicate the name, mailing address, and telephone number of person to contact, if other than transferee/assignee.

Name of contact person (list last name first) <b>See Exhibit I.II.1(c)</b>			
Firm or company name (if any)			
Mailing street address or P.O. Box			
City	State	ZIP Code	Telephone No. (include area code)

(c) Attach as an Exhibit the name, mailing address, and telephone number of each additional person who should be contacted, if any.

Exhibit No. <b>I.II.1(c)</b>
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(d) Indicate the address where the system's records will be maintained.

Street address <b>650 College Road East, Suite 3100</b>			
City <b>Princeton</b>	State <b>NJ</b>	ZIP Code <b>08540</b>	Telephone No. (include area code) <b>(609) 452-8197</b>

2. Indicate on an attached exhibit any plans to change the current terms and conditions of service and operations of the system as a consequence of the transaction for which approval is sought.

Exhibit No. <b>I.II.2</b>
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SECTION II. TRANSFEREE'S/ASSIGNEE'S LEGAL QUALIFICATIONS

1. Transferee/Assignee is:

Corporation

a. Jurisdiction of incorporation	d. Name and address of registered agent in jurisdiction:
b. Date of incorporation:	
c. for profit or not for profit:	

Limited Partnership:

a. Jurisdiction in which formed:	c. name and address of registered agent in jurisdiction:
b. Date of formation:	

General Partnership

a. Jurisdiction whose laws govern formation:	b. Date of formation:
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Individual

Other. Describe in an Exhibit

Exhibit No.  <b>II.1</b>
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2. List the transferee/assignee, and, if the transferee/assignee is not a natural person, each of its officers, directors, stockholders beneficially holding more than 5% of the outstanding voting shares, general partners, and limited partners holding an equity interest of more than 5%. Use only one COLUMN for each individual or entity. Attach additional pages if necessary. (Read carefully- the lettered items below refer to corresponding lines in the following table.)

- (a) Name, residence, occupation or principal business, and principal place of business. (If other than an individual, also show name, address and citizenship of natural person authorized to vote the voting securities of the applicant that it holds.) List the applicant first, officers, next, then directors and, thereafter, remaining stockholders and/or partners.
- (b) Citizenship.
- (c) Relationship to the transferee/assignee (e.g., officer, director, etc.).
- (d) Number of shares or nature of partnership interest.
- (e) Number of votes.
- (f) Percentage of votes.

(a)		
<b>Please see Exhibit II.2</b>		
(b)		
(c)		
(d)		
(e)		
(f)		

3. If the applicant is a corporation or a limited partnership, is the transferee/assignee formed under the laws of, or duly qualified to transact business in, the State or other jurisdiction in which the system operates?  Yes  No

If the answer is No, explain in an Exhibit.

Exhibit No.  
**II.3**

4. Has the transferee/assignee had any interest in or in connection with an applicant which has been dismissed or denied by any franchise authority?  Yes  No

If the answer is Yes, describe circumstances in an Exhibit.

Exhibit No.

5. Has an adverse finding been made or an adverse final action been taken by any court or administrative body with respect to the transferee/assignee in a civil, criminal or administrative proceeding, brought under the provisions of any law or regulation related to the following: any felony; revocation, suspension or involuntary transfer of any authorization (including cable franchises) to provide video programming services; mass media related antitrust or unfair competition; fraudulent statements to another government unit; or employment discrimination?  Yes  No

If the answer is Yes, attach as an Exhibit a full description of the persons and matter(s) involved, including an identification of any court or administrative body and any proceeding (by dates and file numbers, if applicable), and the disposition of such proceeding.

Exhibit No.

6. Are there any documents, instruments, contracts or understandings relating to ownership or future ownership rights with respect to any attributable interest as described in Question 2 (including, but not limited to, non-voting stock interests, beneficial stock ownership interests, options, warrants, debentures)?  Yes  No

If Yes, provide particulars in an Exhibit.

7. Do documents, instruments, agreements or understandings for the pledge of stock of the transferee/assignee, as security for loans or contractual performance, provide that: (a) voting rights will remain with the applicant, even in the event of default on the obligation; (b) in the event of default, there will be either a private or public sale of the stock; and (c) prior to the exercise of any ownership rights by a purchaser at a sale described in (b), any prior consent of the FCC and/or of the franchising authority, if required pursuant to federal, state or local law or pursuant to the terms of the franchise agreement will be obtained?  Yes  No

If No, attach as an Exhibit a full explanation.

Exhibit No.  
**II.7**

### SECTION III. TRANSFEREE'S/ASSIGNEE'S FINANCIAL QUALIFICATIONS

1. The transferee/assignee certifies that it has sufficient net liquid assets on hand or available from committed resources to consummate the transaction and operate the facilities for three months.  Yes  No

2. Attach as an Exhibit the most recent financial statements, prepared in accordance with generally accepted accounting principles, including a balance sheet and income statement for at least one full year, for the transferee/assignee or parent entity that has been prepared in the ordinary course of business, if any such financial statements are routinely prepared. Such statements, if not otherwise publicly available, may be marked CONFIDENTIAL and will be maintained as confidential by the franchise authority and its agents to the extent permissible under local law.

Exhibit No.  
**III**

### SECTION IV. TRANSFEREE'S/ASSIGNEE'S TECHNICAL QUALIFICATIONS


Set forth in an Exhibit a narrative account of the transferee's/assignee's technical qualifications, experience and expertise regarding cable television systems, including, but not limited to, summary information about appropriate management personnel that will be involved in the system's management and operations. The transferee/assignee may, but need not, list a representative sample of cable systems currently or formerly owned or operated.

Exhibit No.  
**IV**

**SECTION V - CERTIFICATIONS**

**Part I - Transferor/Assignor**

All the statements made in the application and attached exhibits are considered material representations, and all the Exhibits are a material part hereof and are incorporated herein as if set out in full in the application.

I CERTIFY that the statements in this application are true, complete and correct to the best of my knowledge and belief and are made in good faith.	Signature 
WILLFUL FALSE STATEMENTS MADE ON THIS FORM ARE PUNISHABLE BY FINE AND/OR IMPRISONMENT. U.S. CODE, TITLE 18, SECTION 1001.	Date
	Print full name <b>Jeffrey B. Kramp, Executive Vice President, Secretary and General Counsel</b>
Check appropriate classification: <input type="checkbox"/> Individual <input type="checkbox"/> General Partner <input checked="" type="checkbox"/> Corporate Officer (Indicate Title) <input type="checkbox"/> Other. Explain:	

**Part II - Transferee/Assignee**

All the statements made in the application and attached Exhibits are considered material representations, and all the Exhibits are a material part hereof and are incorporated herein as if set out in full in the application.

The transferee/assignee certifies that he/she:

- (a) Has a current copy of the FCC's Rules governing cable television systems.
- (b) Has a current copy of the franchise that is the subject of this application, and of any applicable state laws or local ordinances and related regulations.
- (c) Will use its best efforts to comply with the terms of the franchise and applicable state laws or local ordinances and related regulations, and to effect changes, as promptly as practicable, in the operation system, if any changes are necessary to cure any violations thereof or defaults thereunder presently in effect or ongoing.

I CERTIFY that the statements in this application are true, complete and correct to the best of my knowledge and belief and are made in good faith.	Signature
WILLFUL FALSE STATEMENTS MADE ON THIS FORM ARE PUNISHABLE BY FINE AND/OR IMPRISONMENT. U.S. CODE, TITLE 18, SECTION 1001.	Date
	Print full name
Check appropriate classification: <input type="checkbox"/> Individual <input type="checkbox"/> General Partner <input type="checkbox"/> Corporate Officer (Indicate Title) <input type="checkbox"/> Other. Explain:	

**SECTION V - CERTIFICATIONS**

**Part I - Transferor/Assignor**

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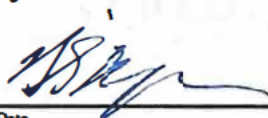
<p>I CERTIFY that the statements in this application are true, complete and correct to the best of my knowledge and belief and are made in good faith.</p>	<p>Signature</p>
<p>WILLFUL FALSE STATEMENTS MADE ON THIS FORM ARE PUNISHABLE BY FINE AND/OR IMPRISONMENT. U.S. CODE, TITLE 18, SECTION 1001.</p>	<p>Date</p>
<p>Check appropriate classification:</p> <p> <input type="checkbox"/> Individual                  <input type="checkbox"/> General Partner                  <input type="checkbox"/> Corporate Officer (Indicate Title)                  <input type="checkbox"/> Other. Explain: Authorized Person         </p>	

**Part II - Transferee/Assignee**

All the statements made in the application and attached Exhibits are considered material representations, and all the Exhibits are a material part hereof and are incorporated herein as if set out in full in the application.

The transferee/assignee certifies that he/she:

- (a) Has a current copy of the FCC's Rules governing cable television systems.
- (b) Has a current copy of the franchise that is the subject of this application, and of any applicable state laws or local ordinances and related regulations.
- (c) Will use its best efforts to comply with the terms of the franchise and applicable state laws or local ordinances and related regulations, and to effect changes, as promptly as practicable, in the operation system, if any changes are necessary to cure any violations thereof or defaults thereunder presently in effect or ongoing.

<p>I CERTIFY that the statements in this application are true, complete and correct to the best of my knowledge and belief and are made in good faith.</p>	<p>Signature</p> 
<p>WILLFUL FALSE STATEMENTS MADE ON THIS FORM ARE PUNISHABLE BY FINE AND/OR IMPRISONMENT. U.S. CODE, TITLE 18, SECTION 1001.</p>	<p>Date</p> <p>11/30/20</p> <p>Print full name</p> <p>Brian McMullen</p>
<p>Check appropriate classification:</p> <p> <input type="checkbox"/> Individual                  <input type="checkbox"/> General Partner                  <input checked="" type="checkbox"/> Senior Managing Director                  <input type="checkbox"/> Corporate Officer (Indicate Title)                  <input type="checkbox"/> Other. Explain:         </p>	

**Additional Content Required by Jurisdiction**



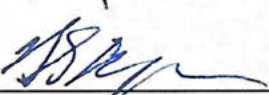
**CERTIFICATION AND AFFIDAVIT**

I, Brian McMullen, hereby certify that

- a. I am Senior Managing Director for Stonepeak Associates IV LLC (the "Transferee").
- b. I am authorized to make this declaration on behalf of the Transferee.
- c. A copy of this application has been served on all existing franchises.
- d. No person controlling the transferee or any officer of majority stockholder of the Transferee has been judged bankrupt, had a cable franchise revoked, or been found by a court or administrative agency to have violated antitrust law or convicted a felony or any crime involving moral turpitude.
- e. The application includes the information required by Chapter 8A of the Montgomery County code.
- f. Neither Transferee nor any person identified in this application as affiliated with Transferee has an interest in any cable system in the United States.
- g. The statements in the foregoing application are true and accurate to the best of my knowledge, the commitments in this application are enforceable, and the proposal meets all applicable federal and state requirements.

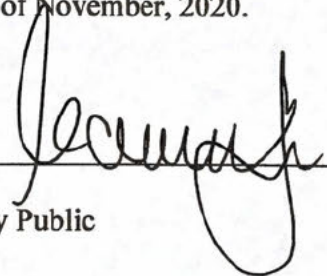
I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge.

Executed this 30th day of November, 2020

  
\_\_\_\_\_  
Brian McMullen  
Stonepeak Associates IV LLC

Sworn and subscribed before me this 30 day of November, 2020.



  
\_\_\_\_\_  
Notary Public

My commission expires 01/17/2024.

### ***Statement regarding service and rates***

As discussed in more detail in the attached FCC Application and our statement regarding Stonepeak's financial qualifications, the Proposed Transaction is not expected to have any effect on Transferor's service or rates, other than to potentially make additional resources available for Transfer to improve and enhance those service.

### ***Statement regarding financial qualifications***

Stonepeak is a specialized private equity firm that invests in strategically important infrastructure assets within the communications, energy, power, water, renewables, and transportation sectors. Founded in 2011 and headquartered in New York, Stonepeak manages over \$29.2 billion of capital for its investors.<sup>1</sup> Stonepeak has considerable experience in the digital infrastructure sector with select investments across residential broadband, data centers, enterprise fiber, towers, and small cells that give it visibility and expertise across the broader communications sector.

Stonepeak's goal in the Proposed Transaction is simple: to make more resources available to an already excellent group of cable, broadband, and telephone providers. Stonepeak believes that it can create value by investing incremental capital after closing of the Proposed Transaction and has a history of partnering with leading management teams to provide a financial partner with

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<sup>1</sup> Stonepeak's assets under management ("AUM") calculation provided herein is determined by taking into account (i) unfunded capital commitments of Stonepeak Infrastructure Fund LP, Stonepeak Infrastructure Fund II LP, Stonepeak Infrastructure Fund III LP, Stonepeak Global Renewables Fund LP, and Stonepeak Infrastructure Credit Fund I LP and any co-invest vehicles managed by Stonepeak as of September 30, 2020, (ii) the gross asset value of such funds and co-invest vehicles, plus any feeder fund level cash with respect to such funds and co-invest vehicles as of September 30, 2020, and (iii) accepted capital commitments of Stonepeak Infrastructure Fund IV LP as of September 16, 2020. The AUM figure differs from the amount of assets under management reported for regulatory purposes and is based on gross asset values that are estimated and unaudited.

available growth capital to scale their platforms. A majority of Stonepeak's investments have substantial follow-on growth capital commitments. For example, since its acquisition by Stonepeak in 2015, ExteNet has expanded its indoor and outdoor "neutral host" distributed network ("DNS") systems to help meet the intense demand for improved mobile and wireless broadband coverage and capacity in key strategic markets across the United States, and is the largest independent DNS provider in the United States. Stonepeak believes its financial qualifications speak for themselves, but remains available to discuss these qualifications should Montgomery County or its representatives wish to do so.

## EXHIBIT LIST

- Exhibit I.I.2:** Redacted Copy of Securities Purchase Agreement
- Exhibit I.II.1.(c):** Additional Contact Persons
- Exhibit I.II.2:** Planned Changes to Terms and Conditions
- Exhibit II.1:** Form of Business Organization of Transferee
- Exhibit II.2:** Ownership Information of Transferee
- Exhibit II.3:** Statement Regarding Qualification to Transact Business
- Exhibit II.7:** Statement Regarding Pledge of Stock
- Exhibit III:** Transferee's Financial Qualifications
- Exhibit IV:** Transferee's Technical Qualifications

- CONFIDENTIAL ATTACHMENT A** Agreement
- CONFIDENTIAL ATTACHMENT B** Financial Statements of Radiate Holdings
- ATTACHMENT C** Current and Post-Transaction Corporate Ownership Structures

**Please note that the contents of Attachments A and B  
(produced on pastel-colored paper)  
are confidential and proprietary materials and not for public disclosure.**

## **Exhibit I.I.2: Redacted Copy of Securities Purchase Agreement**

Confidential Attachment A hereto, which is provided under seal, contains a copy of the Agreement and Plan of Merger, dated as of October 31, 2020 (the “Agreement”). The Exhibits and Schedules referenced in the Agreement have not been included with this Application due to their voluminous and highly confidential nature. Further, the Exhibits and Schedules are non-material contract attachments in the context of the City’s review of the Proposed Transaction and the qualifications of the Transferee and Franchisee. Therefore, in accordance with the decision of the Federal Communications Commission in *LUJ, Inc. and Long Nine, Inc.*, Memorandum Opinion and Order, 17 FCC Rcd. 16980 (2002), Section I, Part I, Question 2(b) of this application has been answered “No.”

Pursuant to the Agreement, post-closing, the Transferee will be the sole member of, and have the ability to appoint a majority of the directors of, Radiate Holdings GP, LLC, the general partner of Radiate Holdings, LP, and accordingly will indirectly control Radiate Holdings, L.P. and its subsidiaries, including Franchisee (the “Proposed Transaction”). Upon completion of the Proposed Transaction, Radiate Holdings, L.P. will be an indirect subsidiary of certain funds affiliated with Transferee (namely Stonepeak Tiger Holdings I LLC and Stonepeak Tiger Holdings II LP). Franchisee will remain an indirect, wholly owned subsidiary of Radiate Holdings, L.P. Diagrams depicting the current and post-transaction corporate ownership structures of Franchisee are appended hereto as Attachment C.

It is contemplated that, immediately following the consummation of the Proposed Transaction, Franchisee will continue to provide service to existing customers at the same rates, terms and conditions, as currently provided. In addition, as set forth in Exhibit IV hereto, it is contemplated that Franchisee will continue to be operated by highly experienced, well-qualified management, operational and technical personnel.

**Exhibit I.II.1.(c): Additional Contact Persons**

The following persons also are authorized to act on behalf of Franchisee and copies of correspondence regarding this Application should be sent to them:

Thomas K. Steel  
Vice President & Regulatory Counsel  
237 Carlton Lane  
North Andover, MA 01845  
(617) 797-7788  
[tom.steel@rcn.net](mailto:tom.steel@rcn.net)

Additional contact information for the Transferee and Transferor:

For Transferor:

Michael R. Dover  
Kelley Drye & Warren, LLP  
333 West Wacker Drive, Suite 2600  
Chicago, IL 60606  
(312) 857-7087  
[mdover@kelleydrye.com](mailto:mdover@kelleydrye.com)

For Transferee:

William Wiltshire  
Michael Nilsson  
Harris, Wiltshire & Grannis LLP  
1919 M Street NW, 8th Floor  
Washington, DC 20036  
(202) 730-1334  
[wwiltshire@hwglaw.com](mailto:wwiltshire@hwglaw.com)  
[mnilsson@hwglaw.com](mailto:mnilsson@hwglaw.com)

**Exhibit I.II.2: Planned Changes to Terms and Conditions**

There are currently no changes planned to the current terms and conditions of service or operations of the system by Franchisee.

**Exhibit II.1: Form of Business Organization of Transferee**

Transferee Stonepeak Associates IV LLC is a Delaware limited liability company.

The contact information for Transferee's registered agent in Delaware is

The Corporation Trust Company  
Corporation Trust Center 1209 Orange Street  
Wilmington, DE 19801



**Exhibit II.2: Ownership Information of Transferee**

Upon completion of the Transaction, funds affiliated with Stonepeak Associates IV LLC (“Transferee”) will indirectly own Franchisee through multiple intervening entities. Transferee will be wholly owned by Stonepeak GP Investors IV LLC, a Delaware limited liability company, which in turn will be indirectly controlled by entities ultimately controlled by an entity ultimately controlled by Michael Dorrell, the founder, chairman, and CEO of Stonepeak Infrastructure Partners.

As a limited liability company, Transferee does not have directors but is managed by its sole member, Stonepeak GP Investors LLC. Transferee’s officers are:

- Michael Dorrell..... Chairman, Chief Executive Officer & Co-Founder
- Trent Vichie..... Executive Vice-Chairman & Co-Founder
- Luke Taylor ..... Senior Managing Director
- Jack Howell ..... Senior Managing Director
- Brian McMullen ..... Senior Managing Director
- Hajir Naghdy ..... Senior Managing Director
- Michael Allison ..... Senior Managing Director
- James Wyper ..... Senior Managing Director
- Peter Bruce ..... Senior Managing Director  
& Chief Operating Officer / Chief Financial Officer
- Adrienne Saunders..... Senior Managing Director  
& General Counsel / Chief Compliance Officer
- Saira Khan ..... Deputy General Counsel
- Caroline Conway ..... Deputy General Counsel

The following entities and individuals will hold a direct five percent (5%) or greater interest in Transferee:

- a. Name: Stonepeak GP Investors IV LLC  
Nature of business: General partner entity  
Principal place of business: 55 Hudson Yards  
550 W 34th Street, 48th Floor  
New York, NY 10001
- b. Citizenship: United States (Delaware)
- c. Relationship to Transferee: Sole member
- d. Number of shares/Nature of interest: As the sole member, Stonepeak GP Investors IV LLC owns the entirety of the interest in Transferee
- e. Number of votes: As its manager, Stonepeak GP Investors IV LLC controls Transferee
- f. Percentage of votes: 100%

Appended is a copy of Applicants’ Federal Communications Commission (FCC) Section 214 Application, which lists each of Transferee’s anticipated 10% indirect interest holders.

**Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554**

*Application of*

RADIATE HOLDINGS, L.P.  
*Transferor,*

STONEPEAK ASSOCIATES IV LLC  
*Transferee,*

RCN TELECOM SERVICES (LEHIGH) LLC  
RCN TELECOM SERVICES OF PHILADELPHIA, LLC  
RCN TELECOM SERVICES OF NEW YORK, LP  
RCN TELECOM SERVICES OF MASSACHUSETTS, LLC  
RCN TELECOM SERVICES OF ILLINOIS, LLC  
STARPOWER COMMUNICATIONS, LLC  
GRANDE COMMUNICATIONS NETWORKS, LLC  
ASTOUND BROADBAND LLC  
ASTOUND PHONE SERVICE, LLC  
ETS TELEPHONE COMPANY, INC., AND  
ETS CABLEVISION, INC.  
*Authority Holders*

For Consent to Transfer Indirect Control of  
Companies Holding Domestic and International  
Authority Pursuant to Section 214 of the  
Communications Act of 1934, as Amended

WC Docket No. 20-\_\_\_\_\_  
ITC-T/C-\_\_\_\_\_

**CONSOLIDATED APPLICATION FOR CONSENT TO TRANSFER CONTROL  
OF SECTION 214 AUTHORITY HOLDERS—STREAMLINED PROCESSING  
REQUESTED**

Pursuant to Section 214 of the Communications Act of 1934, as amended (the “Act”),<sup>1</sup> and Sections 63.04, 63.18, and 63.24 of the Commission’s rules,<sup>2</sup> Radiate Holdings, L.P. (“Radiate Holdings” or “Transferor”), Stonepeak Associates IV LLC (“Transferee”), and the Authority

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<sup>1</sup> 47 U.S.C. § 214.

<sup>2</sup> 47 C.F.R. §§ 63.04, 63.18, and 63.24.

Holders (as identified below) respectfully request Commission approval to transfer indirect control of the Authority Holders from Transferor to Transferee (the “Proposed Transaction”). The Authority Holders are: RCN Telecom Services (Lehigh) LLC (“RCN Lehigh”); RCN Telecom Services of Philadelphia, LLC (“RCN Philadelphia”); RCN Telecom Services of New York, LP (“RCN New York”); RCN Telecom Services of Massachusetts, LLC (“RCN Massachusetts”); RCN Telecom Services of Illinois, LLC (“RCN Illinois”); Starpower Communications, LLC (“Starpower” and, together with RCN Lehigh, RCN Philadelphia, RCN New York, RCN Massachusetts, and RCN Illinois, “RCN”); Grande Communications Networks, LLC (“Grande”); Astound Broadband LLC; Astound Phone Service, LLC (together with Astound Broadband LLC, “Astound”); ETS Telephone Company, Inc.; and ETS Cablevision, Inc. (together with ETS Telephone Company, Inc., “En-Touch”).<sup>3</sup> Transferor, Transferee, and the Authority Holders are collectively referred to as “Applicants”.

Together, the Authority Holders form the sixth largest cable operator in the United States while also operating as telecommunications service providers in ten states and the District of Columbia. The Authority Holders offer intrastate, interstate, and international telecommunications and other services to over one million customers, which services include industry-leading high-speed

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<sup>3</sup> Radiate Holdings recently filed applications with the Commission seeking approval for the acquisition of Digital West Holdings, Inc. and its wholly-owned operating subsidiaries: Digital West Networks, Inc., Norcast Communications Corporation, and Blue Rooster Telecom, Inc., each of which holds Section 214 authority (collectively, “Digital West”). The Commission granted the international Section 214 application, effective October 23, 2020, and granted the domestic Section 214 application, effective November 7, 2020. *See* Public Notices: *International Authorizations Granted; Section 214 Applications* (47 C.F.R. §§ 63.18, 63.24); *Section 310(b) Petitions* (47 C.F.R. § 1.5000), DA No. 20-1276 (rel. Oct. 29, 2020); *Notice of Domestic Section 214 Authorization Granted*, WC Dkt. No. 20-325 (rel. Nov. 9, 2020). Radiate has not yet consummated the Digital West acquisition, but expects to do so in the near future and, certainly, well before closing of the Proposed Transaction described in this Application. For this reason, Applicants respectfully request that the Commission also approve a transfer of indirect control of the Digital West Section 214 licensees to Transferee.

internet, cable services, broadband products, digital TV, phone services, and fiber optic solutions. As discussed in more detail below, certain affiliates of the Applicants have entered into an agreement whereby Transferee will acquire indirect control of the Authority Holders by acquiring control of Radiate Holdings, the parent entity of the Authority Holders. The Authority Holders will continue to hold their current Section 214 authorizations, satellite earth station licenses and registrations, CARS license, and wireless licenses following consummation of the Proposed Transaction.

The Proposed Transaction will serve the public interest, convenience, and necessity by providing access to the financial resources and management expertise of Transferee and its affiliates, which will enable expansion and diversification of services and serve to strengthen the Authority Holders' ability to compete and provide customer service, to the benefit of American consumers. It will not result in any loss or impairment of service for any of the Authority Holders' customers and will have no adverse effects upon competition in any areas where the Authority Holders provide telecommunications or video services. Accordingly, the Proposed Transaction raises no public-interest concerns that warrant an extended review or transaction-specific conditions for consent. Indeed, this application qualifies for presumptive streamlined processing under 47 C.F.R. §§ 63.03(b)(2)(ii), as Transferee is not a telecommunications service provider. This application also qualifies for streamlined processing under 47 C.F.R. § 63.12(c)(1)(ii), because the consummation of the Proposed Transaction will not result in any affiliations with foreign carriers with market power under 47 C.F.R. § 63.10(a)(3). Nor will consummation of the Proposed Transaction create new combinations that will adversely affect competition on any U.S.-international route.

Pursuant to Section 63.04(b) of the Commission’s rules,<sup>4</sup> Applicants are filing a combined application for the proposed transfer of control of the Authority Holders covering their domestic interstate and international authorizations. Applicants provide below the information required by Sections 63.04(a) (see part III) and 63.24(e)(2) (see part IV) of the Commission’s rules.<sup>5</sup> The Applicants seek to consummate the Proposed Transaction as soon as possible upon receipt of the required regulatory consents.

## **I. BACKGROUND**

### **Parties to the Proposed Transaction**

#### **1. Radiate Holdings**

Radiate Holdings is a Delaware limited partnership and serves as the common parent entity for the Authority Holders. The general partner of Radiate Holdings is Radiate Holdings GP, LLC, (“Radiate GP”) and the sole member of Radiate GP is TPG Advisors VII, Inc. (“TPG Advisors”), a Delaware investment fund holding company that is directly owned and controlled jointly by the principals of TPG Global, LLC (“TPG”) – David Bonderman and James G. Coulter. Radiate GP is managed by its board of directors (the “GP Board”), a majority of which directors are appointed by TPG Advisors. Accordingly, TPG Advisors, through its appointees on the GP Board, controls Radiate GP and in turn the Authority Holders. (The majority of the limited partnership (equity) interests in Radiate Holdings are directly or indirectly held by certain investment funds or managed vehicles that are also ultimately controlled by David Bonderman and James G. Coulter.)

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<sup>4</sup> 47 C.F.R. § 63.04(b).

<sup>5</sup> 47 C.F.R. §§ 63.24(e)(2), 63.04(a)(6)-(12).

## **2. Authority Holders**

As noted, the Authority Holders provide cable, telecommunications, and broadband services in ten states and the District of Columbia. Specifically: RCN Lehigh and RCN Philadelphia provide services in Pennsylvania; RCN New York provides services in New York and New Jersey; RCN Massachusetts, LLC provides services in Massachusetts; RCN Illinois provides services in Illinois; Starpower, which operates under the RCN name, provides services in the District of Columbia, Maryland, and Virginia; Grande and En-Touch provide services in Texas; and Astound Broadband, LLC provides services in California, Oregon, and Washington.<sup>6</sup> Each of the Authority Holders holds blanket domestic interstate telecommunications services authority pursuant to operation of law.<sup>7</sup> All of the Authority Holders except ETS Cablevision, Inc. hold international Section 214 authority as identified below in part IV(C).

## **3. Stonepeak Associates IV LLC**

Transferee is a Delaware limited liability company affiliated with private equity funds managed by Stonepeak Infrastructure Partners (“Stonepeak”), a specialized private equity firm that invests in strategically important infrastructure assets within the communications, energy, power, water, renewables, and transportation sectors. Founded in 2011 and headquartered in New York, Stonepeak manages over \$29.2 billion of capital for its investors.<sup>8</sup> Stonepeak has considerable

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<sup>6</sup> Astound Phone Service, LLC holds an international Section 214 authorization, but does not provide services at this time.

<sup>7</sup> 47 C.F.R. § 63.01.

<sup>8</sup> Stonepeak’s assets under management (“AUM”) calculation provided herein is determined by taking into account (i) unfunded capital commitments of Stonepeak Infrastructure Fund LP, Stonepeak Infrastructure Fund II LP, Stonepeak Infrastructure Fund III LP, Stonepeak Global Renewables Fund LP, and Stonepeak Infrastructure Credit Fund I LP and any co-invest vehicles managed by Stonepeak as of September 30, 2020, (ii) the gross asset value of such funds and co-invest vehicles, plus any feeder fund level cash with respect to such funds and co-invest vehicles as of September 30, 2020, and (iii) accepted capital commitments of

experience in the digital infrastructure sector with select investments across residential broadband, data centers, enterprise fiber, towers, and small cells that give it visibility and expertise across the broader communications sector. This experience positions Stonepeak as an ideal partner to the Authority Holders as they continue to grow and strengthen their service offerings.

Stonepeak itself is ultimately controlled by Michael Dorrell, who is a citizen of, and who resides in, the United States.<sup>9</sup> Mr. Dorrell has been involved in all phases of Stonepeak's development since 2011, and has 20 years of experience investing in infrastructure.

Upon consummation of the Proposed Transaction, Transferee will be the sole member of Radiate GP and, through its appointment of a majority of the directors of the GP Board, will control Radiate GP and in turn the Authority Holders. Transferee and the Stonepeak funds and managed vehicles that will indirectly own a majority of the limited partnership interests in Radiate Holdings are controlled by Mr. Dorrell.

Stonepeak's communications portfolio companies include the following providers of domestic telecommunications services:

- **ExteNet Systems, Inc. (“ESI”) and its subsidiaries:** Founded in 2002, ESI designs, builds, owns and operates distributed networks for use by national and regional wireless service providers in key strategic markets in North America. ESI and its subsidiaries (“ExteNet”) deploy 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

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Stonepeak Infrastructure Fund IV LP as of September 16, 2020. The AUM figure differs from the amount of assets under management reported for regulatory purposes and is based on gross asset values that are estimated and unaudited.

<sup>9</sup> Mr. Dorrell also holds Australian citizenship.

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. Collectively, ExteNet holds authorizations to provide intrastate telecommunications services in the District of Columbia and every state except Alaska, Maine, North Dakota, Vermont, West Virginia and Wyoming. ESI subsidiaries that are authorized to provide intrastate telecommunications services in one or more states are ExteNet Systems (California) LLC, ExteNet Systems (Virginia) LLC, ESI Advanced Wireless Networks, LLC, ExteNet Systems (New York), Inc., Telecommunication Properties, Inc., and Hudson Fiber Networks, Inc. (“Hudson Fiber”).

To the best of Transferee’s knowledge, Transferee is not affiliated with any other United States domestic telecommunications service provider.

### **Description of the Transaction**

Pursuant to the terms of the Agreement and Plan of Merger (the “Agreement”) dated October 31, 2020, by and among Transferor, certain affiliates of Transferor, and certain affiliates of Transferee,<sup>10</sup> the Proposed Transaction will be effected through a set of substantially simultaneous mergers, as a result of which:

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<sup>10</sup> The Transferee-affiliated parties to the Agreement are: Stonepeak Tiger Holdings I LLC, Stonepeak Tiger Holdings II Sub LLC, Stonepeak Tiger Blocker I LLC, Stonepeak Tiger Blocker II LLC, Stonepeak Tiger Blocker III LLC, Stonepeak Tiger Blocker IV LLC, Stonepeak Tiger GP Merger Sub LLC, and Stonepeak Tiger Partnership Merger Sub LP.

The Transferor-affiliated parties are: Radiate Holdings GP, LLC, TPG VII Radiate BL, LLC; TPG Wakeboard BL, LLC; Radiate GF II Blocker, LLC; Radiate OF II Blocker, LLC, and TPG VII Radiate Holdings I, L.P.



- Control of the Authority Holders will continue to be exercised indirectly through Radiate GP, the general partner of Radiate Holdings. However, upon consummation of the Proposed Transaction (x) the sole member of Radiate GP will change from TPG Advisors to Transferee, and (y) Transferee and not TPG Advisors will have the right to appoint a majority of the directors of the GP Board and, accordingly, will control Radiate GP and, in turn, the Authority Holders.
- The current direct and indirect equity holders of Radiate Holdings will transfer their indirect interests in the Authority Holders – namely, their limited partnership interests in Radiate Holdings – to two Stonepeak-affiliated entities: Stonepeak Tiger Holdings I LLC, a Delaware limited liability company (“Tiger Holdings I”), and Stonepeak Tiger Holdings II Sub LLC, a Delaware limited liability company (“Tiger Holdings II”), which, together with Transferee, will be under the common indirect control of Mr. Dorrell.

Transferee advises the Commission that Stonepeak is exploring syndicating a portion of its equity interest in Radiate Holdings.<sup>11</sup>

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<sup>11</sup> The co-investors may be granted customary minority protections commensurate with their indirect interests in Radiate Holdings, e.g., consent/veto rights over the following matters: (i) amendment or repeal of organizational documents that would disproportionately affect the investor’s rights in a material and adverse manner; (ii) variation of class rights that would disproportionately affect the investor’s rights in a material and adverse manner; (iii) issuance of securities other than in accordance with the pre-emptive regime and other customary exceptions; (iv) changes to the capital structure that would disproportionately affect the investor’s rights in a material and adverse manner; (v) declaration of any dividends/distributions other than on a pro-rata basis; (vi) liquidation, insolvency or winding up; (vii) cessation or material alteration to the nature of the business; (viii) entry into material affiliate transactions, other than on arm’s length terms; and (ix) change in any tax classification that would disproportionately affect the investor in a material and adverse manner.

- For a period of up to 75 days after the signing of the Agreement, TPG has the right (the “TPG Investment Right”) under a letter agreement by and among TPG, Tiger Holdings I and Stonepeak Tiger Holdings II LP (the parent entity of Tiger Holdings II) to elect to make, at the consummation of the Proposed Transaction, an investment in Tiger Holdings I and Stonepeak Tiger Holdings II LP of up to \$750 million through one or more investment funds controlled by TPG (collectively, the “TPG Fund”). As of the date of this application, TPG has not exercised the TPG Investment Right. Even if TPG exercises the TPG Investment Right and an investment is made through the TPG Fund up to the limit, *the controlling entity of Radiate GP and the ownership structure of Transferee as each is described herein will not change*. However, the ownership percentages of the reportable interest holders provided in this application may be reduced or otherwise change as a result of such investment by the TPG Fund. The TPG Fund will be ultimately controlled by the principals of TPG. The principals of TPG are David Bonderman and James G. Coulter, each of whom is a United States citizen. It is not currently expected that TPG’s exercise of the TPG Investment Right and the investment in Tiger Holdings I and Stonepeak Tiger Holdings II LP by the TPG Fund will result in any entity (other than the TPG Fund) holding a 10-percent-or-greater equity interest in Radiate Holdings. Applicants will, in a timely fashion, notify the Commission if, as a result of the exercise of the TPG Investment Right, (x) there will be changes in the ownership percentages for reportable interest holders provided in this application or (y) any new entity (other than the TPG Fund) will hold a 10-percent-or-greater equity interest in Radiate Holdings.

- Stonepeak is also exploring further syndicating a portion of its equity interest in Radiate Holdings to other co-investors. The structure of any such co-investment, and identity of the co-investors, is yet to be finalized. Excluding the potential investment of the TPG Fund described immediately above, the organizational charts provided in Attachment 1 and listed in Attachment 2 reflect the co-invest vehicles that could potentially hold a 10-percent-or-greater equity interest in Radiate Holdings (although it is also possible that no such vehicle would hold such an interest). While Transferee is unable to currently specify with sufficient accuracy the equity interest to be held by any such co-invest vehicle, the Transferee advises that each such co-invest vehicle will be under the common indirect control of Mr. Dorrell. In addition, and most importantly, *no such co-investment will change the proposed controlling entity of Radiate GP or affect the ownership structure of Transferee as each is described herein.* However, the ownership percentages of the reportable interest holders provided in this application may be reduced or otherwise change as a result of such co-investment, potentially materially so. Applicants will, in a timely fashion, notify the Commission if, as a result of such co-investment, (x) there will be changes in the ownership percentages for reportable interest holders provided in this application or (y) any new vehicles (other than those reflected in the organizational charts provided in Attachment 1 and listed in Attachment 2) will hold a 10-percent-or-greater equity interest in Radiate Holdings and the percentage interest held by them.

## II. THE PROPOSED TRANSACTION WILL SERVE THE PUBLIC INTEREST AND WILL NOT HARM COMPETITION

### A. Standard of Review

Under 47 U.S.C. §§ 214(a) and 310(d), the Commission must determine whether a proposed assignment or transfer of control of a provider of interstate or international telecommunications services or a holder of a wireless license is consistent with the public interest, convenience, and necessity.<sup>12</sup> In making such a determination, the Commission first assesses “whether the proposed transaction complies with the specific provisions of the Act, other applicable statutes, and the Commission’s rules.”<sup>13</sup> Second, if a proposed transaction would not violate the Act, any other applicable statute, or any of the Commission’s rules, the Commission then considers whether a proposed transaction “could result in public interest harms by substantially frustrating or impairing the objectives or implementation of the [Communications] Act or related statutes.”<sup>14</sup> Third, where a transaction raises no public interest harms or where any

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<sup>12</sup> See, e.g., *Applications of Level 3 Communications, Inc. and CenturyLink, Inc. for Consent to Transfer Control of Licenses and Authorizations*, Memorandum Opinion and Order, 32 FCC Rcd 9581, 9585 ¶ 8 (2017) (“*Level 3-CenturyLink Order*”); *Applications of AT&T Inc. and DIRECTV For Consent to Assign or Transfer Control of Licenses and Authorizations*, Memorandum Opinion and Order, 30 FCC Rcd 9131, 9139-40 ¶ 18 (2015) (“*AT&T-DIRECTV Order*”); *Applications of XO Holdings and Verizon Communications Inc. For Consent to Transfer Control of Licenses and Authorizations*, Memorandum Opinion and Order, 31 FCC Rcd 12,501, 12,504-05 ¶ 7 (Wireline Comp., Int’l, and Wireless Tel. Burs. 2016) (“*Verizon-XO Order*”).

<sup>13</sup> See *Level 3-CenturyLink Order*, 32 FCC Rcd at 9585 ¶ 8; *AT&T-DIRECTV Order*, 30 FCC Rcd at 9139-40 ¶ 18 (citations omitted); *Verizon-XO Order*, 31 FCC Rcd at 12,504-05 ¶ 7 (citations omitted); *Applications of SoftBank Corp., Starburst II, Inc., Sprint Nextel Corp., and Clearwire Corp.*, Memorandum Opinion and Order, Declaratory Ruling, and Order on Reconsideration, 28 FCC Rcd 9642, 9650 ¶ 23 (citations omitted) (“*Softbank-Sprint-Clearwire Order*”); *Applications Filed by Qwest Communications International Inc. and CenturyTel, Inc. d/b/a CenturyLink For Consent to Transfer Control*, Memorandum Opinion and Order, 26 FCC Rcd 4194, 4198-99 ¶ 7 (citation omitted) (“*Qwest-CenturyLink Order*”).

<sup>14</sup> See *Level 3-CenturyLink Order*, 32 FCC Rcd at 9585 ¶ 9; *AT&T-DIRECTV Order*, 30 FCC Rcd at 9140 ¶ 18 (citation omitted); *Verizon-XO Order*, 31 FCC Rcd at 12,504-05 ¶ 7 (citation

such harms can be ameliorated by narrowly-tailored conditions, the Commission considers the transaction's public interest benefits, with the applicants bearing the burden of proving those benefits by a preponderance of the evidence.<sup>15</sup> Finally, if the Commission finds that narrowly-tailored, transaction-specific conditions would ameliorate any public interest harms for a transaction that is otherwise in the public interest, it may approve the transaction as so conditioned.<sup>16</sup>

The Proposed Transaction will not violate any provision of the Act, any other applicable statute, or any Commission rule, nor will it substantially frustrate or impair the Commission's implementation or enforcement of the Act or interfere with the objectives of the Act or other statutes. To the contrary, as detailed below, the Proposed Transaction is expected to offer substantial public interest benefits without any material countervailing harms. In the absence of any such harms, transaction-specific conditions are unnecessary.

#### **B. The Proposed Transaction Will Serve the Public Interest**

Stonepeak's goal in the Proposed Transaction is simple: to make more resources available to an already excellent group of cable, broadband, and telephone providers. Stonepeak believes that it can create value by investing incremental capital after closing of the Proposed Transaction and has a history of partnering with leading management teams to provide a financial partner with available growth capital to scale their platforms. A majority of Stonepeak's investments have

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omitted); *SoftBank-Sprint-Clearwire Order*, 28 FCC Rcd at 9651 ¶ 23 (citation omitted); *Qwest-CenturyLink Order*, 26 FCC Rcd at 4199 ¶ 7.

<sup>15</sup> See *Level 3-CenturyLink Order*, 32 FCC Rcd at 9586 ¶ 10. In earlier transactions, the Commission weighed any potential public interest harms of the proposed transaction against any potential public interest benefits. See *AT&T-DIRECTV Order*, 30 FCC Rcd at 9140 ¶ 18 (citation omitted); *Verizon-XO Order*, 31 FCC Rcd at 12,504-05 ¶ 7 (citation omitted); *SoftBank-Sprint-Clearwire Order*, 28 FCC Rcd at 9650-51 ¶ 23 (citation omitted).

<sup>16</sup> See *Level 3-CenturyLink Order*, 32 FCC Rcd at 9586 ¶ 11.

substantial follow-on growth capital commitments. For example, since its acquisition by Stonepeak in 2015, ExteNet has expanded its indoor and outdoor “neutral host” distributed network (“DNS”) systems to help meet the intense demand for improved mobile and wireless broadband coverage and capacity in key strategic markets across the United States, and is the largest independent DNS provider in the United States.

Stonepeak has chosen this investment among other ones potentially available to it, in part, because of the excellent management and operations teams leading the Authority Holders. Stonepeak currently intends to retain the current management team and does not currently intend to materially change the operations of the Authority Holders—other than to devote additional resources to help the Authority Holders invest in their networks and services.

“[T]he Commission has long recognized the clear public interest benefits in a license or authorization holder being able to assign or transfer control of its license or authorization freely.”<sup>17</sup> The Proposed Transaction will have no adverse impact on the customers or operations of the Authority Holders. Upon consummation of the Proposed Transaction, the Authority Holders intend to continue to provide service at the same rates, terms, and conditions as contained in existing customer contracts. It is contemplated that existing customers will continue to be served by the Authority Holders under their existing authorizations, as well as under existing tariffs and contracts. The Proposed Transaction is not anticipated to result in service disruption, contract termination, or customer confusion. And, as discussed above, it is contemplated that the Authority Holders will continue to operate under the direction of their current experienced and knowledgeable management team. It is anticipated that the only material change resulting from

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<sup>17</sup> *Applications of T-Mobile US, Inc., & Sprint Corp., for Consent to Transfer Control of Licenses & Authorizations*, 34 FCC Rcd 10578, ¶ 41 (2019).

the Proposed Transaction will be that the Authority Holders will be controlled by Transferee rather than TPG Advisors. Transferee and the Stonepeak funds and managed vehicles acquiring the passive equity interests in Radiate Holdings are well-qualified to become the new controller and owners, respectively, of the Authority Holders, which, following consummation of the Proposed Transaction, will enjoy access to the resources and management expertise of Transferee and its affiliates and the Stonepeak funds and managed vehicles.

The Proposed Transaction will create no new combinations that will adversely affect competition in any domestic or U.S. international market. None of Transferee’s owners control, or are affiliated with, any dominant domestic or international telecommunications providers in the United States.

**III. INFORMATION REQUIRED BY 47 C.F.R. § 63.04**

The Applicants submit the following information pursuant to 47 C.F.R. § 63.04(a):

**A. Applicant Identification Information<sup>18</sup>**

In Table 1 below, the Applicants provide their names, addresses, telephone numbers, places of organization, and FCC Registration Numbers.

**TABLE 1: Applicant Identification Information**

Name, Address, and Telephone #	Place of Organization	FRN	Transaction Role
Radiate Holdings, L.P. 650 College Road East, Suite 3100 Princeton, NJ 08540 Tel: (609) 452-8197	Delaware	0025854779	Transferor

<sup>18</sup> See 47 C.F.R. §§ 63.04(a)(1), (2).

Name, Address, and Telephone #	Place of Organization	FRN	Transaction Role
Stonepeak Associates IV LLC c/o Stonepeak Infrastructure Partners 55 Hudson Yards 550 W 34th Street, 48 <sup>th</sup> Floor New York, NY 10001 Tel: (212) 907-5100	Delaware	0030233035	Transferee
RCN Telecom Services (Lehigh) LLC 650 College Road East, Suite 3100 Princeton, NJ 08540 (609) 681-2184	Delaware	0019653450	Authority Holder
RCN Telecom Services of Philadelphia, LLC 650 College Road East, Suite 3100 Princeton, NJ 08540 (609) 681-2184	Delaware	0019653443	Authority Holder
RCN Telecom Services of New York, LP 650 College Road East, Suite 3100 Princeton, NJ 08540 (609) 681-2184	Delaware	0019653401	Authority Holder
RCN Telecom Services of Massachusetts, LLC 650 College Road East, Suite 3100 Princeton, NJ 08540 (609) 681-2184	Delaware	0019653476	Authority Holder
RCN Telecom Services of Illinois, LLC 650 College Road East, Suite 3100 Princeton, NJ 08540 (609) 681-2184	Delaware	0008314908	Authority Holder
Starpower Communications, LLC 650 College Road East, Suite 3100 Princeton, NJ 08540 (609) 681-2184	Delaware	0003735016	Authority Holder
Grande Communications Networks, LLC 650 College Road East, Suite 3100 Princeton, NJ 08540 (609) 681-2184	Delaware	0006178198	Authority Holder
Astound Broadband, LLC 650 College Road East, Suite 3100 Princeton, NJ 08540 (609) 681-2184	Washington	0013907894	Authority Holder



<b>Name, Address, and Telephone #</b>	<b>Place of Organization</b>	<b>FRN</b>	<b>Transaction Role</b>
Astound Phone Services, LLC 650 College Road East, Suite 3100 Princeton, NJ 08540 (609) 681-2184	Delaware	0026914994	Authority Holder
ETS Telephone Company, LLC 650 College Road East, Suite 3100 Princeton, NJ 08540 (609) 681-2184	Delaware	0004322814	Authority Holder
ETS Cablevision, Inc. 650 College Road East, Suite 3100 Princeton, NJ 08540 (609) 681-2184	Delaware	0003749678	Authority Holder

**Contact Information<sup>19</sup>**

The Commission should address correspondence regarding this application to the persons identified in Table 2 below.

**TABLE 2: Applicant Contact Information**

<b>Applicant</b>	<b>Company Contact</b>	<b>Counsel Contact</b>
Transferor and Authority Holders	<p>Jeffrey B. Kramp General Counsel Radiate Holdings, L.P. 650 College Road East, Suite 3100 Princeton, NJ 08540 Email: jkramp@patmedia.us</p> <p>Joe Kahl Vice President, Regulatory &amp; Public Affairs RCN / Grande / Wave 650 College Road East, Suite 3100 Princeton, NJ 08540 Email: joe.kahl@rcn.net</p>	<p>Edward A. Yorkgitis, Jr. Winafred R. Brantl KELLEY DRYE &amp; WARREN, LLP 3050 K St., NW Suite 400 Washington, D.C. 20007 Telephone: (202) 342-8400 Email: cyorkgitis@kelleydrye.com wbrantl@kelleydrye.com</p> <p>Michael R. Dover KELLEY DRYE &amp; WARREN, LLP 333 West Wacker Drive, Suite 2600 Chicago, IL 60606 Telephone: (312) 857-7087 Email: mdover@kelleydrye.com</p>

<sup>19</sup> See *id.* § 63.04(a)(3).

Applicant	Company Contact	Counsel Contact
Transferee	<p>Brian McMullen Senior Managing Director Stonepeak Associates IV LLC c/o Stonepeak Infrastructure Partners 55 Hudson Yards 550 W 34th Street, 48<sup>th</sup> Floor New York, NY 10001 Email: mcmullen@stonepeakpartners.com</p> <p>Adrienne Saunders General Counsel Stonepeak Associates IV LLC c/o Stonepeak Infrastructure Partners 55 Hudson Yards 550 W 34th Street, 48<sup>th</sup> Floor New York, NY 10001 Email: saunders@stonepeakpartners.com</p>	<p>William M. Wiltshire Michael D. Nilsson H. Henry Shi HARRIS, WILTSHIRE &amp; GRANNIS LLP 1919 M Street, NW, Suite 800 Washington, DC 20036 Telephone: (202) 730-1300 Email: wwiltshire@hwglaw.com mmilsson@hwglaw.com hshi@hwglaw.com</p>

**Proposed Direct and Indirect Ownership of Authority Holders<sup>20</sup>**

Upon consummation of the Proposed Transaction, certain entities and/or individuals are expected to hold, directly or indirectly, a 10-percent-or-greater equity or voting interest in the Authority Holders as calculated pursuant to the Commission’s ownership attribution rules for wireline and international telecommunications carriers. These interests are reflected in the organizational charts provided in Attachment 1 and the related information required by the Commission is provided in the table provided in Attachment 2.

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<sup>20</sup> See *id.* § 63.04(a)(4).

### **Certification Regarding the Anti-Drug Abuse Act of 1988<sup>21</sup>**

The Applicants certify that no party to this application is subject to denial of federal benefits under Section 5301 of the Anti-Drug Abuse Act of 1988, as amended.<sup>22</sup>

### **Transaction Description**

The Applicants describe the Proposed Transaction in part I.B above.

### **Services Provided and Geographic Areas Services<sup>23</sup>**

The Applicants describe the Authority Holders' services and operating territories in part I.A(2) above.

### **Streamlining<sup>24</sup>**

This application qualifies for streamlined processing pursuant to 47 C.F.R. § 63.03(b)(1)(ii), because the Proposed Transaction does not transfer control of the authorizations held by the Authority Holders to another telecommunications provider, and pursuant to 47 C.F.R. § 63.03(b)(2), because no Applicant (nor any Applicant affiliate) is dominant with respect to any service.

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<sup>21</sup> See 47 C.F.R. §§ 63.04(a)(5).

<sup>22</sup> 21 U.S.C. § 862(a); Anti-Drug Abuse Act of 1988, Pub. L. No. 100-690, § 5301, 102 Stat. 4181, 4310-12 (1988), which related to denial of Federal benefits to drug traffickers and possessors—previously codified at 21 U.S.C. § 853(a)—was renumbered section 421 of the Controlled Substances Act of 1990, Pub. L. No. 101-647, § 1002(d)(1), 104 Stat. 4789, 4827 (1990), and has been recodified as 21 U.S.C. § 862(a). 47 C.F.R. § 63.18(o) does not reflect this recodification.

<sup>23</sup> 47 C.F.R. § 63.04(a)(7).

<sup>24</sup> 47 C.F.R. § 63.04(a)(8).

### **Other Applications Filed with the Commission<sup>25</sup>**

In connection with the Proposed Transaction, applications are concurrently being filed with the International Bureau for authority to transfer of control of an earth station license, with the Wireless Telecommunications Bureau for authority to transfer of control of numerous wireless licenses, and with the Media Bureau for authority to transfer of control of a CARS license.

### **Business Necessity<sup>26</sup>**

The Applicants request expedited consideration of this application to allow for consummation of the Proposed Transaction in the second calendar quarter of 2021.

### **Waiver Requests<sup>27</sup>**

The Applicants have not requested any waivers relating to this Application.

### **Public Interest Benefits<sup>28</sup>**

Please see part II above for a discussion of the public interest benefits of the Proposed Transaction.

## **IV. INFORMATION REQUIRED BY 47 C.F.R. § 63.24**

The Applicants provide the following information pursuant to 47 C.F.R. § 63.24(e).

### **A. Applicant Identification Information<sup>29</sup>**

See response to part III.A above for the Applicants' names, addresses, telephone numbers, place of organization, and FCC Registration Numbers.

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<sup>25</sup> 47 C.F.R. § 63.04(a)(9).

<sup>26</sup> 47 C.F.R. § 63.04(a)(10).

<sup>27</sup> 47 C.F.R. § 63.04(a)(11).

<sup>28</sup> 47 C.F.R. § 63.04(a)(12).

<sup>29</sup> 47 C.F.R. § 63.18(a), (b).

**Contact Information<sup>30</sup>**

See response to part III.B above for the contact details of the persons to whom correspondence relating to this application should be addressed.

**Prior Section 214 Authority<sup>31</sup>**

The Authority Holders hold global or limited global facilities-based and resale authority, granted under the file numbers identified in Table 3:

**Table 3: International Section 214 Authorizations**

<b>Authority Holder</b>	<b>International 214 File Nos.</b>
RCN Telecom Services (Lehigh) LLC	ITC-214-19961004-00490 ITC-214-19970717-00411 ITC-214-19970723-00430 ITC-214-19981002-00679
RCN Telecom Services of Philadelphia, LLC	ITC-214-19970707-00379
RCN Telecom Services of New York, LP	ITC-214-19970707-00384
RCN Telecom Services of Massachusetts, LLC	ITC-214-19971027-00661
RCN Telecom Services of Illinois, LLC	ITC-214-19980731-00532
Starpower Communications, LLC	ITC-214-19980116-00024
Grande Communications Networks, LLC	ITC-214-20001108-00651
Astound Broadband, LLC	ITC-214-20050701-00565
Astound Phone Service, LLC	ITC-214-20171016-00172
ETS Telephone Company, Inc.	ITC-214-19960311-00007

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<sup>30</sup> 47 C.F.R. § 63.18(c).

<sup>31</sup> 47 C.F.R. § 63.18(d).

**Certification Regarding Ownership, Place of Organization, Principal Business, and Interlocking Directorates.<sup>32</sup>**

See response to part III.C above, specifically Attachment 2 and the organizational charts in Attachment 1, for a list of entities and persons that will, upon consummation of the Transaction, hold directly or indirectly a 10-percent-or-greater equity or voting interest in the Authority Holders, and the percentage expected to be held by each of those entities and persons. Transferee does not have any interlocking directorates with a foreign carrier.

**Certification Regarding Foreign Carrier Status and Foreign Affiliations<sup>33</sup>**

Applicants certify that upon consummation of the Proposed Transaction: (1) none of Transferee or the Authority Holders will be a foreign carrier in any foreign country; and (2) Transferee and the Authority Holders will be affiliated with the foreign carriers identified in Table 4 (the “Foreign Affiliates”), which are ultimately controlled by Mr. Dorrell:

**Table 4: Stonepeak Foreign Affiliates**

<b>Affiliate</b>	<b>Countries</b>
ExteNet Systems (Canada) Inc.	Canada
Xplornet Communications Inc.	Canada
DAScom Inc.	Canada
Hudson Fiber Network	Canada
euNetworks GmbH	Austria, Czech Republic, Germany
euNetworks BVBA	Belgium
euNetworks Fiber UK Ltd	Denmark, Finland, Ireland, Norway, Sweden, United Kingdom
euNetworks SAS	France
euNetworks Managed Services GmbH	Germany

<sup>32</sup> 47 C.F.R. § 63.18(h).

<sup>33</sup> 47 C.F.R. § 63.18(i).

euNetworks S.r.l	Italy
euNetworks BV	Netherlands
euNetworks 1 Pte Ltd	Singapore
euNetworks AG	Switzerland

**Certification Regarding Destination Countries<sup>34</sup>**

The Applicants certify that, upon consummation of the Proposed Transaction, (1) none of Transferee or the Authority Holders will be a foreign carrier in any of the countries that the Authority Holders service; (2) none of Transferee or the Authority Holders will control foreign carriers in the destination countries on the routes served by the Authority Holders; (3) Stonepeak is presently expected to continue to control the Foreign Affiliates (although as a private equity firm, Stonepeak may investigate opportunities to divest its interest in the Foreign Affiliates from time to time); and (4) no grouping of two or more foreign carriers (or parties that control foreign carriers in the countries served by the Authority Holders) will own, in aggregate, more than 25 percent of Transferee or the Authority Holders and are parties to, or beneficiaries of, a contractual relationship affecting the provision or marketing of arrangements for the terms of acquisition, sale, lease, transfer, and use of capacity on the routes served by the Authority Holders.

**Certifications Regarding WTO Status<sup>35</sup>**

No response is required, as the Applicants did not identify any non-WTO markets in response to 47 C.F.R. § 63.18(j).

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<sup>34</sup> See *id.* § 63.18(j).

<sup>35</sup> See *id.* § 63.18(k).

### **Non-Dominant Status<sup>36</sup>**

The Foreign Affiliates identified in part IV.E above each satisfy the requirement of 47 C.F.R. § 63.10(a)(3), as each holds significantly less than a 50-percent market share in the international transport and local access markets in its respective country. Moreover, none of the Foreign Affiliates has any ability to discriminate against unaffiliated U.S. international carriers through the control of bottleneck services or facilities in its respective international market or appears on the Commission's list of foreign telecommunications carriers presumed to possess market power in foreign telecommunications markets.<sup>37</sup> Accordingly, these foreign-carrier affiliates are each presumed to lack sufficient market power on the international end of the route to affect competition adversely in the U.S. market.

### **Special Concessions<sup>38</sup>**

The Applicants certify that they have not agreed to accept special concessions directly or indirectly from any foreign carrier with respect to any U.S. international route where the foreign carrier possesses market power on the foreign end of the route and will not enter into such agreements in the future.

### **Certification Regarding the Anti-Drug Abuse Act of 1988.<sup>39</sup>**

See part III.D above for the Applicants' Anti-Drug Abuse Act certification.

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<sup>36</sup> *See id.* § 63.18(m).

<sup>37</sup> *See International Bureau Revises and Reissues the Commission's List of Foreign Telecommunications Carriers That Are Presumed to Possess Market Power in Foreign Telecommunications Markets*, Public Notice, 22 FCC Rcd 945 (Int'l Bur. 2007).

<sup>38</sup> 47 C.F.R. § 63.18(n).

<sup>39</sup> *See id.* § 63.18(o).



## Streamlining<sup>40</sup>

The Applicants request streamlined processing pursuant to 47 C.F.R. § 63.12(c)(1)(ii), as they qualify for a presumption of non-dominance based on affiliations with the non-dominant Foreign Affiliates described in part IV.E above. The Proposed Transaction raises no foreign ownership concerns that warrant referral to the Committee for the Assessment of Foreign Participation in the United States Telecommunications Services Sector.

### CONCLUSION

For the reasons stated above, the Applicants request that the Commission expeditiously grant consent for the transfer of control of the Authority Holders from Radiate Holdings, L.P., to Stonepeak Associates IV LLC.

Respectfully submitted,

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*Counsel to Transferor and Authority Holders*

Date: November 30, 2020

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<sup>40</sup> See *id.* § 63.18(p).

## VERIFICATIONS

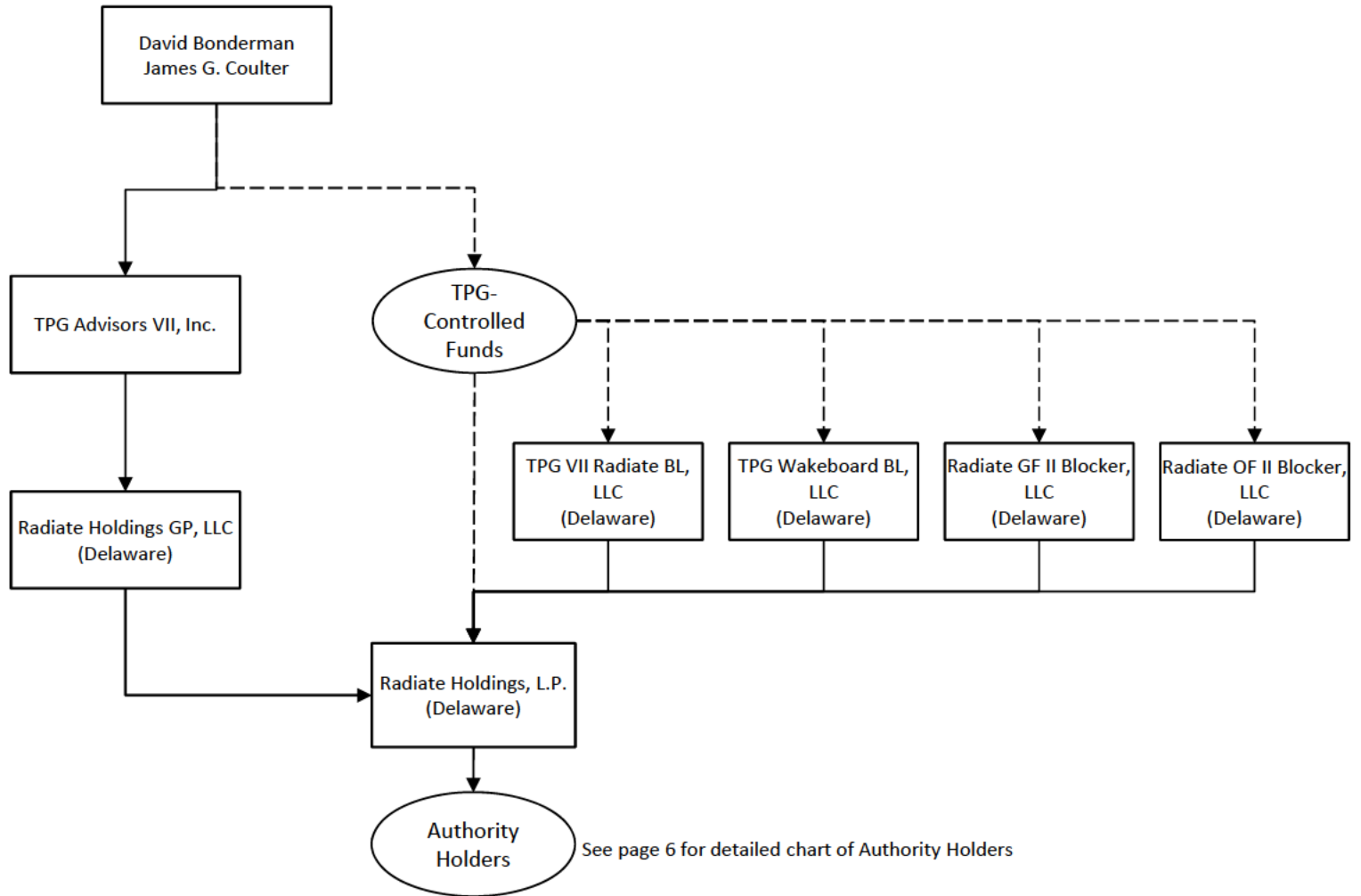
## Pre-Close Ownership of Authority Holders

**Red:** GP or other controlling person

**Blue:** Non-controlling member/limited partner equity interests

Controlling interests are 100% unless otherwise indicated

Dash lines indicate indirect interest.



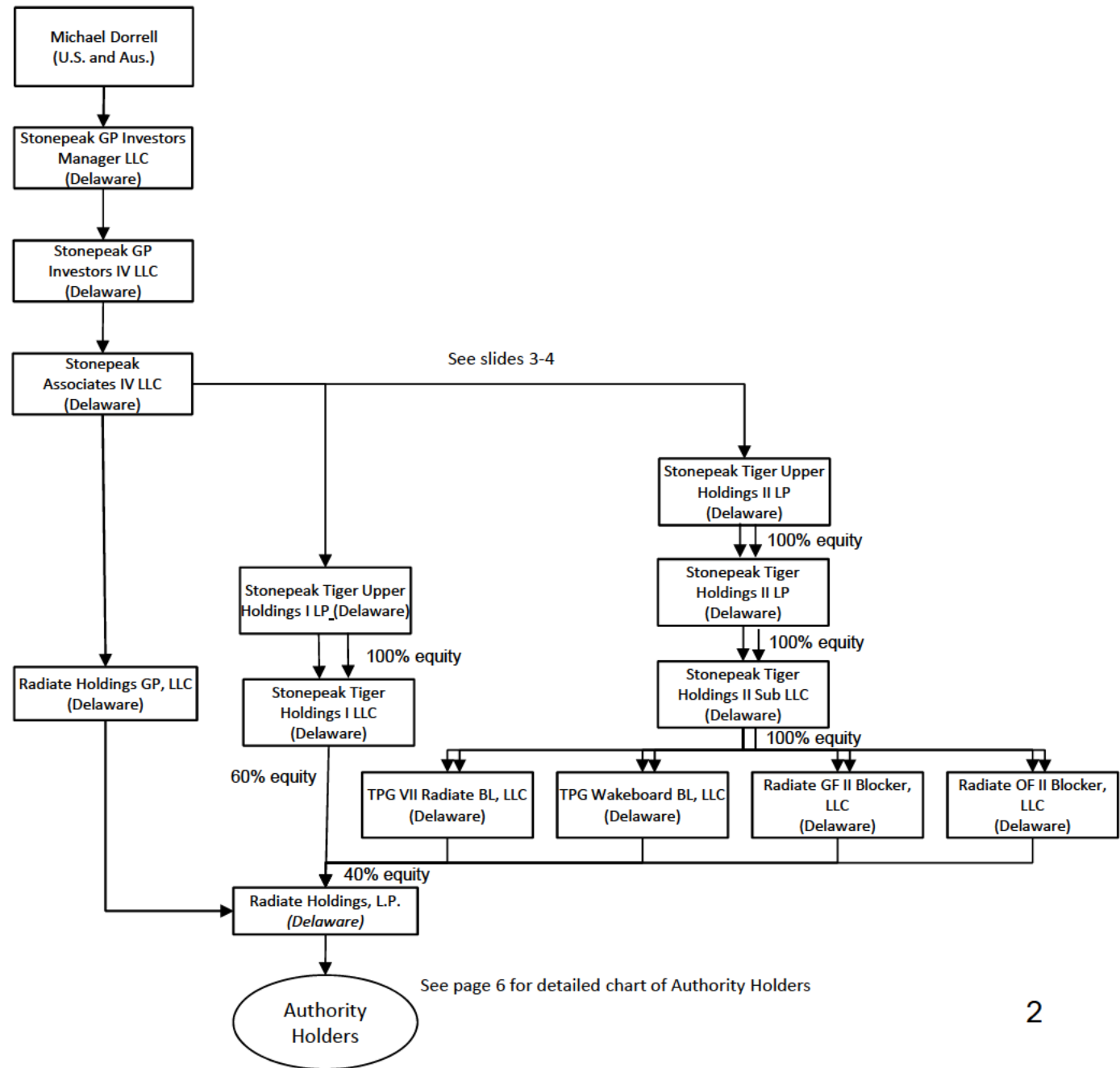
**Red:** GP or other controlling person

**Blue:** Non-controlling member/limited partner equity interests

Controlling interests are 100% unless otherwise indicated

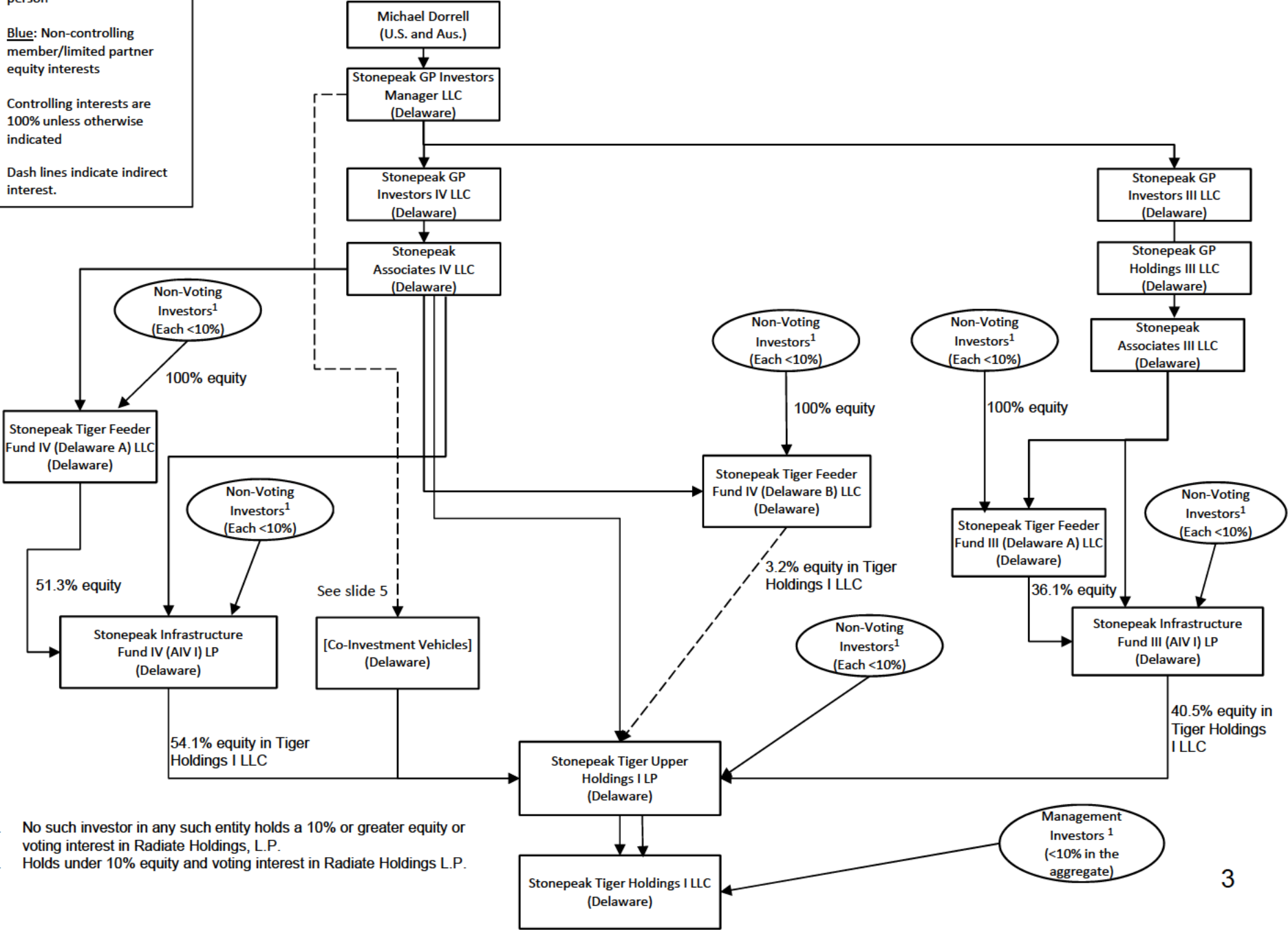
Dash lines indicate indirect interest.

### Post-Close Ownership of Authority Holders (Indirect Control of Authority Holders)



Post-Close Ownership of Authority Holders (Ownership of Stonepeak Tiger Holdings I LLC)

Red: GP or other controlling person  
Blue: Non-controlling member/limited partner equity interests  
 Controlling interests are 100% unless otherwise indicated  
 Dash lines indicate indirect interest.



- 1. No such investor in any such entity holds a 10% or greater equity or voting interest in Radiate Holdings, L.P.
- 2. Holds under 10% equity and voting interest in Radiate Holdings L.P.

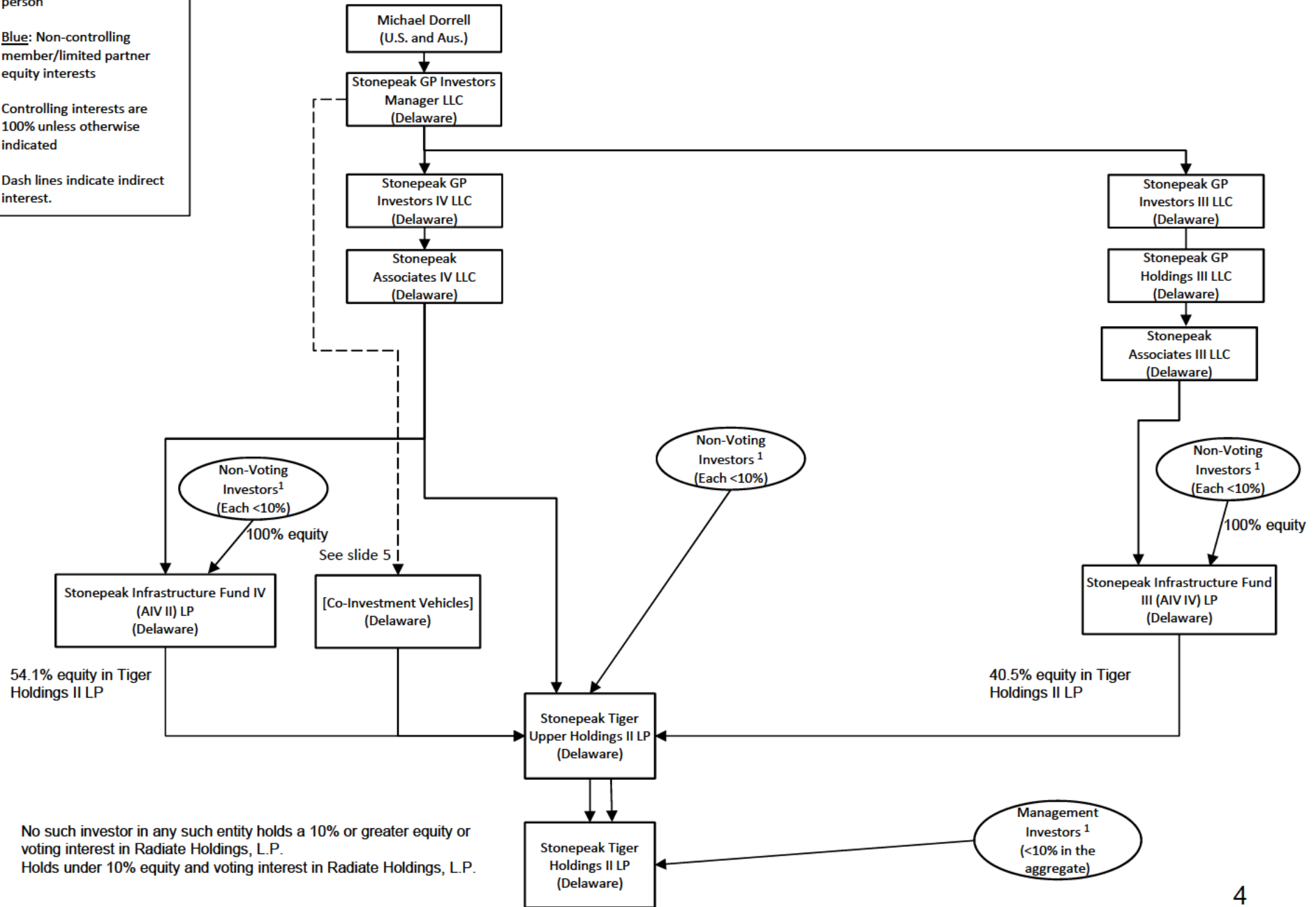
## Post-Close Ownership of Authority Holders (Ownership of Stonepeak Tiger Holdings II LP)

**Red:** GP or other controlling person

**Blue:** Non-controlling member/limited partner equity interests

Controlling interests are 100% unless otherwise indicated

Dash lines indicate indirect interest.



1. No such investor in any such entity holds a 10% or greater equity or voting interest in Radiate Holdings, L.P.
2. Holds under 10% equity and voting interest in Radiate Holdings, L.P.

## Post-Close Ownership of Co-Investment Vehicles (Ownership of Tiger Holdings I and II)

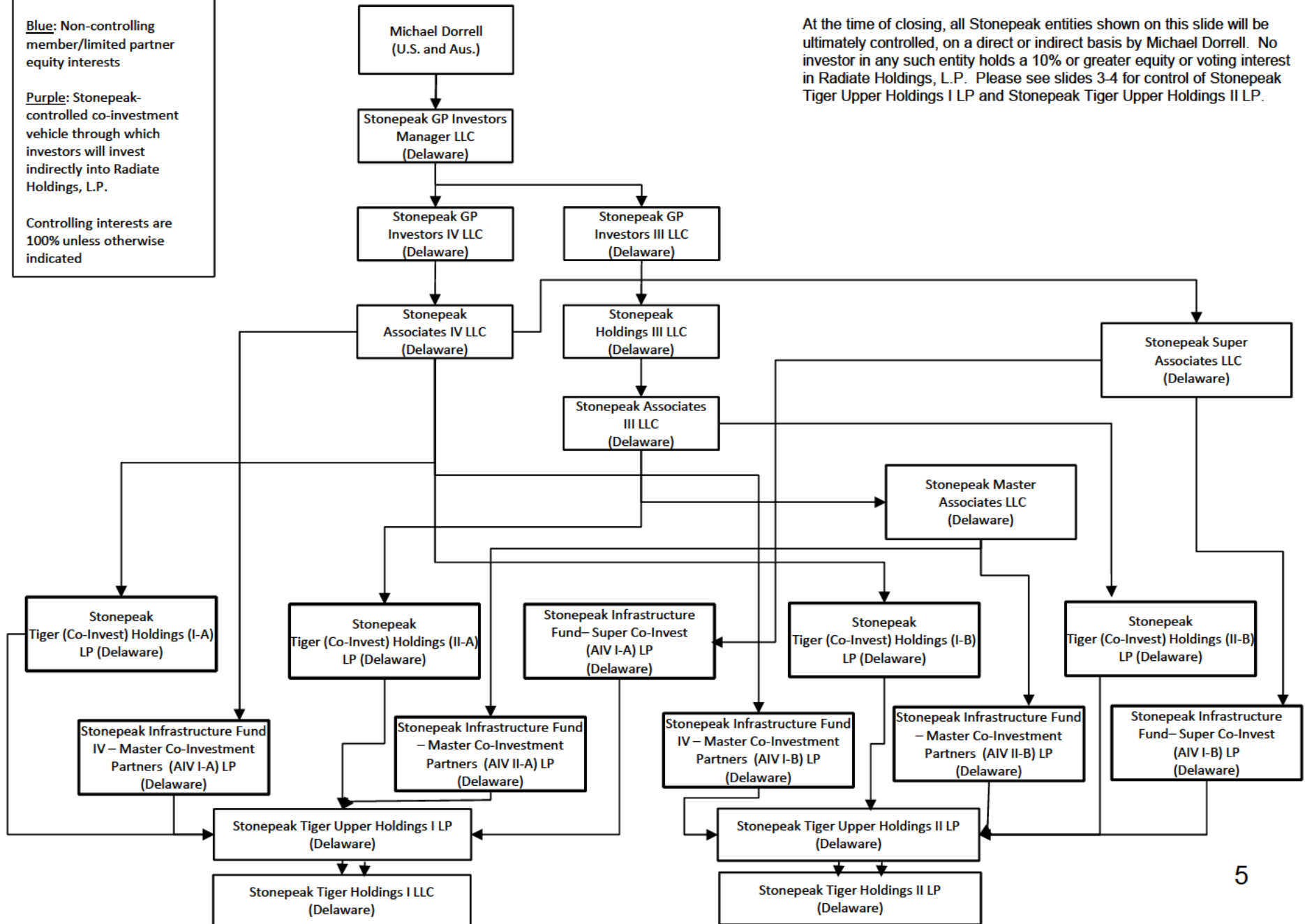
**Red:** GP or other controlling person

**Blue:** Non-controlling member/limited partner equity interests

**Purple:** Stonepeak-controlled co-investment vehicle through which investors will invest indirectly into Radiate Holdings, L.P.

Controlling interests are 100% unless otherwise indicated

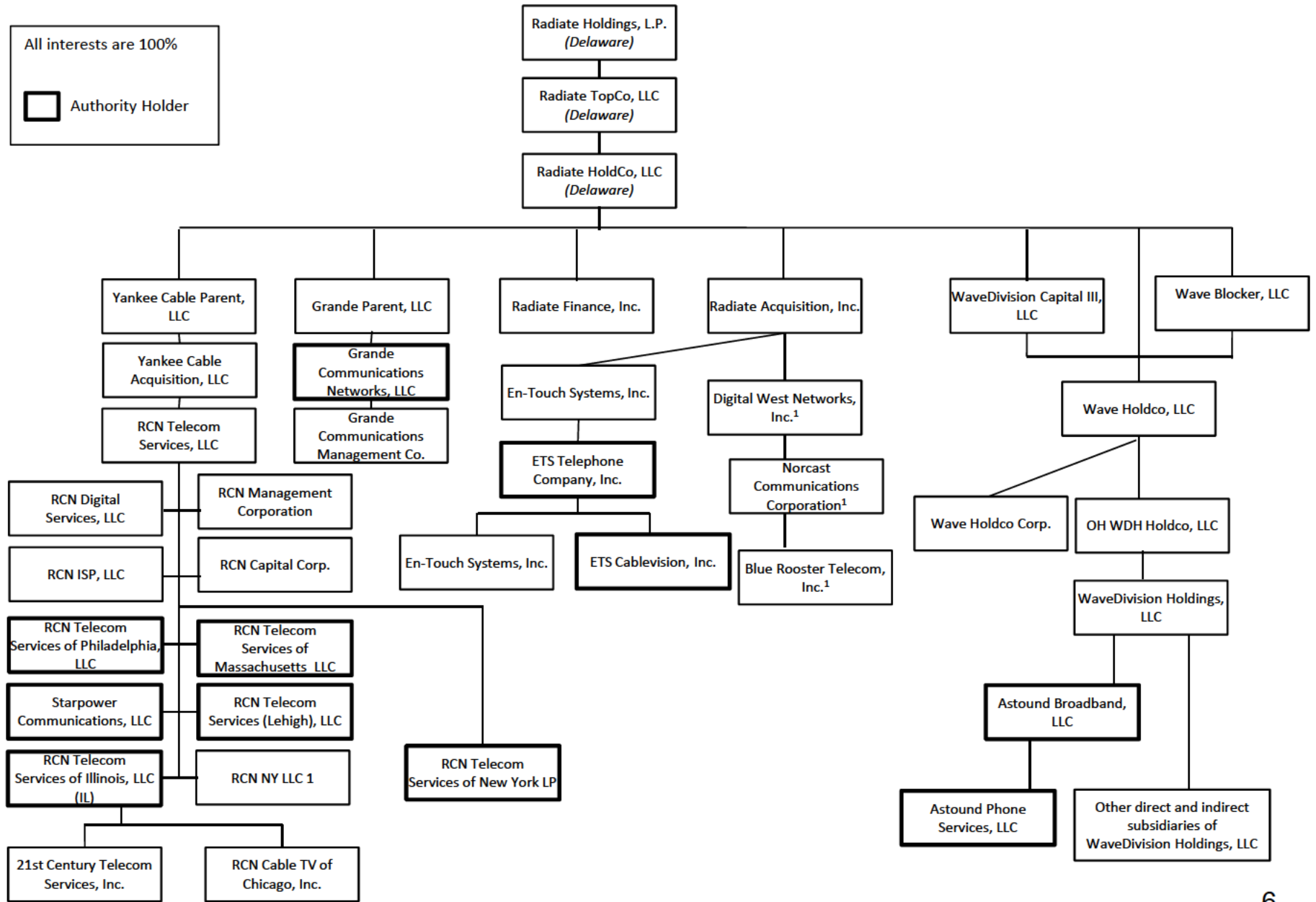
At the time of closing, all Stonepeak entities shown on this slide will be ultimately controlled, on a direct or indirect basis by Michael Dorrell. No investor in any such entity holds a 10% or greater equity or voting interest in Radiate Holdings, L.P. Please see slides 3-4 for control of Stonepeak Tiger Upper Holdings I LP and Stonepeak Tiger Upper Holdings II LP.



# Authority Holders

All interests are 100%

Authority Holder



<sup>1</sup> Pending close of transaction.



**ATTACHMENT 2:  
TRANSFEREES AND AUTHORITY HOLDERS  
POST-CLOSE OWNERSHIP INTERESTS**

Upon consummation of the Proposed Transaction, the following persons will have 10-percent-or-greater direct and indirect equity or voting interests in Radiate Holdings, L.P.

(“Radiate Holdings”). Radiate Holdings has and will continue to have 100% indirect equity and voting control of the Authority Holders.<sup>1</sup>

1.     *Name:*                     **Radiate Holdings GP LLC (“Radiate GP”)**  
       *Address:*                 717 Fifth Avenue, 25th Floor, New York, NY 10022  
       *Place of Organization:* Delaware  
       *Type of Organization:* limited liability company  
       *Principal Business:* investments  
       *Interest Held:*         Radiate GP will hold a direct 0% equity and 100% voting interest in Radiate Holdings (by virtue of being the general partner of Radiate Holdings)  
  
       *Role:*                     Radiate GP is and will continue to be the general partner of Radiate Holdings
  
2.     *Name:*                     **Stonepeak Tiger Holdings I LLC (“Tiger Holdings I”)**  
       *Address:*                 55 Hudson Yards, 550 W 34th Street, 48<sup>th</sup> Floor, New York, NY 10001  
  
       *Place of Organization:* Delaware  
       *Type of Organization:* limited liability company  
       *Principal Business:* investments  
       *Interest Held:*         Tiger Holdings I will hold approximately a direct 60% equity and 0% voting interest in Radiate Holdings  
  
       *Role:*                     Tiger Holdings I will be a passive investor in Radiate Holdings.
  
3.     *Name:*                     **Stonepeak Tiger Upper Holdings I LP (“Tiger Upper Holdings I”)**

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<sup>1</sup> The percentage equity interests set forth in this Attachment 3 are the Transferee’s best estimates as at the date of this application based on the information presently available to the Transferee. The Applicants will, in a timely fashion, notify the Commission of any material changes to these percentage equity interests (including as a result of the exercise of the TPG Investment Right and any co-investment). No change is expected to the control of Radiate GP and in turn the Authority Holders from that set forth herein.

- Address:* 55 Hudson Yards, 550 W 34th Street, 48<sup>th</sup> Floor, New York, NY 10001
- Place of Organization:* Delaware
- Type of Organization:* limited partnership
- Principal Business:* investments
- Interest Held:* Tiger Upper Holdings I will a direct 100% equity and 100% voting interest in Tiger Holdings I (see no. 2)<sup>2</sup>
- Role:* Tiger Upper Holdings I will be an indirect passive investor in Radiate Holdings that will aggregate the passive, indirect investments of its members
4. *Name:* **Stonepeak Infrastructure Fund IV (AIV I) LP**
- Address:* 55 Hudson Yards, 550 W 34th Street, 48<sup>th</sup> Floor, New York, NY 10001
- Place of Organization:* Delaware
- Type of Organization:* limited partnership
- Principal Business:* investments
- Interest Held:* Stonepeak Infrastructure Fund IV (AIV I) LP will hold an indirect 54.1% equity and 0% voting interest in Tiger Holdings I (see no. 2) through its direct 54.1% equity and 0% voting interest in Tiger Upper Holdings I (see no. 3)
- Role:* Stonepeak Infrastructure Fund IV (AIV I) LP will be an indirect passive investor in Radiate Holdings that will aggregate the passive, indirect investments of its limited partners
5. *Name:* **Stonepeak Tiger Feeder Fund IV (Delaware A) LLC**
- Address:* 55 Hudson Yards, 550 W 34th Street, 48<sup>th</sup> Floor, New York, NY 10001
- Place of Organization:* Delaware
- Type of Organization:* limited liability company
- Principal Business:* investments
- Interest Held:* Stonepeak Tiger Feeder Fund IV (Delaware A) LLC will hold an indirect 54.1% equity and 0% voting interest in Tiger Holdings I (see no. 2) through its direct 51.3% equity and 0% voting interest in Stonepeak Infrastructure Fund IV (AIV I) LP (see no. 4)
- Role:* Stonepeak Tiger Feeder Fund IV (Delaware A) LLC will be an indirect passive investor in Radiate Holdings that will aggregate the passive, indirect investments of its members, none of which will have a 10-percent-or-greater equity or voting interest in Radiate Holdings

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<sup>2</sup> Stonepeak management will hold in the aggregate a de minimis equity interest in Tiger Holdings I.

6. *Name:* **Stonepeak Tiger Feeder Fund IV (Delaware B) LLC**  
*Address:* 55 Hudson Yards, 550 W 34th Street, 48<sup>th</sup> Floor, New York, NY 10001  
*Place of Organization:* Delaware  
*Type of Organization:* limited liability company  
*Principal Business:* investments  
*Interest Held:* Stonepeak Tiger Feeder Fund IV (Delaware B) LLC will hold an indirect 3.2% equity and 0% voting interest in Tiger Holdings I (see no 2.) through its indirect 3.2% equity and 0% voting interest in Tiger Upper Holdings I (see no. 3) held through Stonepeak-managed entities, none of which will have a 10-percent-or-greater equity or voting interest in Radiate Holdings  
*Role:* Stonepeak Tiger Feeder Fund IV (Delaware B) LLC will be an indirect passive investor in Radiate Holdings that will aggregate the passive, indirect investments of its members, none of which will have a 10-percent-or-greater equity or voting interest in Radiate Holdings
7. *Name:* **Stonepeak Infrastructure Fund III (AIV I) LP**  
*Address:* 55 Hudson Yards, 550 W 34th Street, 48<sup>th</sup> Floor, New York, NY 10001  
*Place of Organization:* Delaware  
*Type of Organization:* limited partnership  
*Principal Business:* investments  
*Interest Held:* Stonepeak Infrastructure Fund III (AIV I) LP will hold an indirect 40.5% equity and 0% voting interest in Tiger Holdings I (see no. 2) through its direct 40.5% equity and 0% voting interest in Tiger Upper Holdings I (see no. 3)  
*Role:* Stonepeak Infrastructure Fund III (AIV I) LP will be an indirect passive investor in Radiate Holdings that will aggregate the passive, indirect investments of its limited partners
8. *Name:* **Stonepeak Tiger Feeder Fund III (Delaware A) LLC**  
*Address:* 55 Hudson Yards, 550 W 34th Street, 48<sup>th</sup> Floor, New York, NY 10001  
*Place of Organization:* Delaware  
*Type of Organization:* limited liability company  
*Principal Business:* investments  
*Interest Held:* Stonepeak Tiger Feeder Fund III (Delaware A) LLC will hold an indirect 14.6% equity and 0% voting interest in Tiger Holdings I (see no. 2) through its direct 36.1% equity and 0% voting interest in Stonepeak Infrastructure Fund III (AIV I) LP (see no. 7)

- Role:* Stonepeak Tiger Feeder Fund III (Delaware A) LLC will be an indirect passive investor in Radiate Holdings and will aggregate the passive, indirect investments of its members, none of which will have a 10-percent-or-greater equity or voting interest in Radiate Holdings
9. *Name:* **Stonepeak Tiger Holdings II Sub LLC (“Tiger Holdings II”)**  
*Address:* 55 Hudson Yards, 550 W 34th Street, 48<sup>th</sup> Floor, New York, NY 10001  
*Place of Organization:* Delaware  
*Type of Organization:* limited liability company  
*Principal Business:* investments  
*Interest Held:* Tiger Holdings II will hold approximately an indirect 40% equity and 0% voting interest in Radiate Holdings through its direct holding of 100% of the membership interests in the following limited liability companies, that collectively hold approximately a 40% equity and 0% voting interest in Radiate Holdings: TPG VII Radiate BL, LLC; TPG Wakeboard BL, LLC; Radiate GF II Blocker, LLC; and Radiate OF II Blocker, LLC.  
*Role:* Tiger Holdings II will be an indirect passive investor in Radiate Holdings
10. *Name:* **Stonepeak Tiger Holdings II LP**  
*Address:* 55 Hudson Yards, 550 W 34th Street, 48<sup>th</sup> Floor, New York, NY 10001  
*Place of Organization:* Delaware  
*Type of Organization:* limited partnership  
*Principal Business:* investments  
*Interest Held:* Stonepeak Tiger Holdings II LP will hold a direct 100% equity and 100% voting interest in Tiger Holdings II (see no. 9)  
*Role:* Stonepeak Tiger Holdings II LP will be an indirect passive investor in Radiate Holdings and will aggregate the passive, indirect investments of its limited partners.
11. *Name:* **Stonepeak Tiger Upper Holdings II LP (“Tiger Upper Holdings II”)**  
*Address:* 55 Hudson Yards, 550 W 34th Street, 48<sup>th</sup> Floor, New York, NY 10001  
*Place of Organization:* Delaware  
*Type of Organization:* limited partnership  
*Principal Business:* investments  
*Interest Held:* Tiger Upper Holdings II will hold an indirect 100% equity and 100% voting interest in Tiger Holdings II (see no. 9)

- through its direct 100% equity and 100% voting interest in Stonepeak Tiger Holdings II LP (see no. 10)<sup>3</sup>
- Role:* Stonepeak Tiger Holdings II LP will be an indirect passive investor in Radiate Holdings and will aggregate the passive, indirect investments of its limited partners
12. *Name:* **Stonepeak Infrastructure Fund IV (AIV II) LP**  
*Address:* 55 Hudson Yards, 550 W 34th Street, 48<sup>th</sup> Floor, New York, NY 10001  
*Place of Organization:* Delaware  
*Type of Organization:* limited partnership  
*Principal Business:* investments  
*Interest Held:* Stonepeak Infrastructure Fund IV (AIV II) LP will hold an indirect 54.1% equity and 0% voting interest in Tiger Holdings II (see no. 9) through its direct 54.1% equity interest and 0% voting interest in Tiger Upper Holdings II (see no. 11)  
*Role:* Stonepeak Infrastructure Fund IV (AIV II) LP will be an indirect passive investor in Radiate Holdings that will aggregate the passive, indirect investments of its limited partners, none of which will have a 10-percent-or-greater equity or voting interest in Radiate Holdings
13. *Name:* **Stonepeak Infrastructure Fund III (AIV IV) LP**  
*Address:* 55 Hudson Yards, 550 W 34th Street, 48<sup>th</sup> Floor, New York, NY 10001  
*Place of Organization:* Delaware  
*Type of Organization:* limited partnership  
*Principal Business:* investments  
*Interest Held:* Stonepeak Infrastructure Fund III (AIV IV) LP will hold an indirect 40.5% equity and 0% voting interest in Tiger Holdings II (see no. 9) through its a direct 40.5% equity and 0% voting interest in Tiger Upper Holdings II (see no. 11)  
*Role:* Stonepeak Infrastructure Fund III (AIV IV) LP will be an indirect passive investor in Radiate Holdings that will aggregate the passive, indirect investments of its limited partners, none of which will have a 10-percent-or-greater equity or voting interest in Radiate Holdings
14. *Name:* **Stonepeak Associates IV LLC**  
*Address:* 55 Hudson Yards, 550 W 34th Street, 48<sup>th</sup> Floor, New York, NY 10001

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<sup>3</sup> Stonepeak management will hold in aggregate a de minimis equity interest in Stonepeak Tiger Holdings II LP.

*Place of Organization:* Delaware  
*Type of Organization:* limited liability company  
*Principal Business:* investments  
*Interest Held:* Stonepeak Associates IV LLC will hold a direct 100% equity and 100% voting interest in Radiate GP (see no. 1).

*Role:* Stonepeak Associates IV LLC will indirectly control Radiate Holdings (and thus the Authority Holders) through its ability to appoint a majority of the directors of the Radiate GP (see no. 1).

Stonepeak Associates IV LLC will also indirectly control the following passive investors:

(i) Tiger Holdings I through its role as the managing member of Tiger Upper Holdings I (see no. 3), which is the managing member of Tiger Holdings I (see no. 2);

(ii) Stonepeak Infrastructure Fund IV (AIV I) LP as its general partner (see no. 4);

(iii) Stonepeak Tiger Feeder Fund IV (Delaware A) LLC as its managing member (see no. 5);

(iv) Stonepeak Tiger Feeder Fund IV (Delaware B) LLC as its managing member (see no. 6);

(v) Tiger Holdings II through its role as the general partner of Tiger Upper Holdings II (see no. 11), which is the general partner of Stonepeak Tiger Holdings II LP (see no. 10), which in turn is the managing member of Tiger Holdings II (see no. 9); and

(vi) Stonepeak Infrastructure Fund IV (AIV II) LP as its general partner (see no. 12).

15. *Name:* **Stonepeak Associates III LLC**  
*Address:* 55 Hudson Yards, 550 W 34th Street, 48<sup>th</sup> Floor, New York, NY 10001  
*Place of Organization:* Delaware  
*Type of Organization:* limited liability company  
*Principal Business:* investments  
*Interest Held:* Stonepeak Associates III LLC will control the following indirect passive investors in Radiate Holdings: (i) Stonepeak Infrastructure Fund III (AIV I) LP (see no. 7) as its general

partner; and (ii) Stonepeak Tiger Feeder Fund III (Delaware A) LLC as its managing member (see no. 8); and (iii) Stonepeak Infrastructure Fund III (AIV IV) LP as its general partner (see no. 13).

16. *Name:* **Stonepeak GP Investors IV LLC**  
*Address:* 55 Hudson Yards, 550 W 34th Street, 48<sup>th</sup> Floor, New York, NY 10001  
*Place of Organization:* Delaware  
*Type of Organization:* limited liability company  
*Principal Business:* investments  
*Interest Held:* Stonepeak GP Investors IV LLC will hold a direct 100% voting interest in Stonepeak Associates IV LLC (see no. 14)  
*Role:* Through its role as the managing member of Stonepeak Associates IV LLC, Stonepeak GP Investors IV LLC will indirectly control Tiger Holdings I, Tiger Holdings II, and Radiate GP
17. *Name:* **Stonepeak GP Holdings III LLC**  
*Address:* 55 Hudson Yards, 550 W 34th Street, 48<sup>th</sup> Floor, New York, NY 10001  
*Place of Organization:* Delaware  
*Type of Organization:* limited liability company  
*Principal Business:* investments  
*Interest Held:* Stonepeak GP Holdings III LLC will hold a direct 100% voting interest in Stonepeak Associates III LLC (see no. 15)  
*Role:* Stonepeak GP Investors III LLC will indirectly control certain passive investors in Tiger Holdings I and in Tiger Holdings II through its role as the managing member of Stonepeak Associates III LLC
18. *Name:* **Stonepeak GP Investors III LLC**  
*Address:* 55 Hudson Yards, 550 W 34th Street, 48<sup>th</sup> Floor, New York, NY 10001  
*Place of Organization:* Delaware  
*Type of Organization:* limited liability company  
*Principal Business:* investments  
*Interest Held:* Stonepeak GP Investors III LLC will hold a direct 100% 100% voting interest in Stonepeak GP Holdings III LLC (see no. 18)  
*Role:* Stonepeak GP Investors III LLC will indirectly control certain passive investors in Tiger Holdings I and in Tiger Holdings II through its role as the managing member of Stonepeak GP Holdings III LLC

19. *Name:* **Stonepeak GP Investors Manager LLC**  
*Address:* 55 Hudson Yards, 550 W 34th Street, 48<sup>th</sup> Floor, New York, NY 10001  
*Place of Organization:* Delaware  
*Type of Organization:* limited liability company  
*Principal Business:* investments  
*Interest Held:* Stonepeak GP Investors Manager LLC will hold a direct 100% voting interest in Stonepeak GP Investors IV LLC (see no. 16) and Stonepeak GP Investors III LLC (see no. 18)  
*Role:* Stonepeak GP Investors Manager LLC will indirectly control Tiger Holdings I, Tiger Holdings II, and Radiate GP through its role as the managing member of Stonepeak GP Investors IV LLC
20. *Name:* **Michael Dorrell**  
*Address:* 55 Hudson Yards, 550 W 34th Street, 48<sup>th</sup> Floor, New York, NY 10001  
*Citizenship:* United States and Australia (dual)  
*Type of Person:* Individual  
*Principal Business:* Founder of Stonepeak  
*Interest Held:* Mr. Dorrell will hold a direct 100% voting interest in Stonepeak GP Investors Manager LLC (see no. 19)  
*Role:* Mr. Dorrell will indirectly control Radiate Holdings through his role as a controlling person of Stonepeak GP Investors Manager LLC

Set out below is a list of co-invest vehicles that could potentially hold a 10-percent-or-greater equity interest in Radiate Holdings (although it is also possible that no such vehicle would hold such interest).

21. *Name:* **Stonepeak Tiger (Co-Invest) Holdings (I-A) LP**  
**Stonepeak Tiger (Co-Invest) Holdings (II-A) LP**  
**Stonepeak Infrastructure Fund– Super Co-Invest (AIV I-A) LP**  
**Stonepeak Tiger (Co-Invest) Holdings (I-B) LP**  
**Stonepeak Tiger (Co-Invest) Holdings (II-B) LP**  
**Stonepeak Infrastructure Fund IV – Master Co-Investment Partners (AIV I-A) LP**  
**Stonepeak Infrastructure Fund – Master Co-Investment Partners (AIV II-A) LP**  
**Stonepeak Infrastructure Fund IV – Master Co-Investment Partners (AIV I-B) LP**



**Stonepeak Infrastructure Fund – Master Co-Investment Partners (AIV II-B) LP**

**Stonepeak Infrastructure Fund– Super Co-Invest (AIV I-B) LP**

*Address:* 55 Hudson Yards, 550 W 34th Street, 48<sup>th</sup> Floor, New York, NY 10001

*Place of Organization:* Delaware

*Type of Organization:* limited partnership

*Principal Business:* investments

*Interest Held:* Each of the entities may hold a 10% or greater indirect equity interest in Radiate Holdings.

*Role:* Each of the entities will be a passive investor in Radiate Holdings, and is directly or indirectly controlled by either Stonepeak Associates III LLC (see no. 15) and Stonepeak Associates IV LLC (see no. 14) and ultimately Mr. Dorrell (see no. 20)

Other than the interest holders identified above and the TPG Fund, no other entity or individual will, upon consummation of the Proposed Transaction, hold a 10-percent-or-greater direct or indirect equity or voting interest in Radiate Holdings and Authority Holders.

**Exhibit II.3: Statement Regarding Qualification to Transact Business**

Transferee is a holding company with no operations, and therefore, it does not need authority to transact business in any states where Franchisee provides cable service.

**Exhibit II.7: Statement Regarding Pledge of Stock**

The Proposed Transaction is not contemplated to result in any change in the existing financing arrangements that may involve the pledge of Franchisee's stock. The Transferee understands that certain rights on default with respect to any existing or future financing arrangement may require approval of the Federal Communications Commission, applicable state regulators, and/or this franchising authority before being exercised.

**Exhibit III: Transferee's Financial Qualifications**

Franchisee will continue to rely on the financial qualifications of its indirect parent, Radiate Holdings, L.P., with additional financial support able to be provided by Transferee and its affiliates (as and if required). Confidential Attachment B hereto, which is provided under seal, contains the most recent full year of financial statements of Radiate Holding.

## **Exhibit IV: Transferee's Technical Qualifications**

Following consummation of the Proposed Transaction, it is contemplated that Franchisee will continue to provide high-quality communications services to customers pursuant to the terms of the current Franchise Agreement without interruption and without change in rates, terms, or conditions. Applicants emphasize that the Proposed Transaction will be seamless and transparent to customers, and is not anticipated to result in the discontinuance, reduction, loss, or impairment of service to customers.

It is contemplated that Franchisee's cable system will be managed by Franchisee's existing technical and operational personnel, to be led by a management team with decades of industry experience. In addition, Transferee and its affiliates will provide Franchisee with access to an experienced communications investment team. (See enclosed copy of FCC Section 214 application for further discussion.) As such, the Proposed Transaction will not have a detrimental effect on, or result in a material adverse change in, the services provided to existing customers of Franchisee.

The biographies of Franchisee's key post-closing management personnel are as follows:

### **BIOGRAPHIES OF KEY PERSONNEL FOR PATRIOT MEDIA, RCN, GRANDE, WAVE AND EN-TOUCH**

#### ***Steve Simmons - Chairman***

Steve created his first cable company, Simmons Communications, in 1981. Over the next decade it served over 300,000 customers in 20 states. The company improved cable service in many places around the country, including its complete turnaround of the Long Beach, California system. Upon its sale the Mayor issued a proclamation citing the great improvement in customer and technical service and major contributions to the community.

In 2001 Steve started Patriot Media. The dramatically improved service in its system serving Princeton and 29 other towns in New Jersey, won plaudits from local communities. In 2006 he and the Patriot team were recognized by CableWorld as US Independent Cable Operator of the Year for Patriot's operational success and advanced triple play technology. Today, Steve and the Patriot management team have ownership in and manage RCN Cable and Grande that together serve over 600,000 customers.

Steve also served on the Board of Virgin Media, a public company that provided cable and mobile service in the United Kingdom, and today sits on the Board of Cablevision. Steve previously served on the NCTA Board for 3 years, was voted a Cable Pioneer, and for over 25 years has been chairing the Cable Entrepreneurs Club whose members include 25 present and former Chairmen/CEOs of cable companies. In 2015 he was voted into the Cable Hall of Fame.

In his non-cable life, Steve has worked on the White House staff, been a professor at the University of California, a Governor on the US Broadcasting Board of Governors where he chaired committees overseeing Voice of America and Radio Free Europe/Radio Liberty, Chair of the gubernatorial Commission in Connecticut examining the educational achievement gap, and producer of an Emmy Award winning documentary on education reform issues. Steve has also written 5 children's books. He is a graduate of Cornell University and Harvard Law School.

***Jim Holanda - President & CEO***

Jim began his cable industry career 28 years ago with Comcast after graduating from The Ohio State University. His career has taken his family to California, New Jersey, Colorado and Missouri, where he was the Regional Vice President of Operations for Charter Communications in St. Louis.

Jim returned to New Jersey as President and General Manager of Patriot Media, establishing and running that cable operation for four-and-a-half years until its' sale in August 2007. Post-sale, Patriot Media Consulting was founded with Jim as Chief Executive Officer and consists of numerous former Patriot Media executives. The company is engaged in the evaluation, acquisition and management of cable investments.

In December 2007, Patriot Media Consulting assumed management of Choice Cable TV of Puerto Rico, an internet, phone and cable TV provider passing 340,000-plus households in the western and southern portions of the island. In August 2010, this same team began management of RCN Cable's cable operation, passing over 1.4 million households, and in 2013 added Grande Communications to the list of companies they manage; Jim serves as Chief Executive Officer of both companies.

***John Feehan - EVP & CFO***

John joined Patriot Media in March, 2011. He serves as CFO for Patriot Media, Grande, and RCN. John had spent the previous 10 years before joining Patriot Media in the wireless communications industry where he was most recently the SVP, CFO of the Sprint/Nextel Prepaid Group. For the 8 years prior to joining Sprint/Nextel, John was the EVP, CFO of Virgin Mobile USA and joined Sprint/Nextel when Virgin Mobile was acquired by Sprint in November 2009. John was the initial finance department hire in January 2002 when Virgin Mobile USA was formed and helped lead the company from its national launch to become one of the nation's top wireless carriers with more than 5 million subscribers and \$1.3 billion in annual revenues. As CFO, John led the initial public offering of Virgin on the NYSE in October 2007. Prior to joining Virgin Mobile, he served as chief financial officer of SAGE BioPharma, a leading manufacturer of infertility products. John began his career at Price Waterhouse and has held various senior level management positions throughout his 29-year career. He holds a bachelor's degree in accounting and management information systems from St. Joseph's University in Philadelphia and is a certified public accountant in the state of PA.

### ***Chris Fenger - EVP & COO***

Chris has served as the Executive Vice President and Chief Operating Officer at RCN Cable since May 2013 and previously served as the Senior Vice President of Operations at RCN Cable since April 2011. He currently also serves as the Executive Vice President and Chief Operating Officer at Grande. Chris has been in the cable industry for over 34 years and most recently was the Division President of Bright House Networks of Central Florida. Prior to that, he was with Charter Communications for over four years, initially as Regional Senior Vice President of Operations for the North Central Region and then as the Divisional Senior Vice President of Operations for the Western Division. Earlier in his career, Chris held various general management and senior operations positions at Marcus Cable, Simmons Communications and Warner Amex Cable.

### ***Pat Murphy - EVP & CTO***

Patrick is a 39-year cable television veteran with extensive management expertise in engineering, technical system operations, construction, and acquisitions.

During his tenure at Patriot Media, Patrick directed a very aggressive system upgrade. Its completion enabled the system to launch digital video, VOD, increased HSD speeds as well as a voice service. These contributions, along with strong financial, operation and customer growth, garnered Patriot Media the "Independent Operator of the Year Award" by Cable World Magazine.

Prior to joining Patriot Media, he had been with Charter Communications and its predecessors for 18 years in the Los Angeles area in the position of Western Regional Vice President of Engineering and Technical Operations. During his tenure he oversaw capital budgets in excess of \$300 million, upgraded/rebuilt 25,500 miles of system to 750/860 MHz, built six headends and ten hub sites, launched digital video, HSD and VOD services. He also served in several senior technical/operations management positions with Simmons Cable Television, Group W and Acton Communications.

Patrick received his formal education from California State University, Los Angeles, CA, National Institute of Communications (FCC First Class Radio/Telephone license) and Washington University, St. Louis, Mo. Patrick is a member of the Society of Cable Telecommunications Engineers (SCTE). In 2003 he was elected into The Cable TV Pioneers. A published author, his articles have appeared in such periodicals as CED and Communications Technology.

### ***Rob Roeder - EVP & CDO***

Rob has 36 years of diverse cable television experience, including positions in general management and engineering management, spanning several companies throughout the country.

Prior to joining Patriot Media, Rob was the Western Division Vice President of Advanced Services for Charter Communication's, which encompassed a five-state area and served 2 million customers. In that role, he was responsible for the launch and ongoing operation of a suite of video and broadband products including digital services, high-speed data services, video-on-demand, and interactive services. In his role, Rob was also responsible for the United States first launch of Voice over Internet Protocol (VOP) phone service.

In addition, Rob was responsible for the launch, and operation, of products geared towards the emerging commercial services market including long-haul network transport, Ethernet services, SIP telephony, and Point-to-Point direct circuits.

### ***John Gdovin - EVP & CAO***

John has a 36-year career with independent telecommunications companies that began soon after his 1979 college graduation when he joined a northeastern Pennsylvania company which would become C-TEC. He played an integral part of the team that started the cable television division for C-TEC in the early 1980s. In 1989 he oversaw the consolidation of its customer service operations and established a new customer service call center facility. In addition to customer service, he was also responsible for other corporate business including acquisitions, programming agreements, MIS, franchising, corporate contracts and strategy. He was twice awarded the Company's "Pursuit of Excellence" award for individual performance, in 1986 and 1990, as well as the group award for "Pursuit of Excellence" in 1990.

CTEC continued its growth and was acquired by RCN Cable in the early 1990s. John remained with RCN Cable and became Executive Vice President of the cable division, responsible for the overall performance of its 380,000 cable TV customers in Michigan, Pennsylvania, New Jersey and New York. After more than 20 years with the company, John joined WideOpenWest, another start-up independent cable operation, in December 1999. Most recently John was a member of the senior team managing Patriot Media since its inception in late 2002. Continuing in that role with Patriot Media, John handles negotiation of programming and retransmission consent agreements, renegotiation of all expired or expiring franchise agreements, government relations, as well as other regulatory, administration and human resources management.

John is an active member of the American Cable Association (ACA) Board of Directors.

### ***Jeff Kramp - EVP & S&GC***

Jeff joined RCN as Senior Vice President, Secretary and General Counsel in June 2011. He is responsible for the management of all legal matters concerning the Company, including corporate and corporate governance, joint ventures/strategic alliances, transactions/contracts, labor, intellectual property and litigation.

Jeff brings to RCN over 27 years of experience, including seven years working with telecommunications companies, as a member of/legal counselor to senior management teams at public and private companies in a variety of industries. He most recently served for eight years as Senior Vice President, Secretary & General Counsel of NEW Customer Service Companies, Inc., the leading global provider of extended service and buyer protection plans, and as Vice President & General Counsel of Counsel Corporation, a publicly traded investment company with holdings including the telecommunications companies I-Link, Acceris Communications and WorldxChange Communications. He also served as Secretary and General Counsel of WESCO International, Inc., a \$4+ billion Fortune 500 distributor of over 200,000 electrical and industrial products, and as an Associate General Counsel at Westinghouse Electric Corporation providing general corporate counsel to businesses in the commercial division, including Group W Productions. Jeff began his legal career as an Associate Attorney with a litigation and corporate practice at the Pittsburgh office of the law firm of Eckert, Seamans, Cherin & Mellott.

Jeff earned a Juris Doctorate degree from Case Western University School of Law in Cleveland, Ohio and a bachelor's Degree from The College of Wooster in Wooster, Ohio, where he graduated with honors.



***Patrick Knorr, EVP and CCO***

Mr. Knorr joined us in connection with the TPG Acquisition of Wave. Previously, he served as Executive Vice President of Business Solutions at Wave Broadband from 2012 to 2017. Prior to Wave, Mr. Knorr served as Chief Operation Officer of The World Company with P&L responsibilities for Cable, Broadband, Newspaper, and Magazine properties across three states including industry leading small cable operator Sunflower Broadband from 1999 to 2011. Earlier in his career Mr. Knorr was in leadership roles at several smaller technology companies bringing the first available Internet access to many rural Kansas communities.

***Parisa Salehani - SVP & Controller***

Parisa joined Patriot Media Consulting in October 2018. Previously, Ms. Salehani served as Vice President, Corporate Controller at Internova Travel Group, the largest travel agency in the United States, where she was part of the redesign of the company to support its acquisition program and public-market readiness. Prior to joining Internova Travel Group, Ms. Salehani served as Assistant Controller at Time Inc. where she was an integral part of the team that led its successful spin-off from Time Warner and ultimate sale to Meredith Corporation. Before joining Time Inc. Ms. Salehani held financial positions at Viacom Inc. and American Express Corporation. Ms. Salehani began her career at PricewaterhouseCoopers LLP and is a Certified Public Accountant. Ms. Salehani holds a B.S in Accounting, Information Systems and Economics from the City University of New York.

***Jackie Heitman - SVP Sales & Marketing***

With over 30 years of marketing experience, Jackie has an extensive background in integrated marketing across a variety of industries including cable, sports, entertainment, telecommunications, and broadcast television. Prior to her current role as Senior Vice President of Sales and Marketing, she was the Senior Vice President of Marketing at Bresnan where she oversaw corporate marketing and sales. She also spearheaded the company's bundled service initiatives, including such products as digital cable, high-speed Internet, and digital phone.

Previously, Ms. Heitman worked with Cox Communications where she held the post of Marketing Vice President for New Orleans. At Cox, she planned and executed the launch of the company's telephony product on a facilities-based switched platform. Prior to that, she held a variety of top-level marketing and research positions in which she was responsible for the development and implementation of integrated and targeted business-to-business and business to consumer programs, growth of revenue streams, and realization of cost savings for large and medium-size businesses.

Ms. Heitman holds an MBA and a BS in Business Administration, both of which she earned at the University of Dayton.

**CONFIDENTIAL ATTACHMENT A**

**Agreement**

**(CONFIDENTIAL – FILED UNDER SEAL)**

Franchisee, Transferor and Transferee request that the Agreement provided as this Confidential Attachment A be afforded the highest level of confidential treatment, be made available only to those officials and personnel of the City reviewing the request for consent, and not be released or otherwise made available to the public.

Confidential treatment of the Agreement is requested because it contain confidential and propriety information as well as the private terms and conditions of the Proposed Transaction. The Agreement contains proprietary commercial and financial information that is maintained as confidential by the parties, is not publicly available and, if released, could be used by competitors of Franchisee and the parties to the Agreement to cause competitive harm. Accordingly, Franchisee, Transferor, and Transferee request that the City accord the Agreement confidential treatment as described above.

**FILED SEPARATELY UNDER SEAL IN ACCOMPANYING ENVELOPE**

**CONFIDENTIAL ATTACHMENT B**

**Financial Statements of Radiate Holdings**

**(CONFIDENTIAL – FILED UNDER SEAL)**

Franchisee, Transferor and Transferee request that the Financial Statements of Radiate Holdings and Franchisee provided as this Confidential Attachment B be afforded the highest level of confidential treatment, be made available only to those officials and personnel of the Franchise Authority reviewing the request for consent, and not be released or otherwise made available to the public.

Confidential treatment of the Financial Statements is requested because it contain confidential and propriety financial and business information that is maintained as confidential by Franchisee and its parent entities, is not publicly available and, if released, could be used by competitors of Franchisee and the parties to the Agreement to cause competitive harm. Accordingly, Franchisee, Transferor, and Transferee request that the Franchise Authority accord the Financial Statements confidential treatment as described above.

**FILED SEPARATELY UNDER SEAL IN ACCOMPANYING ENVELOPE**

**ATTACHMENT C**

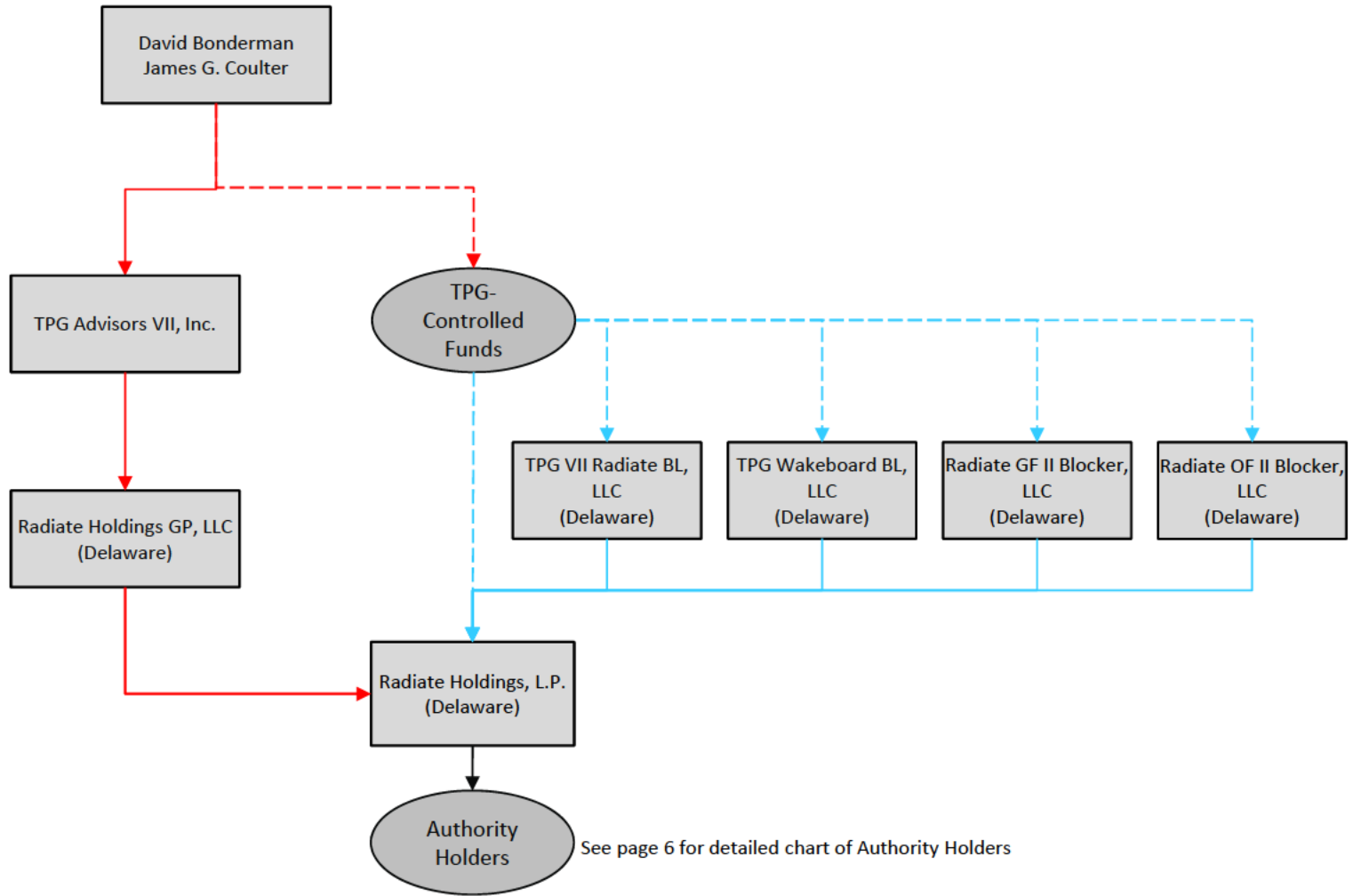
## Pre-Close Ownership of Authority Holders

**Red:** GP or other controlling person

**Blue:** Non-controlling member/limited partner equity interests

Controlling interests are 100% unless otherwise indicated

Dash lines indicate indirect interest.



See page 6 for detailed chart of Authority Holders

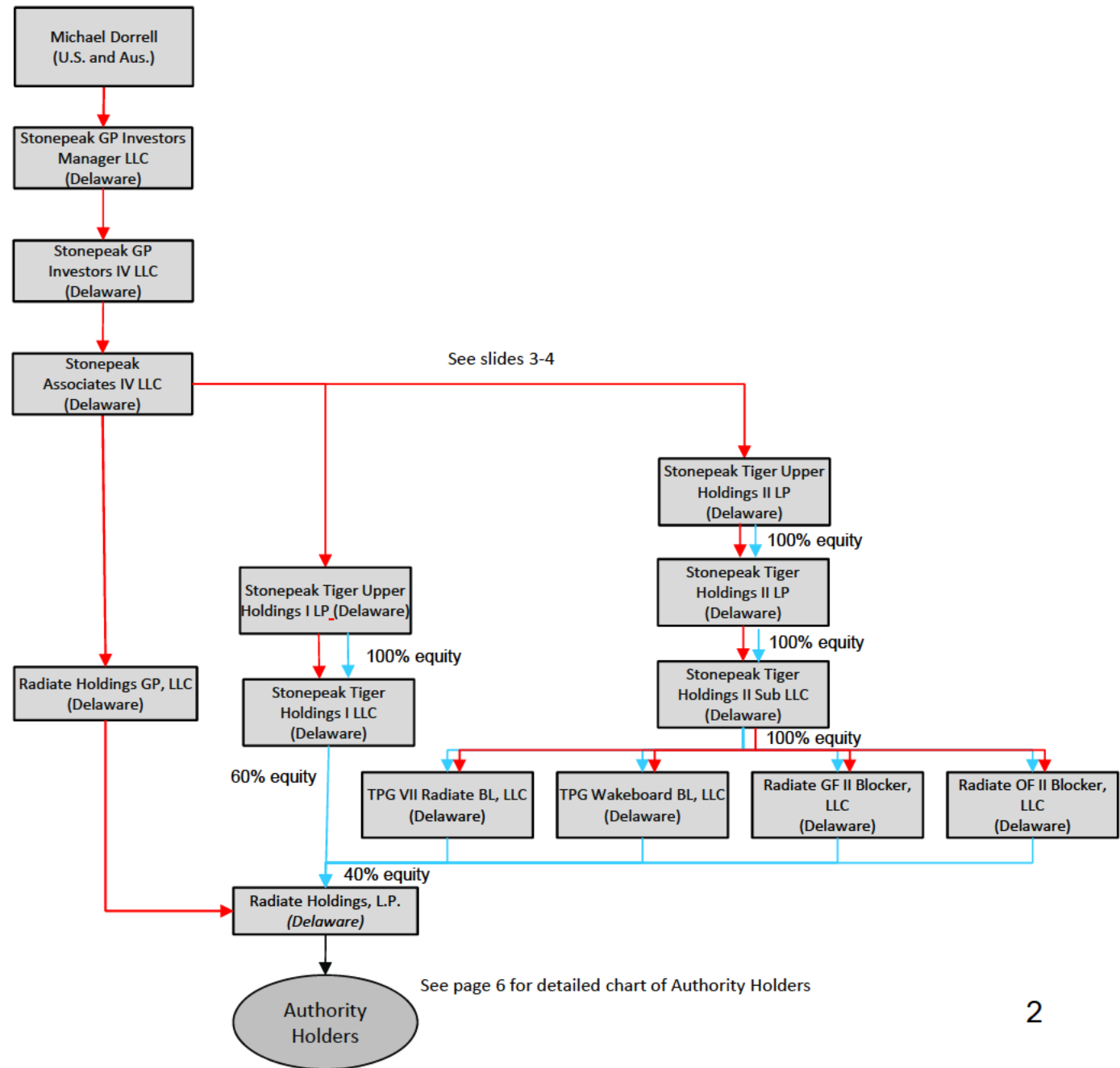
**Red:** GP or other controlling person

**Blue:** Non-controlling member/limited partner equity interests

Controlling interests are 100% unless otherwise indicated

Dash lines indicate indirect interest.

### Post-Close Ownership of Authority Holders (Indirect Control of Authority Holders)



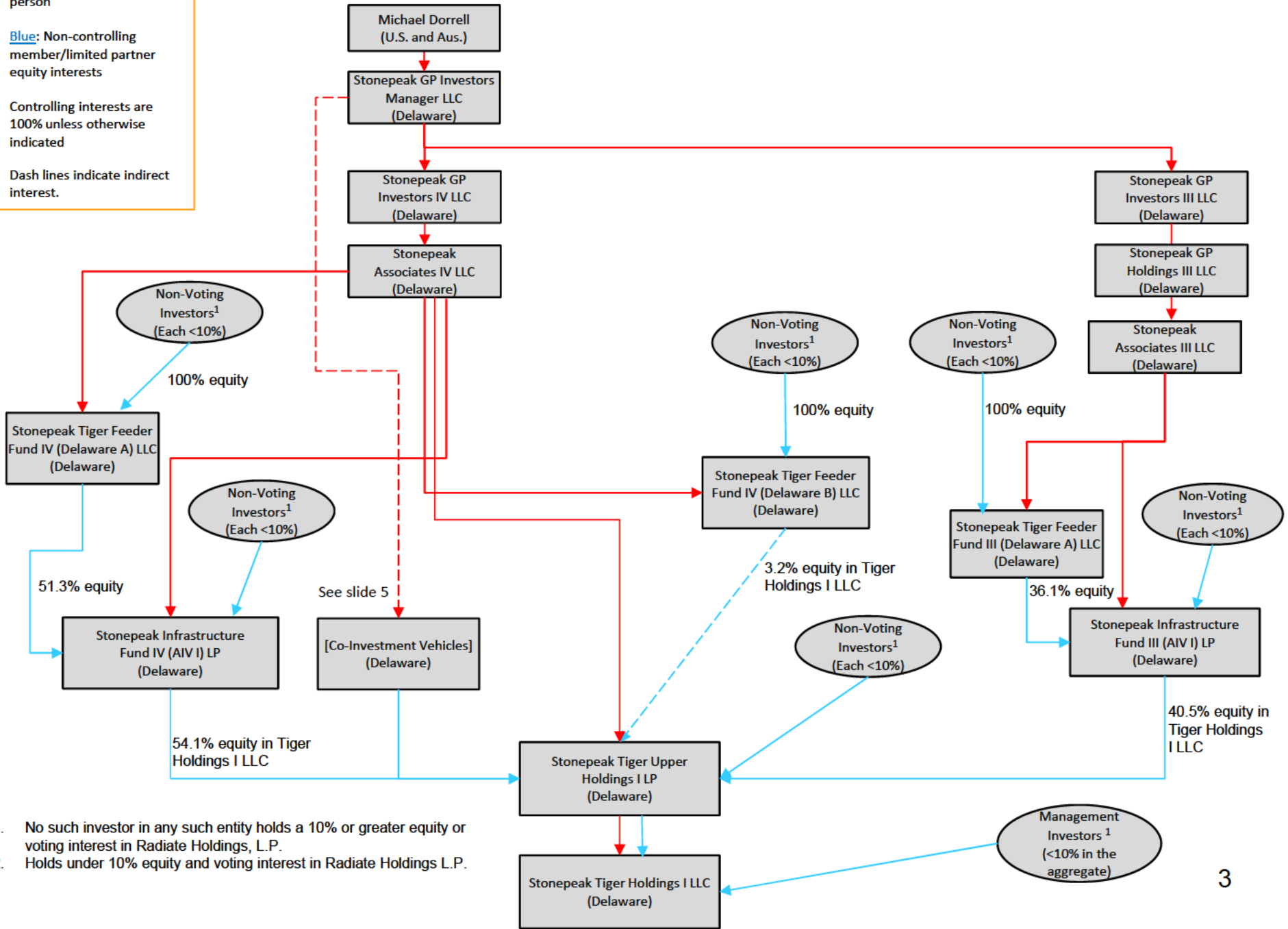
## Post-Close Ownership of Authority Holders (Ownership of Stonepeak Tiger Holdings I LLC)

**Red:** GP or other controlling person

**Blue:** Non-controlling member/limited partner equity interests

Controlling interests are 100% unless otherwise indicated

Dash lines indicate indirect interest.



1. No such investor in any such entity holds a 10% or greater equity or voting interest in Radiate Holdings, L.P.
2. Holds under 10% equity and voting interest in Radiate Holdings L.P.

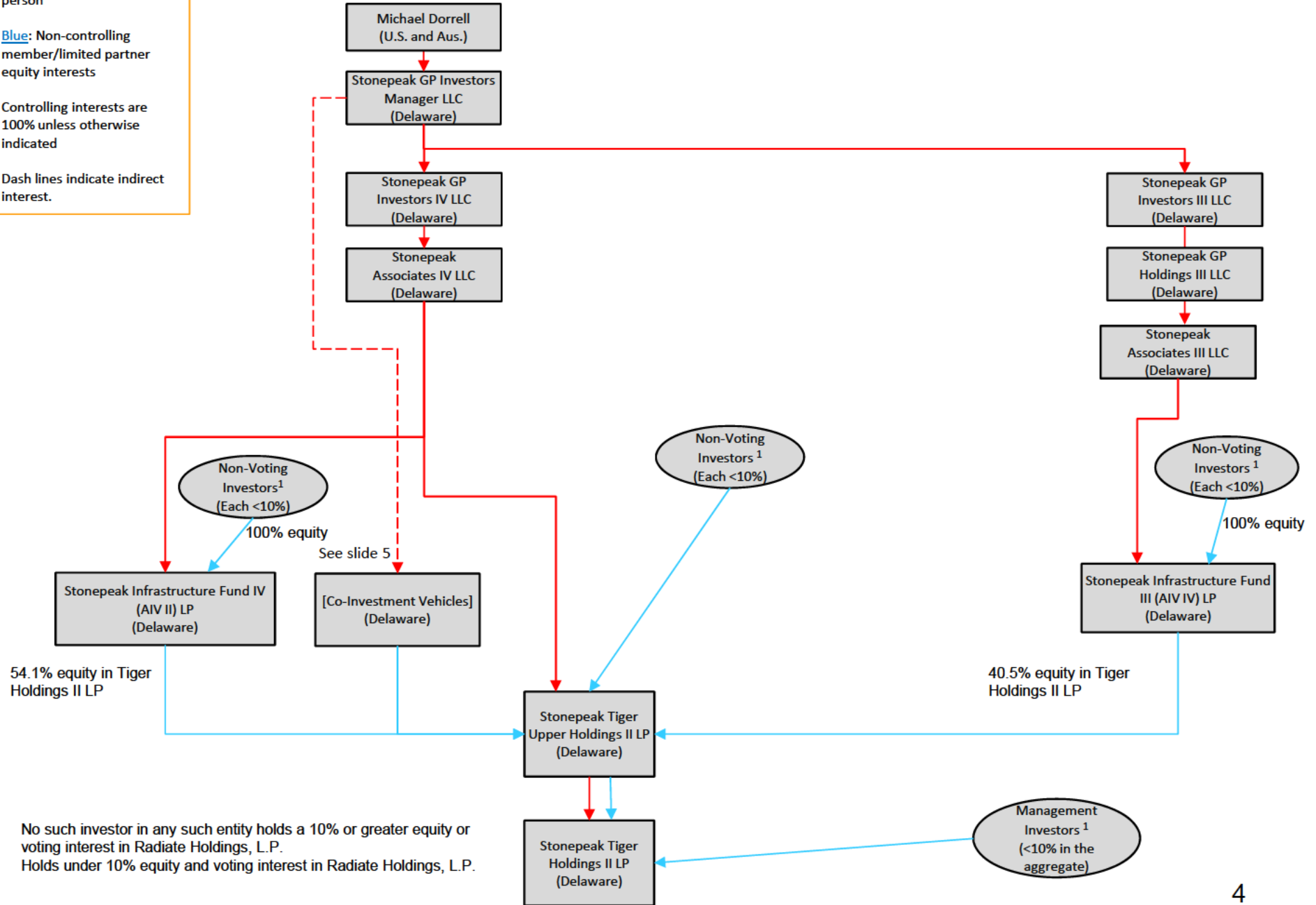
## Post-Close Ownership of Authority Holders (Ownership of Stonepeak Tiger Holdings II LP)

**Red:** GP or other controlling person

**Blue:** Non-controlling member/limited partner equity interests

Controlling interests are 100% unless otherwise indicated

Dash lines indicate indirect interest.



1. No such investor in any such entity holds a 10% or greater equity or voting interest in Radiate Holdings, L.P.
2. Holds under 10% equity and voting interest in Radiate Holdings, L.P.



**Red:** GP or other controlling person

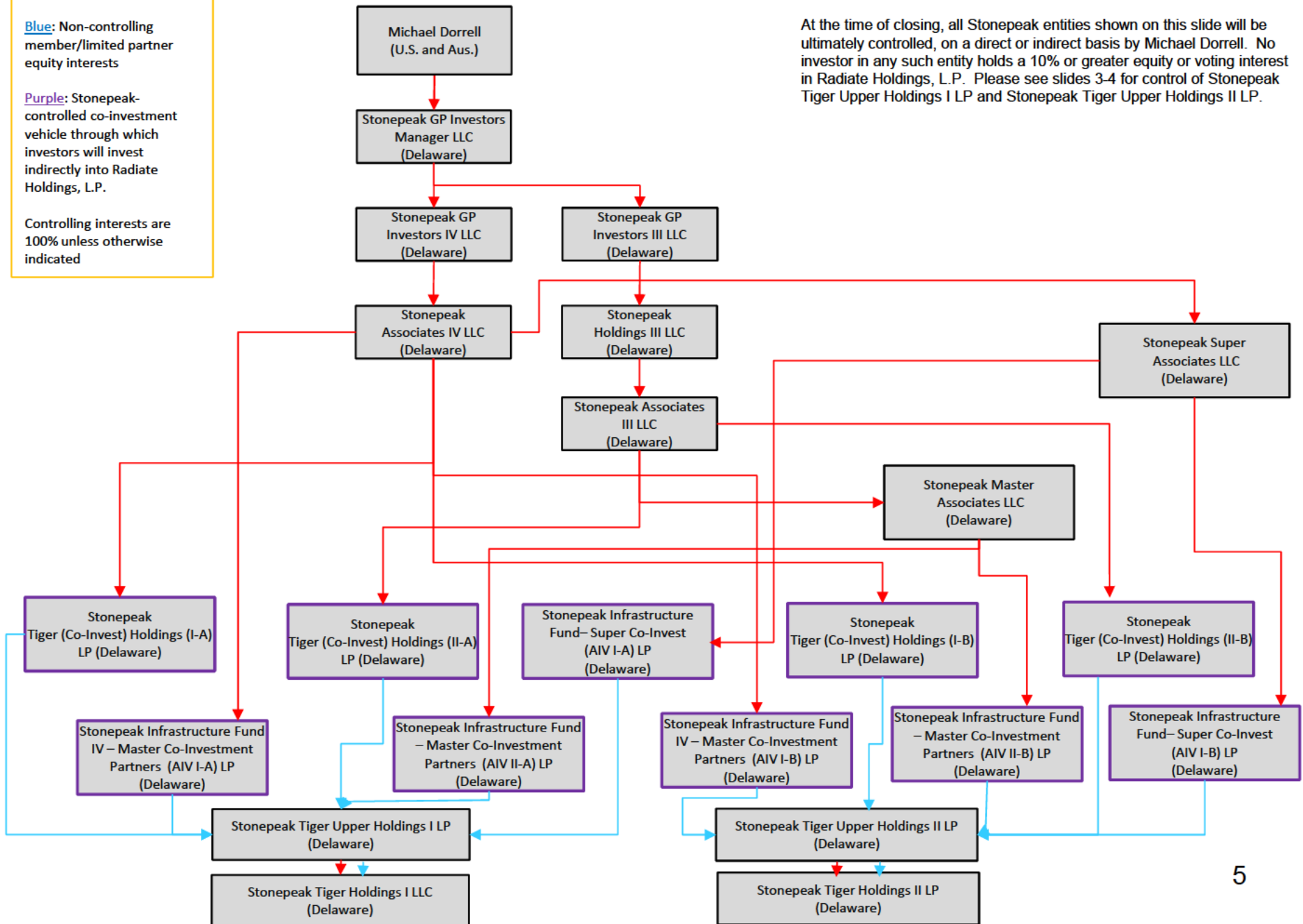
**Blue:** Non-controlling member/limited partner equity interests

**Purple:** Stonepeak-controlled co-investment vehicle through which investors will invest indirectly into Radiate Holdings, L.P.

Controlling interests are 100% unless otherwise indicated

## Post-Close Ownership of Co-Investment Vehicles (Ownership of Tiger Holdings I and II)

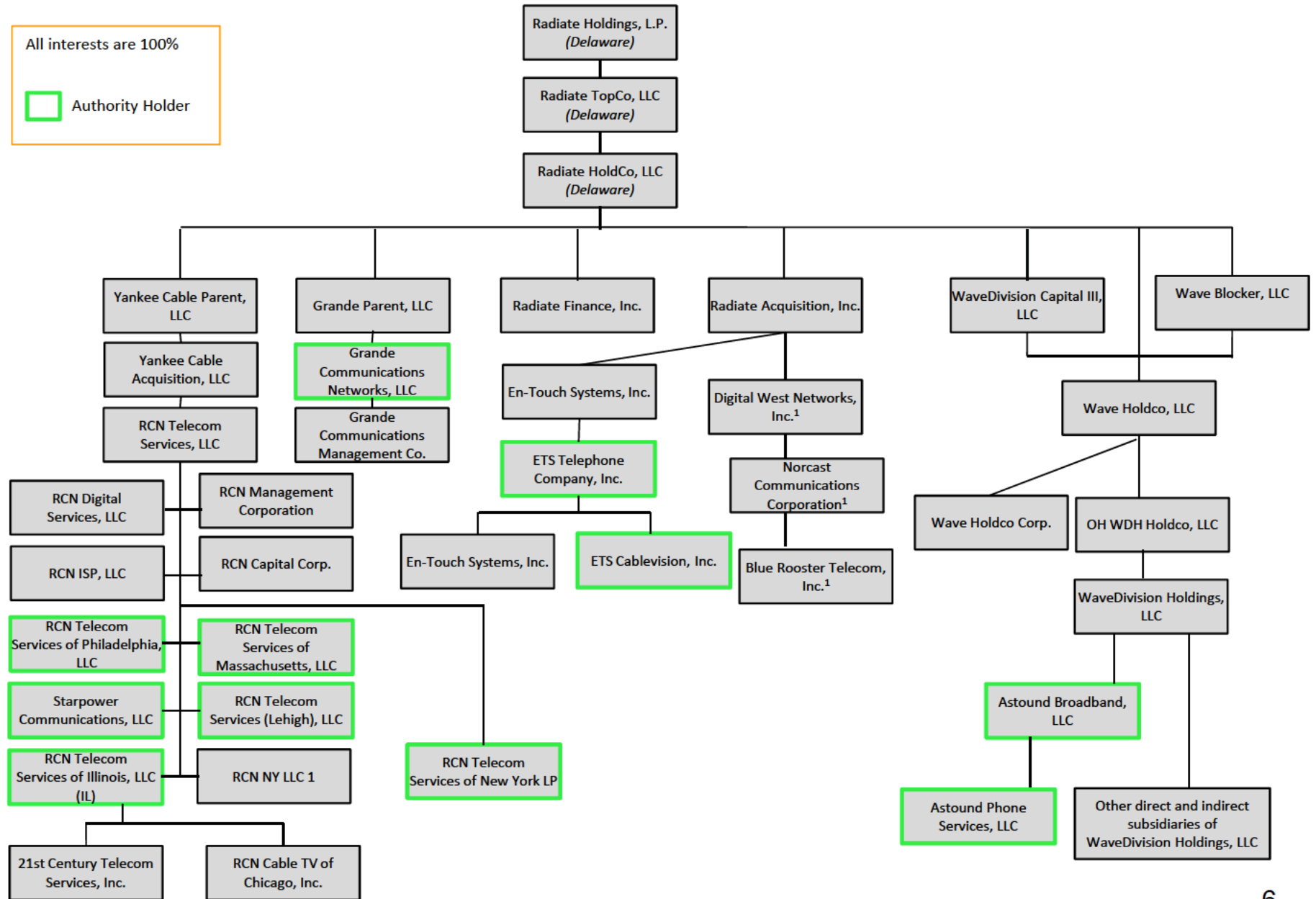
At the time of closing, all Stonepeak entities shown on this slide will be ultimately controlled, on a direct or indirect basis by Michael Dorrell. No investor in any such entity holds a 10% or greater equity or voting interest in Radiate Holdings, L.P. Please see slides 3-4 for control of Stonepeak Tiger Upper Holdings I LP and Stonepeak Tiger Upper Holdings II LP.



# Authority Holders

All interests are 100%

Authority Holder



<sup>1</sup> Pending close of transaction.

**TRANSFER AGREEMENT**

**Page**

<b>1.</b>	<b>TRANSFER.....</b>	<b>3</b>
<b>2.</b>	<b>ACCEPTANCE AND CLARIFICATION OF OBLIGATIONS UNDER THE FRANCHISE DOCUMENTS .....</b>	<b>4</b>
<b>3.</b>	<b>RESERVATION OF RIGHTS .....</b>	<b>5</b>
<b>4.</b>	<b>NO EFFECT ON RATES .....</b>	<b>6</b>
<b>5.</b>	<b>REPRESENTATIONS AND WARRANTIES .....</b>	<b>6</b>
<b>6.</b>	<b>COMMITMENTS BY THE TRANSFEREE.....</b>	<b>7</b>
<b>7.</b>	<b>INDEMNIFICATION .....</b>	<b>7</b>
<b>8.</b>	<b>ADDITIONAL CONDITIONS.....</b>	<b>8</b>
<b>9.</b>	<b>BREACHES.....</b>	<b>8</b>
<b>10.</b>	<b>MISCELLANEOUS PROVISIONS.....</b>	<b>8</b>

**EXHIBIT 1 – PARTICIPATING MUNICIPALITIES**

**EXHIBIT 2 – GUARANTEE OF PERFORMANCE**

## **TRANSFER AGREEMENT**

THIS AGREEMENT is made this \_\_\_ day of \_\_\_\_\_, 2021, by and between:

- 1.1.1. Montgomery County, Maryland (the “County”);
- 1.1.2. Starpower Communications, LLC dba RCN (“Franchisee”);
- 1.1.3. RCN Telecom Services, LLC (“RCN”);
- 1.1.4. Radiate Holdings GP, LLC (“RHGP”) on behalf of itself and Radiate Holdings, LP (“Radiate Holdings”); and
- 1.1.5. Stonepeak Associates IV LLC (“Stonepeak” or “Transferee”).
- 1.1.6. Franchisee, RCN, Stonepeak, RHGP and Radiate Holdings may be referred to herein individually as “Company,” and jointly as “Companies.”

### **RECITALS**

WHEREAS, the County has granted the Franchisee a nonexclusive franchise (the “Franchise”) for a term of fifteen (15) years pursuant to Montgomery County Code Chapter 8A, as amended (the “Cable Law”), and Section 10-312 of the Maryland Local Government Article, as amended; and the Franchise Agreement between the Franchisee and the County dated July 1, 2016 (the “Franchise Agreement”);

WHEREAS, Franchisee is a wholly owned subsidiary of RCN, which is an indirect subsidiary of Radiate Holdings, whose general partner is RHGP;

WHEREAS, pursuant to a transaction described in a Federal Communications Commission Form 394 dated November 30, 2020 (the “Proposed Transaction”), and other written materials submitted in response to notices and document requests (collectively the “Application”), Stonepeak would acquire indirect control of the Franchisee and the cable system serving the County (the “System”);

WHEREAS, more specifically, the Proposed Transaction contemplates the acquisition of Radiate Holdings by funds associated with Stonepeak (through Stonepeak Tiger Holdings I LLC and Stonepeak Tiger Holdings II LP) pursuant to that certain Agreement and Plan of Merger by

and among Stonepeak Tiger Holdings I LLC, Stonepeak Tiger Holdings II Sub LLC, Stonepeak Tiger Blocker I LLC, Stonepeak Tiger Blocker II LLC, Stonepeak Tiger Blocker III LLC, Stonepeak Tiger Blocker IV LLC, Stonepeak Tiger GP Merger Sub LLC, Stonepeak Tiger Partnership Merger Sub LP, TPG VII Radiate BL, LLC, TPG Wakeboard BL, LLC, Radiate GF II Blocker, LLC, Radiate OF II Blocker, LLC, Radiate Holdings, LP, Radiate Holdings GP, LLC, and TPG VII Radiate Holdings I, LP, dated October 31, 2020 (the “Agreement and Plan of Merger”);

WHEREAS, under the Proposed Transaction, Stonepeak will become the sole member of, and have the ability to appoint a majority of the directors of, RHGP, the general partner of Radiate Holdings, and accordingly will indirectly control Radiate Holdings, and its subsidiaries, including Franchisee;

WHEREAS, if the Proposed Transaction is consummated, the Franchisee will continue to own and operate the System and will continue to hold the Franchise, but indirect control of the Franchisee will be transferred to Stonepeak;

WHEREAS, Section 3(a)(1) of the Franchise Agreement provides that the prior approval of the County, and of the municipalities within the County (listed in Exhibit 1) that have agreed to have the County administer and enforce the Franchise Agreement within their corporate limits (“Participating Municipalities”), is required for this transaction;

WHEREAS, the Application requests that the County on its own behalf and that of the Participating Municipalities, approve the Proposed Transaction;

WHEREAS, pursuant to Section 8A-23 of the Cable Law, the County must consider the legal, financial, technical and character qualifications of the transferee to operate the system, and whether operation by the proposed Franchisee will adversely affect the cable services to subscribers or otherwise be contrary to the public interest;

WHEREAS, the Companies have represented to the County that, under the Proposed Transaction, the Franchisee will continue to be run by highly experienced, well-qualified personnel, and that the Proposed Transaction is not expected to adversely affect the System, or have a detrimental effect on, or result in material change to, the service provided to existing customers and to the County;

WHEREAS, the Franchisee reaffirms its continuing obligations under the Cable Law and the Franchise Agreement; and Transferee and agrees to abide by and accept all terms of the Franchise Agreement and the Cable Law, as they may be amended, to the extent applicable to it; and agrees that from and after the transaction, it will take no action inconsistent with the same and Franchisee will continue to be responsible for the obligations and liabilities and continue to have responsibility for all acts and omissions, known and unknown, under the Franchise Agreement and the Cable Law for all purposes, including renewal, unless waived, in whole or in part, by the County and Participating Municipalities;

WHEREAS, after review, it is the recommendation of the County Executive that the approval of the Proposed Transaction is in the public interest, in light of the promises made in the foregoing clauses and if subject to certain conditions;

WHEREAS, the County and the Companies have reached agreement on those conditions.

NOW, THEREFORE, FOR GOOD AND VALUABLE CONSIDERATION THE RECEIPT OF WHICH IS HEREBY ACKNOWLEDGED, THE PARTIES DO HEREBY AGREE:

**1. TRANSFER**

1.1. The foregoing recitals are true and correct in all material respects and are incorporated herein by reference, including without limitation, the acceptance and reaffirmation of the Franchise Agreement by Franchisee and Transferee.

1.2. This Transfer Agreement shall be binding on the parties if the Proposed Transaction is approved by the County either affirmatively, or as the result of the passage of time. Except as

to Section 6, which is binding as of the date that this Transfer Agreement is signed, it shall not be binding on the parties if the Proposed Transaction is denied, or subject to substantially different additional conditions than set forth in this Transfer Agreement (unless the conditions are mutually agreed upon).

**2. ACCEPTANCE AND CLARIFICATION OF OBLIGATIONS UNDER THE FRANCHISE DOCUMENTS**

2.1. Nothing in this Transfer Agreement amends or alters the Franchise Agreement.

2.2. The scope of the Franchise, as set forth in the Franchise Agreement, is unchanged. Neither the County's consent to the transfer nor any of the past practices of the County, shall be deemed to be a consent to use or occupancy of the public rights of way by any of the Companies or any of their affiliates for any purpose other than the provision of cable service via a cable system.

2.3. The County reserves all of its rights regarding the charging of a franchise fee or other compensation for the right to provide cable modem service, broadband service, information services, and any other service that the System has the technical capability of delivering using the rights-of-way within the County. The County's consent to the Proposed Transaction shall not relieve the Franchisee of any obligation to pay such compensation, past, present, or future. Nor shall the County's consent be deemed to permit the Franchisee to recover the amounts of any past payments from subscribers, or to itemize the amount of any fee related to cable modem service on subscriber bills.

2.4. Subject to the foregoing, the Proposed Transaction shall not restrict or expand the rights of the Franchisee under the Franchise Agreement as compared to those rights that could have been exercised by the Franchisee prior to the Proposed Transaction.

2.5. The Companies shall ensure that all records pertaining to the Franchise, including financial records, shall continue to be available after the Proposed Transaction in the same way and to the same extent such information was available prior to the Proposed Transaction.

2.6. Companies agree that, from and after the consummation of the Proposed Transaction, they will not take any action inconsistent with the promises contained in the Franchise Agreement and this Transfer Agreement.

2.7. Radiate Holdings shall continue to provide a guarantee from RHGP (as set forth in Exhibit 2) guaranteeing performance by Franchisee of all of Franchisee's obligations under the Franchise Agreement and this Transfer Agreement.

### **3. RESERVATION OF RIGHTS**

3.1. The County reserves all rights not expressly granted in this Transfer Agreement, including without limitation those specified below.

3.2. The County waives none of its rights with respect to the Franchisee's compliance with the requirements set forth in the Franchise Agreement. At no time will the Companies contend, either directly or indirectly, that the County is barred, by reason of the Proposed Transaction, from considering, or raising claims based on, any defaults of Franchisee, any failure by Franchisee to provide reasonable service in light of the community's needs, or any failure by Franchisee to comply with the terms and conditions of the Franchise Agreement or with applicable law. The County's approval of the Proposed Transaction shall in no way be deemed a representation by the County that the Franchisee is in compliance with all of its obligations under the Franchise Agreement.

3.3. Neither this Transfer Agreement nor any other action or omission by the County at or before the execution of this Transfer Agreement, shall be construed to grant the County's consent to any future transfer of the Franchise and/or the System, and/or any future change in ownership and/or control of the Franchise and/or the System, or to mean that the County's consent to any future transaction is not required.

3.4. Any consent given by the County to the Proposed Transaction is made without prejudice to, or waiver of, the County's right to investigate and take into account any lawful considerations during any future franchise renewal or transfer process.



**4. NO EFFECT ON RATES**

The Companies represent and warrant that neither the Proposed Transaction nor this Transfer Agreement require an increase in subscriber rates to facilitate the Proposed Transaction or Transfer Agreement.

**5. REPRESENTATIONS AND WARRANTIES**

5.1. Each of the Companies hereby represents and warrants that at the time of the execution of this Transfer Agreement: (a) it is a corporation, limited partnership, or limited liability company duly organized, validly existing and in good standing under the laws of the jurisdiction in which it is organized; (b) the Franchise Agreement and, assuming due execution hereof by the other parties hereto, this Transfer Agreement constitute legal, valid, and binding obligations of the Company party to such agreement enforceable in accordance with their respective terms; (c) the execution and delivery of, and performance by such Company under this Transfer Agreement and the Franchise Agreement where applicable, are within such Company's power and authority without the joinder or consent of any other party and have been duly authorized by all requisite corporate, limited partnership, or limited liability company action on the part of such Company and are not in contravention of such Company's limited liability company operating agreement, limited partnership agreement, charter, bylaws, and/or other organizational documents; and (d) no representation made herein to the County by such Company is incomplete, untrue, or inaccurate in any material respect.

5.2. Franchisee represents and warrants that neither the Proposed Transaction nor this Transfer Agreement is expected to adversely affect its ability to meet the requirements of the Franchise Agreement.

5.3. The Companies represent and warrant that the Proposed Transaction is not expected to have any adverse financial effect on the System, or adversely affect either the performance of the System or the Franchisee's financial obligations with regard to the System.

5.4. Franchisee represents and warrants that, after the Proposed Transaction, Franchisee's financial qualifications are expected to be such as shall enable it to maintain and operate its system in the County.

5.5. Franchisee represents and warrants that the Proposed Transaction is not expected to in any respect reduce the quality of customer service in the County.

5.6. Franchisee represents and warrants that the Proposed Transaction is not expected to reduce the quality of existing system maintenance or repair.

5.7. Franchisee represents and warrants that it has not and will not grant any other entity any right to use the System or any portion of the System, whether by means of a lease, irrevocable right of use, or any other type of grant or conveyance, without the prior written consent of the County, to the extent such consent would be required under the Franchise Agreement or applicable law.

## **6. COMMITMENTS BY THE TRANSFEREE**

Transferee agrees to pay \$10,000.00 to cover administrative costs incurred by the County in the course of the consideration of the Application, which payment County acknowledges it received on or about March 4, 2021.

## **7. INDEMNIFICATION**

7.1. Each Company agrees to indemnify and hold the County, its elected and appointed officers, officials, employees, agents, and contractors, harmless against third party claims any loss, claim, damage, liability or expense (including, without limitation, reasonable attorneys' fees) caused by any representation or warranty made by such Company herein which is determined by the parties or by a court of competent jurisdiction to be untrue or inaccurate in any material respect.

7.2. Franchisee shall indemnify and hold the County, its elected and appointed officers, officials, employees, agents, and contractors harmless against any loss, claim, damage, liability or expense (including, without limitation, reasonable attorneys' fees) incurred by the County in

connection with any action or proceeding commenced by a third party (meaning not one of the parties to this Transfer Agreement) claiming or asserting any liability of the County relating to or arising from the Proposed Transaction or this Transfer Agreement.

**8. ADDITIONAL CONDITIONS**

8.1. If the Proposed Transaction closes on terms that are in any material respect different from the terms disclosed to the County in writing, then any County consent to the Proposed Transaction shall be void and of no force or effect, and the Proposed Transaction shall be deemed to have been timely denied. For clarity, any exercise of the co-invest opportunities under the terms of the Agreement and Plan of Merger shall not be considered material for purposes of this provision.

8.2. Upon execution of this Transfer Agreement, the Companies hereby waive any and all claims that they may have that any denial of the Application that results from failure of the conditions in Section 8.1 violates the deadlines established by applicable law including, without limitation, claims based on, arising out of, or relating to 47 U.S.C. § 537, as amended, and agree that they shall be deemed to have agreed to an extension of the time to act on the Application as required to make any such denial effective.

**9. BREACHES**

Any breach of this Transfer Agreement or any exhibit thereto shall be deemed a breach of the Franchise Agreement and shall be subject to all remedies available for a breach of the Franchise Agreement, in addition to any other remedies the parties may have under this Transfer Agreement at law or equity.

**10. MISCELLANEOUS PROVISIONS.**

10.1. This Transfer Agreement shall be effective and binding upon the signatories beginning on the date of approval by the County Council, subject to other conditions on effectiveness in Sections 1.2 and 8.

10.2. This Transfer Agreement shall bind and benefit the parties hereto and their respective heirs, beneficiaries, administrators, executors, receivers, trustees, successors and assigns, and the promises and obligations herein shall survive the expiration date hereof. Any purported assignment of this Transfer Agreement is void without the express written consent of the signatories.

10.3. This Transfer Agreement is freely and voluntarily given by each party, without any duress or coercion, and after each party has consulted with its counsel. Each party has carefully and completely read all of the terms and provisions of this Transfer Agreement. Neither any of the Companies, nor any of their affiliates, nor the County will take any action to challenge any provision of this Transfer Agreement; nor will any of them participate with any other person or entity in any such challenge.

10.4. If any term, condition, or provision of this Transfer Agreement shall, to any extent, be held to be invalid, preempted, or unenforceable, the remainder hereof shall be valid in all other respects and continue to be effective.

10.5. This Transfer Agreement may be executed in several counterparts, each of which when so executed shall be deemed to be an original copy, and all of which together shall constitute one agreement binding on all parties hereto, notwithstanding that all parties shall not have signed the same counterpart.

10.6. This Transfer Agreement shall be governed in all respects by the law of the State of Maryland.

10.7. The captions and headings of sections throughout this Transfer Agreement are intended solely to facilitate reading and reference to the sections and provisions of this Transfer Agreement. Such captions shall not affect the meaning or interpretation of this Transfer Agreement.

AGREED TO BY THE PARTIES:

*[signatures on following page]*

**MONTGOMERY COUNTY, MARYLAND**



By: \_\_\_\_\_

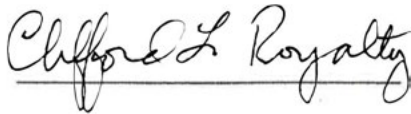
Its: Marc Elrich, County Executive

\_\_\_\_\_

Date

*This document has been prepared  
by Best, Best & Krieger, LLP (BBK).  
I am signing off on this document  
based on BBK's opinion:*

APPROVED AS TO FORM:



\_\_\_\_\_

Date

**STARPOWER COMMUNICATIONS, LLC**



By: \_\_\_\_\_

Its: EVP, Secretary & General Counsel

\_\_\_\_\_

Date

**RCN TELECOM SERVICES, LLC**



By: \_\_\_\_\_

Its: EVP, Secretary & General Counsel

\_\_\_\_\_

Date

**RADIATE HOLDINGS GP LLC, ON BEHALF  
OF ITSELF AND RADIATE HOLDINGS, LP**



By: \_\_\_\_\_

Its: EVP, Secretary & General Counsel

\_\_\_\_\_

Date

**STONEPEAK ASSOCIATES IV LLC**



By: \_\_\_\_\_

Its: Senior Managing Director

**EXHIBIT 1**

**PARTICIPATING MUNICIPALITIES**

Town of Chevy Chase\*  
Chevy Chase Section 3  
Chevy Chase Section 5\*  
Chevy Chase View  
Chevy Chase Village  
Garrett Park  
Glen Echo  
Kensington  
Village of Martins Addition\*  
Village of North Chevy Chase\*  
Rockville  
Somerset  
Takoma Park\*  
Washington Grove  
\*RCN Subscribers in these municipalities in 2021

**EXHIBIT 2**  
**GUARANTEE OF PERFORMANCE**

WHEREAS, the County has granted Starpower Communications, L.L.C. (the "Franchisee") a nonexclusive franchise (the "Franchise") for a term of fifteen (15) years pursuant to Montgomery County Code Chapter 8A, as amended (the "Cable Law"), and Article 25A, Section 5(B) of the Annotated Code of Maryland, 1957, as amended; and the Franchise Agreement between the Franchisee and the County dated July 1, 2015, as amended by a Settlement Agreement executed by Franchisee and by the County Executive on September 15, 2015 (collectively, the Franchise Agreement and the Settlement Agreement are the "Franchise Documents"); and as further clarified by a Transfer Agreement approving the transfer of the control of the Franchisee to Radiate Holdings, L.P. (the "Transfer Agreement");

WHEREAS, Radiate Holdings GP, LLC (the "Guarantor") will control Radiate Holdings, L.P., the parent of the Franchisee, and will have a substantial interest in the Franchise, in the conduct of the Franchisee, and in the Franchise Documents and Transfer Agreement, which are incorporated herein by this reference;


NOW, THEREFORE, the Guarantor hereby unconditionally guarantees the due and timely performance of any and all obligations of the Franchisee required by the Franchise Documents and the Transfer Agreement, whether the obligation, or the failure to perform arose before or after Radiate Holdings, L.P. became the parent of Franchisee. The financial condition of the Franchisee or any parent or affiliate of the Franchisee shall not limit the ability of the Franchisee to properly and fully comply with the terms of the Franchise Agreement. This Guarantee, unless terminated, substituted or canceled as hereinafter provided, shall remain in full force and effect for the term of the Franchise; provided, however, that upon the County's prior written approval of a substitute guarantor, which approval shall not be unreasonably withheld, this Guarantee may be terminated, substituted or canceled upon written notice from the Guarantor to the County and the Franchisee; and provided, further, however, that the County's prior approval, written or otherwise, of a substitute guarantor, shall not be required if, due to internal restructuring that is neither part of a transfer of a franchise nor a transfer of an interest in a franchisee that would require County approval under the Franchise Agreement, the Guarantor's board no longer is the controlling board

of the Franchisee, the entity will be similarly situated in terms of control of the Franchisee post-restructuring will sign and become the Guarantor hereunder, and at least five (5) business days' notice has been given to the County of the substitution. Any such substitution of the Guarantor will be implemented in a manner that ensures that the substitute guarantee is in place and effective prior to or contemporaneously with the termination, substitution or cancellation of this Guarantee so that there is no breach in coverage.

Any such notice to be given hereunder shall be addressed to the County at

County Executive  
Office of County Executive  
Montgomery County Maryland  
Executive Office Building  
Second Floor  
101 Monroe Street  
Rockville, Maryland 20850

with a copy to the Franchisee. Such termination shall not affect liability incurred or accrued under this Guarantee prior to the effective date of such termination or cancellation.

By:  \_\_\_\_\_

Name: Jeffrey B. Kramp

Title: EJP, Secretary\*, Gen Counsel



April 5, 2021

Marc Elrich  
Montgomery County Executive  
Office of County Executive  
101 Monroe St., 2nd Floor  
Rockville, MD 20850  
240-777-0311  
[marc.elrich@montgomerycountymd.gov](mailto:marc.elrich@montgomerycountymd.gov)  
<https://www.montgomerycountymd.gov/exec/index.html>

Reference is made to that certain Transfer Agreement, dated \_\_\_\_\_, 2021, among Montgomery County and Starpower Communications, LLC (“RCN”), RCN Telecom Services, LLC (“RCNT”) and Radiate Holdings GP, LLC (“RHGP”) on behalf of itself and Radiate Holdings, L.P. (“Radiate LP”) and collectively with RCN, RCNT, and RHGP (the “Companies”) and Stonepeak Associates IV LLC (“Stonepeak”) (the “Transfer Agreement”). Capitalized terms used but not defined herein shall have the meanings ascribed to them in the Transfer Agreement.

Upon the closing of the Transaction, Stonepeak will be the sole member of RHGP and will indirectly control RCN and RCNT.

Stonepeak is a limited liability company validly existing and in good standing under the laws of the state of Delaware. Transferee is affiliated with private equity funds managed by Stonepeak Infrastructure Partners (“SIP”), a specialized private equity firm that invests in strategically important infrastructure assets within the communications, energy, power, water, renewables, and transportation sectors. Founded in 2011 and headquartered in New York, SIP manages over \$32.2 billion of capital for its investors.<sup>1</sup>

Stonepeak hereby represents and warrants as of the closing of the Transaction, the day-to-day management and control over the operations of the Companies will remain with Patriot Media Consulting, LLC (“Patriot”) pursuant to that certain Management Agreement, to be entered into as of the closing of the Transaction, by and among Patriot on the one hand, and RCN, Radiate LP, WaveDivision Holdings, LLC and Grande Communications Networks, LLC, on behalf of themselves and on behalf of the other Companies (as defined therein), on the other hand, with the intention that the cable systems will continue to operate much as they are operated today.

Stonepeak further represents and warrants that **[BEGIN CONFIDENTIAL]** 


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<sup>1</sup> This figure reflects the amount of assets under management reported for regulatory purposes as of December 31, 2020.



[END CONFIDENTIAL] Finally, Radiate LP is prohibited by Delaware law from making distributions to its limited partners unless, after giving effect to the distributions, the fair value of the assets of the partnership exceeds its liabilities.

The representations and warranties set forth herein are solely for the benefit of Montgomery County and are not intended to, and do not, confer upon any other person any benefits, rights or remedies.



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Stonepeak Associates IV LLC

By: **Brian McMullen**

Its: **Senior Managing Director**

**Report to the County Executive Regarding the Proposed Transfer of Franchise:  
Transfer of Control of Starpower Communications, LLC, from Radiate Holdings,  
LP to Stonepeak Associates IV, LLC**

**Prepared by:**

**Office of Broadband Programs**

**April 9, 2021**

**TABLE OF CONTENTS**

EXECUTIVE SUMMARY ..... ii

I. INTRODUCTION ..... 1

II. BACKGROUND ..... 1

    A. Applicable Law ..... 1

    B. The Application. .... 3

    C. Summary of the Transaction..... 3

    D. The County Review Process. .... 13

III. ANALYSIS OF TRANSACTION ..... 14

    A. Franchise, Section 3 (Promise to Comply). .... 14

    B. 8A-23(a) (Must Have Held Franchise for Three Years)..... 14

    C. 8A-23 (Qualifications and Public Interest Standard)..... 14

IV. CONCLUSION..... 15

## EXECUTIVE SUMMARY

This report analyzes an application requesting approval of a transaction that would result in a change in control of one of the County's cable franchisees, Starpower Communications, LLC ("Starpower"). Starpower is controlled now by Radiate Holdings, LP ("Radiate Holdings"), of which Radiate Holdings, GP LLC ("RHGP") is the general partner. Under the proposed transaction, Stonepeak Associates, IV LLC ("Stonepeak"), which is a wholly-owned subsidiary of Stonepeak GP Investors, IV LLC ("SGP"), will become the sole member of, and have the ability to appoint a majority of the directors of RHGP, and accordingly will indirectly control Radiate Holdings, and its subsidiaries, including Starpower. Thus, the proposed transaction is occurring entirely at the parent level of the franchisee Starpower, and does not actually involve a change in the franchisee Starpower, or the transfer of the franchise to a new entity.

Nonetheless, the proposed transaction is a "transfer of a franchise" under the Montgomery County Code, Sections 8A-3 and 8A-23. In contrast to a "transfer of an interest," which may be approved by the County Executive after a public hearing, a "transfer of control" must be approved by the County Council. It does not require a public hearing. According to the Montgomery County Code Section 8A-23(g), the "Council must take final action on an application for transfer of a franchise after receiving recommendation from the County Executive."

For reasons explained in detail below, staff concludes that it is appropriate to recommend that the application be approved, subject to conditions in accordance with the Cable Law.

Before approving transfer of a franchise, the County must consider the legal, financial, technical and character qualifications of the transferee to operate the system, and whether operation by the proposed franchisee will adversely affect the cable services to subscribers or otherwise be contrary to the public interest.

The analysis of this transaction focused on whether the transfer of control alters those qualifications, creates a risk that the franchisee will be unable to perform as promised, or otherwise may adversely affect franchisee's services as well as a technical assessment of the system operated by franchisee Starpower. While the staff's analysis, as informed by reports prepared by financial consultant Ashpaugh & Sculco ("A&S") and engineering consultant Columbia Telecommunications Corporation ("CTC"), raised some concerns, staff determined

that those concerns could be reasonably addressed through the attached Transfer Agreement, existing Parental Guarantee, and Warranty. Among other things, those provisions of the documents are intended to ensure: (a) the system will continued to be managed by qualified personnel; (b) the transaction will not overly burden the franchisee with debt, raise rates, or otherwise prevent the franchisee from modernizing its system; and (c) if the parent companies do take actions that prevent franchisee from satisfying its obligations to the County, or misrepresented the effects of the transaction, the County will have reasonable remedies through enforcement of the existing Parental Guarantee against the parents, and by other means.

Staff does recommend that this matter be moved forward as quickly as possible. As explained below, the County has until April 23, 2021 to act upon the application. The transaction may close on or about any time prior to June 30, 2021.

# **Report to the County Executive Regarding the Proposed Transfer of Franchise: Transfer of Control of Starpower Communications, LLC, from Radiate Holdings, LP to Stonepeak Associates IV, LLC**

## **I. INTRODUCTION**

Starpower Communications, LLC (“Franchisee”), currently holds a franchise (“Franchise”) to own and operate a cable system (“System”) in Montgomery County (“County”). That Franchise was renewed in May, 2016, after full consideration of the qualifications of the Franchisee by the County Council. Franchisee’s parent, Radiate Holdings, LP (“Radiate Holdings”) and Stonepeak Associates IV, LLC (“Stonepeak”) have requested that the County consent to the transfer of control of Franchise from Radiate Holdings to Stonepeak.

The transaction does not involve a change in the Franchisee. The analysis of this transaction focused on whether the transfer of control alters those qualifications, creates a risk that the Franchisee will be unable to perform as promised, or otherwise may adversely affect the Franchisee’s services as well as a technical assessment of the system operated by Franchisee. For that reason, this report concludes that the Executive should recommend approval to the Council.

Please note that the reports by Ashpaugh & Sculco (“A&S”) and Columbia Telecommunications Corporation (“CTC”) prepared in connection with the County’s review contain confidential information, but full copies of the reports are also available for review in the Office of Broadband Programs .

## **II. BACKGROUND**

### **A. Applicable Law**

The application is governed by federal law, the Montgomery County Code 2014, as amended, known as the Cable Communications Law (the “Cable Law”) and the Franchise, adopted May 3, 2016 by Resolution No. 18-469, and available at <https://www.montgomerycountymd.gov/cable/Resources/Files/RCNFranchiseRenewal/2016%20RCN%20Franchise%20Agreement.pdf>. The most relevant section of the Franchise is Section 3, which provides that transfers will be governed by the Cable Law. Under the Cable Law, a particularly high bar is established for any transaction that involves another County cable

franchisee. Section 3 expressly requires the transferee to agree in writing that it will abide by and accept the terms of the Franchise and the Cable Law, and that it will accept responsibility for the acts and omissions of the previous Franchisee for all purposes, unless the condition is expressly waived in whole or in part.

The Cable Law establishes relevant procedural and substantive requirements for consideration of the transfer application.

The Cable Law establishes slightly different procedures for consideration of transactions that constitute a transfer of an interest in a franchise, and transactions that constitute a transfer of a franchise. While the transaction here involves a change of control at the parent level, it is a transfer of a franchise as defined in the Cable Law. Section 8A-3. A transfer of an interest can be approved by the Executive, after a public hearing. A transfer of a franchise does not require a public hearing, but requires approval by the County Council, which acts on the application after receiving the recommendation of the Executive. Substantively, the Cable Law, Section 8A-23, provides that

Before approving transfer of a franchise, the County must consider the legal, financial, technical and character qualifications of the transferee to operate the system, and whether operation by the proposed franchisee will adversely affect the cable services to subscribers or otherwise be contrary to the public interest.

In addition, Section 8A-23(a) provides that a “transfer of a franchise will not be approved by the County when the transferor has held the franchise less than 3 years unless the County finds that the transfer is necessary and in the best interests of the County and its residents.”

The federal law and corresponding regulations governing the transfer or sale of a cable television franchise are set forth in Section 617 of the Communications Act of 1934, 47 U.S.C. § 37, and Section 76.502(a), 47 C.F.R. § 76.502(a), of the Rules and Regulations of the Federal Communications Commission (“FCC”). Any cable operator wishing to transfer a cable system is required to submit a Transfer Application to the franchising authority on FCC Form 394. Upon receipt of a complete FCC Form 394, the franchising authority has thirty (30) days to request any additional information necessary to act on the application. Upon receipt of the requested information, the franchising authority has 120 days to approve or deny the requested transfer



unless the 120-day review period is extended by agreement with the cable operator. If no action is taken, the transaction is deemed approved.

B. The Application.

An application for transfer dated November 30, 2020 was filed with the County on or about December 10, 2020, triggering the 120-day federal law deadline. The applicants, Radiate Holdings the Transferor and Stonepeak the Transferee, requested that the County consent to the transfer of the control of Franchisee from Radiate Holdings to Stonepeak. Under the federal law, if a franchising authority fails to act on a complete application within 120 days, it is deemed approved unless the applicant is timely notified that its application is incomplete. The applicants were notified that the application was incomplete on January 5, 2021, and the information the County requested to complete the application was not received until January 13, 2021. Applicants, however, contended that the application was complete from the date of application. The County and the applicants have agreed that the County has until April 23, 2021 to act upon the application. The transaction may close on or about any time prior to June 30, 2021 whether or not the County has consented. A copy of the application as filed is attached.

C. Summary of the Transaction.

The transaction before the County is part of a large transaction through which Stonepeak will obtain control of systems previously owned by RCN (which include the Montgomery County system) and systems controlled by Grande Communications Networks, LLC. The transaction occurs entirely at the parent level. The corporate structures both before and after closing are complex, as the charts which follow show. The transaction itself involves many interim steps, but post-closing, Stonepeak will control the Franchisee. Stonepeak, in turn, is a subsidiary of Stonepeak GP Investors IV, LLC (“SGP”) who will control it.

More specifically, the transaction contemplates the acquisition of Radiate Holdings by funds associated with Stonepeak, namely Stonepeak Tiger Holdings I LLC and Stonepeak Tiger Holdings II LP, pursuant to that certain Agreement and Plan of Merger by and among by and among Stonepeak Tiger Holdings I LLC, Stonepeak Tiger Holdings II Sub LLC, Stonepeak Tiger Blocker I LLC, Stonepeak Tiger Blocker II LLC, Stonepeak Tiger Blocker III LLC, Stonepeak Tiger Blocker IV LLC, Stonepeak Tiger GP Merger Sub LLC, Stonepeak Tiger

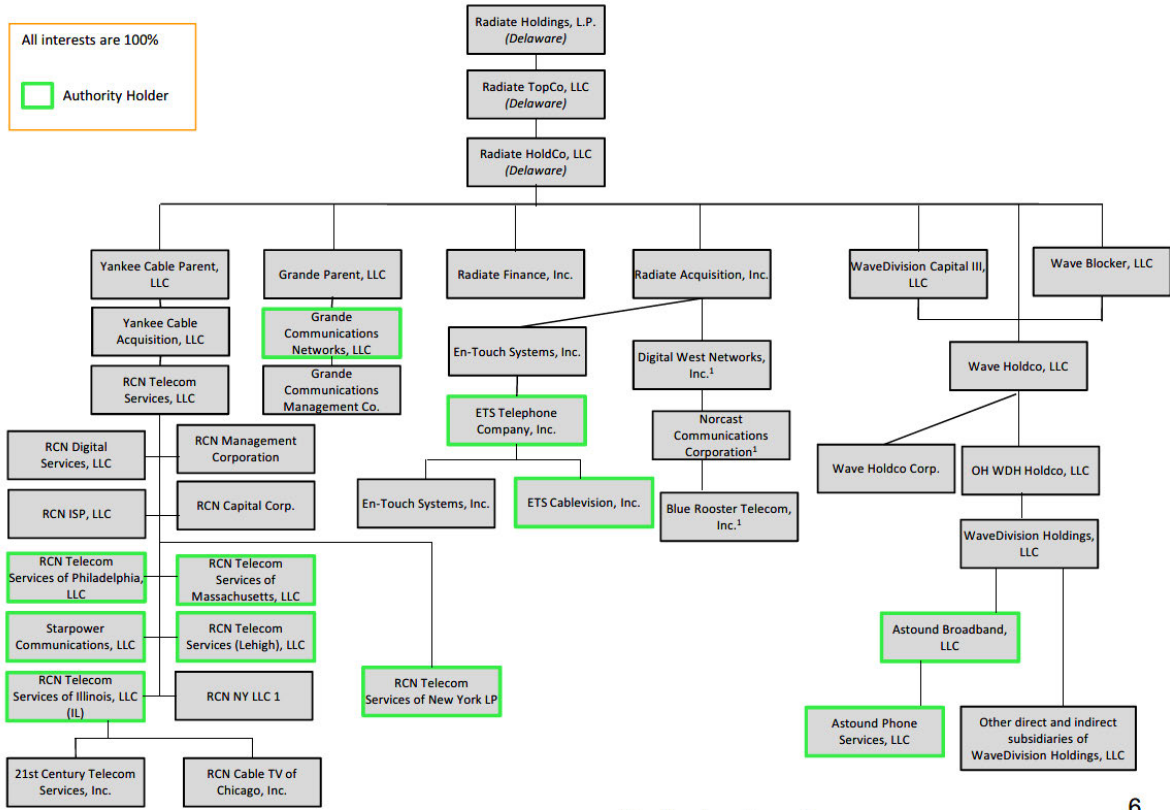
Partnership Merger Sub LP, TPG VII Radiate BL, LLC, TPG Wakeboard BL, LLC, Radiate GF II Blocker, LLC, Radiate OF II Blocker, LLC, Radiate Holdings, LP, Radiate Holdings GP, LLC, and TPG VII Radiate Holdings I, LP, dated October 31, 2020.

The next page shows the pre-close structure of Yankee/RCN — as shown, Franchisee is one of several entities under Radiate Holding's control.

### Authority Holders

All interests are 100%

Authority Holder

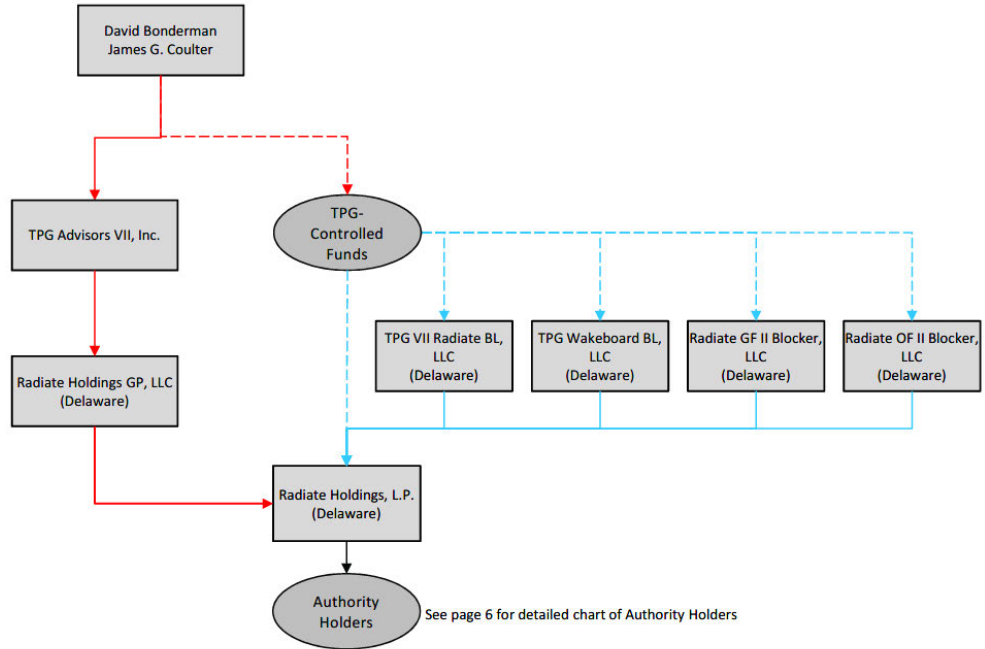


<sup>1</sup> Pending close of transaction.

The following page shows the corporate structure pre-transaction.

Pre-Close Ownership of Authority Holders

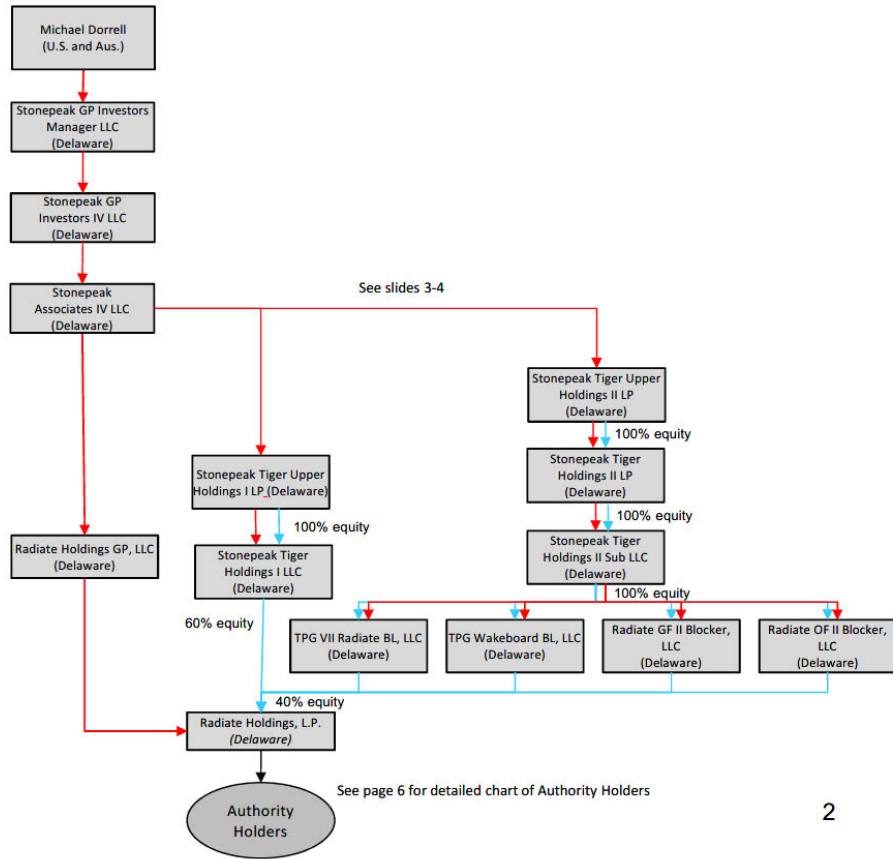
**Red:** GP or other controlling person  
**Blue:** Non-controlling member/limited partner equity interests  
 Controlling interests are 100% unless otherwise indicated  
 Dash lines indicate indirect interest.



The following page shows the corporate structure post-transaction.

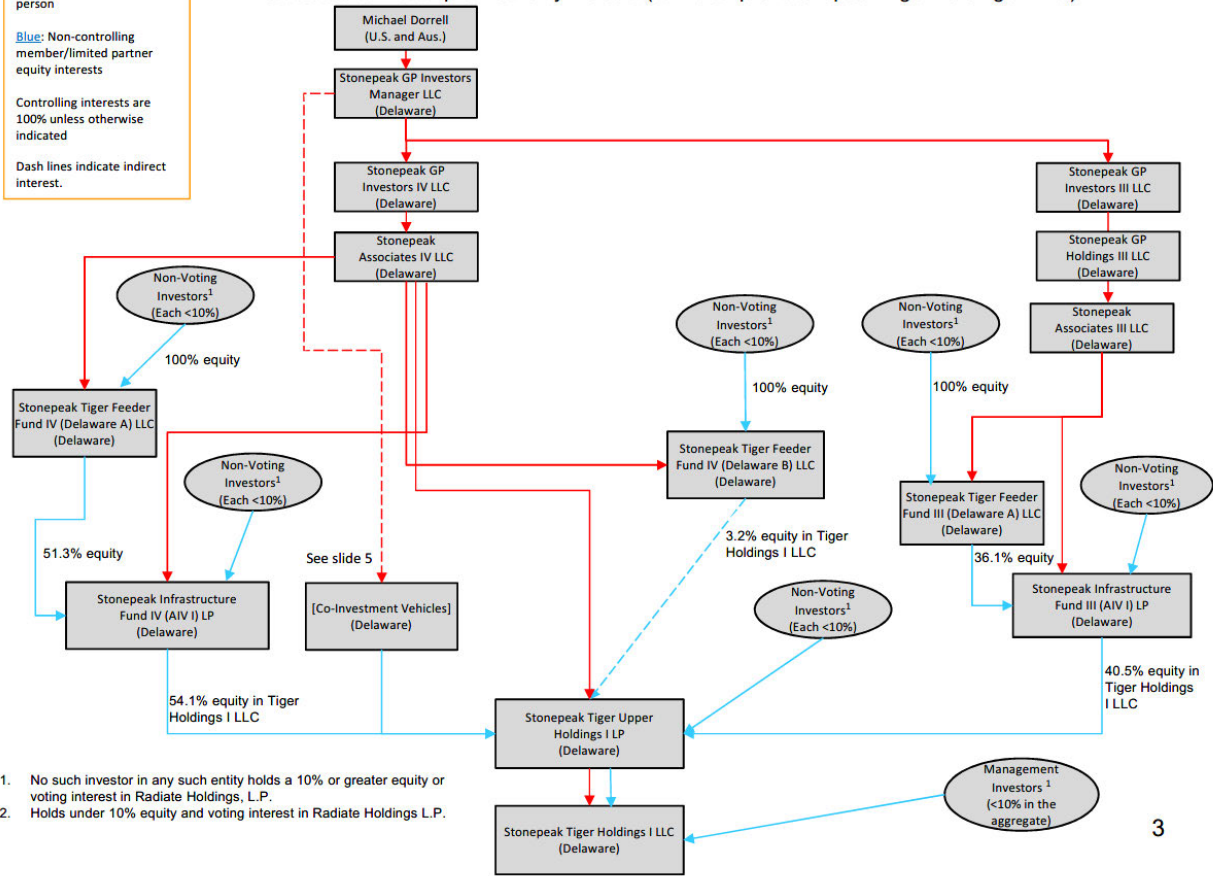
**Red:** GP or other controlling person  
**Blue:** Non-controlling member/limited partner equity interests  
 Controlling interests are 100% unless otherwise indicated  
 Dash lines indicate indirect interest.

Post-Close Ownership of Authority Holders (Indirect Control of Authority Holders)



**Red:** GP or other controlling person  
**Blue:** Non-controlling member/limited partner equity interests  
 Controlling interests are 100% unless otherwise indicated  
 Dash lines indicate indirect interest.

Post-Close Ownership of Authority Holders (Ownership of Stonepeak Tiger Holdings I LLC)

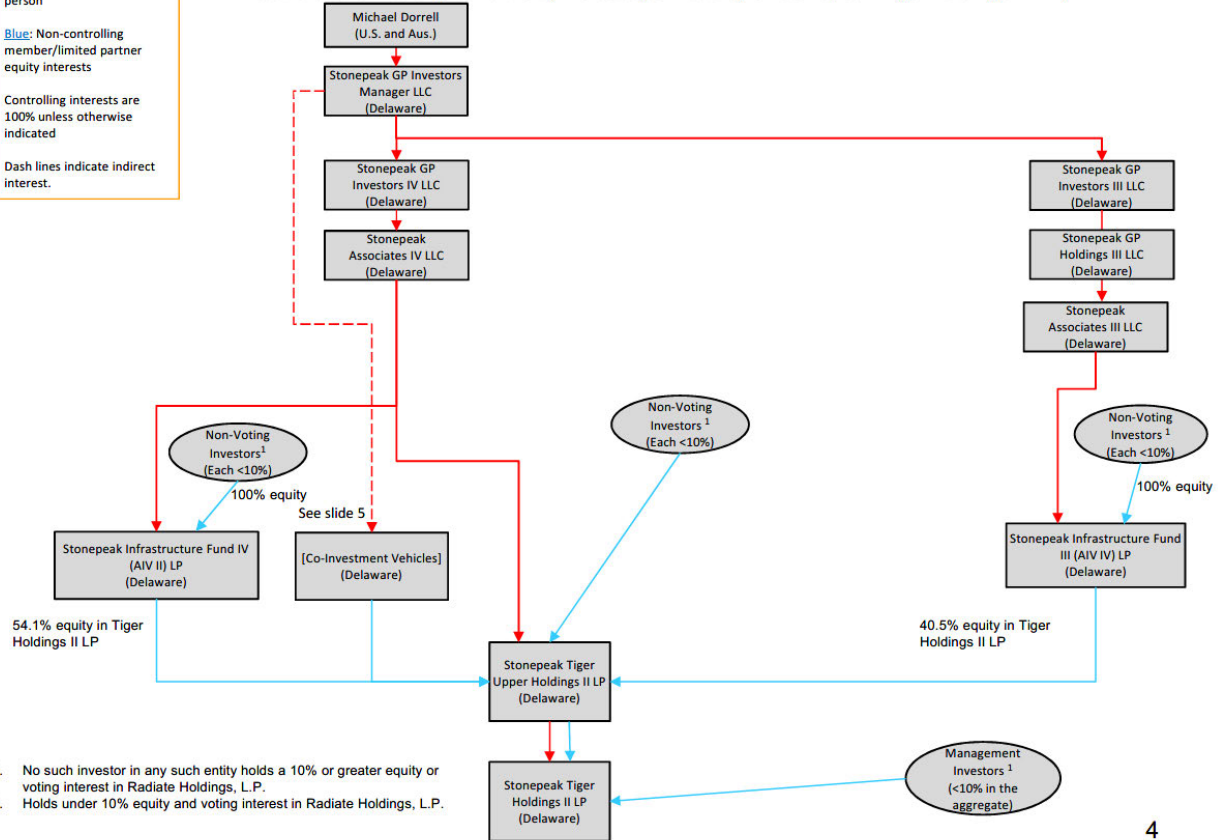


1. No such investor in any such entity holds a 10% or greater equity or voting interest in Radiate Holdings, L.P.
2. Holds under 10% equity and voting interest in Radiate Holdings L.P.



**Red:** GP or other controlling person  
**Blue:** Non-controlling member/limited partner equity interests  
 Controlling interests are 100% unless otherwise indicated  
 Dash lines indicate indirect interest.

Post-Close Ownership of Authority Holders (Ownership of Stonepeak Tiger Holdings II LP)



**Red:** GP or other controlling person

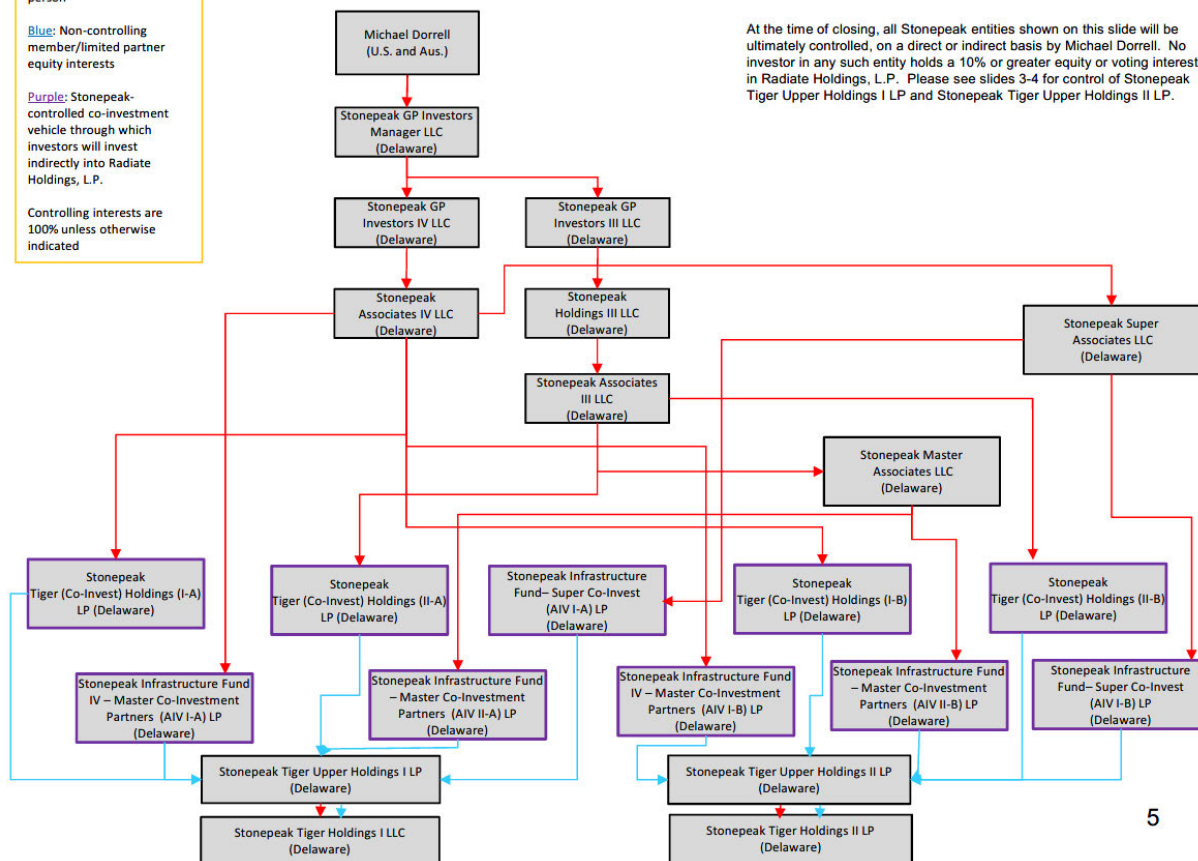
**Blue:** Non-controlling member/limited partner equity interests

**Purple:** Stonepeak-controlled co-investment vehicle through which investors will invest indirectly into Radiate Holdings, L.P.

Controlling interests are 100% unless otherwise indicated

### Post-Close Ownership of Co-Investment Vehicles (Ownership of Tiger Holdings I and II)

At the time of closing, all Stonepeak entities shown on this slide will be ultimately controlled, on a direct or indirect basis by Michael Dorrell. No investor in any such entity holds a 10% or greater equity or voting interest in Radiate Holdings, L.P. Please see slides 3-4 for control of Stonepeak Tiger Upper Holdings I LP and Stonepeak Tiger Upper Holdings II LP.



D. The County Review Process.

As depicted and explained above, the transaction does not involve a change in the Franchisee. To assist it in the review, the County, in conjunction with its outside counsel, Best Best & Krieger LLC retained A&S to conduct a financial review of the transactions, and CTC to conduct a review of the transaction to identify technical concerns. CTC was asked to inspect and conduct a detailed field testing of the Franchisee system.

The A&S report did not identify significant problems based on the proposed transaction itself. It did raise concerns about the companies responsible for operating the system having sufficient capital to meet both outstanding debt obligations and needed capital expenditures. In addition to the existing Parental Guarantee, A&S recommended a Warranty from Stonepeak.

The CTC report found most parts of the cable system to be compliance with the current Franchise's technical requirements, based on CTC's inspection in the area around five test points. Of the one test point that did not meet standards due to variations in signal levels that exceeded the FCC requirements, CTC recommended that Franchisee run tests to verify the extent to which this is a broader problem and make the needed adjustments for compliance. It did note that there were deviations from safety code in several places of the sample inspection and recommended that Franchisee perform a drive-through inspection of its system and, as necessary, work with Pepco and other utilities to address problems in the plant. Moreover, the CTC report also notes that the cable system may need to upgrade its system capacity and expand fiber optics to keep at the standard that Comcast is building into its major cable systems in the next couple of years. This led staff to seek information and assurances regarding the future management of the system.

Aside from the issues noted above, the review did not disclose significant issues associated with the proposed transaction. After receiving the reports, staff discussed issues with the applicants, and it then developed a Transfer Agreement and worked with applicants to obtain a Warranty from Stonepeak GP Investors Manager, LLC ("SGPIM"), the sole member of Stonepeak.

### III. ANALYSIS OF TRANSACTION

Based on the documents that are attached to this report, staff believes that concerns identified during the review of the proposed transaction and noted above are reasonably addressed. The Transfer Agreement binds the County, Franchisee, RCN Telecom Services, LLC, Stonepeak, as well as RHGP and Radiate Holdings in regards to the existing Parental Guarantee that is still valid, and the Warranty contains representations from SGPIM.

Staff examined the transaction in light of the legal standards discussed above, and based on that analysis, concludes that the Executive should recommend approval.

#### A. Franchise, Section 3 (Promise to Comply).

The WHEREAS clauses to the proposed Transfer Agreement specifically provides that “Franchisee reaffirms its continuing obligations under the Cable Law and the Franchise Documents; and Transferee agrees to abide by and accept all terms of the Franchise Documents and the Cable Law, as they may be amended, to the extent applicable to it; and agrees that from and after the transaction, it will take no action inconsistent with the same and Franchisee will continue to be responsible for the obligations and liabilities, and continue to have responsibility for all acts and omissions, known and unknown, under the Franchise Documents and the Cable Law for all purposes, including renewal, unless waived, in whole or in part, by the County and Participating Municipalities.” This clause is specifically incorporated by reference through Section 1.1 of the Transfer Agreement.

#### B. 8A-23(a) (Must Have Held Franchise for Three Years).

Franchisee has held the renewal franchise since 2016 and thus satisfies the 3 year requirement under Section 8A-23(a) of the Cable Law.

#### C. 8A-23 (Qualifications and Public Interest Standard).

The A&S Report determined the Stonepeak is financially qualified, but raised concerns regarding the capacity of Franchisee as promised. Those issues were addressed, among other things, through the existing Performance Guarantee provided by RHGP; through the Warranty provided by SGPIM, which provides certain assurances as to debt limits that may be assumed; and by Section 2.6 of the Transfer Agreement, which provides that the companies signing the

Transfer Agreement will “not take any action inconsistent with the promises contained in the Franchise Documents” and the Transfer Agreement.

The CTC Report did not make note of any detailed information regarding the effect of the transaction on technical aspects of the system. As noted above, this is the same entity that has had responsibility for the operation of the RCN systems. In addition, the Transfer Agreement provides that “under the Proposed Transaction, the Franchisee will continue to be run by highly experienced, well-qualified personnel, and that, the Proposed Transaction will not adversely affect the System, or have a detrimental effect on, or result in material change to, the service provided to existing customers and to the County.”

Other public interest concerns are also addressed in the Transfer Agreement. For example, Section 2.2 makes it clear that the scope of the Franchise (now limited to authorizing construction and operation of a cable system to provide cable services) is not changing. Section 4 states that the transaction will not adversely affect rates, and in Section 5.2, the Franchisee represents and warrants that the transaction will not affect its ability to comply with its obligations.

Taken together, the documents appear to provide the County reasonable assurances that neither it or the public will be adversely affected by the transaction, and may provide remedies should any of the representations or warranties prove to be misleading. As Franchisee is also the County’s ISP, these assurances are important to the County as a customer.

The County will be paid \$10,000 to cover its administrative costs associated with reviewing the transaction.

#### **IV. CONCLUSION**

Based on the results of the negotiation, and developments in the system, Staff believes it is reasonable for the Executive to recommend approval to the Council, subject to full execution of the attached Transfer Agreement, which includes the existing Parental Guarantee, and Warranty.

#### **ATTACHMENTS**

1. Form 394

2. Transfer Agreement [signed] with Parental Guarantee
3. Warranty (redacted) [signed]