



PUBLIC NOTICE

Federal Communications Commission
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DA 04-3242

Released: October 13, 2004

DOMESTIC SECTION 214 APPLICATION FILED FOR TRANSFER OF CONTROL OF AT&T BROADBAND PHONE OF KENTUCKY, LLC TO INSIGHT KENTUCKY PARTNERS II, L.P.; TRANSFER OF CONTROL OF AT&T BROADBAND PHONE OF INDIANA, LLC TO INSIGHT COMMUNICATIONS MIDWEST, LLC; AND TRANSFER OF ASSETS FROM COMCAST PHONE OF OHIO, LLC TO INSIGHT PHONE OF OHIO, LLC

STREAMLINED PLEADING CYCLE ESTABLISHED

WC Docket No. 04-292

Comments Due: October 27, 2004

Reply Comments Due: November 3, 2004

On July 23, 2004, Comcast Cable Holdings, LLC (“Comcast Holdings”), Comcast Phone, LLC (“Comcast Phone”), AT&T Broadband Phone of Indiana, LLC (“Comcast Indiana”), AT&T Broadband Phone of Kentucky, LLC (“Comcast Kentucky”), and Comcast Phone of Ohio, LLC (“Comcast Ohio”) (collectively, the “Comcast Entities”), Insight Midwest Holdings, LLC (“Insight Holdings”), Insight Communications Midwest, LLC (“Insight Midwest”), Insight Kentucky Partners II, L.P. (“Insight Kentucky”), and Insight Phone of Ohio, LLC (“Insight Ohio”) (collectively the “Insight Entities”) filed an application, pursuant to section 63.04 of the Commission’s rules,¹ to transfer control of section 214 authorizations to provide domestic telecommunications from Comcast Kentucky to Insight Kentucky; to transfer control of similar authorizations from Comcast Indiana to Insight Midwest; and to transfer assets from Comcast Ohio to Insight Ohio.²

Applicants assert that this transaction is entitled to presumptive streamlined treatment pursuant to section 63.03(b)(2)(i) of the Commission’s rules³ because (1) subsequent to the

¹ 47 C.F.R. § 63.04; *see* 47 U.S.C. § 214.

² Applicants are also filing an application for consent to transfer authorization for international services. Any action on this domestic 214 application is without prejudice to Commission action on other related pending applications.

³ 47 C.F.R. § 63.03(b)(2)(i).

transaction, the transferee will have less than 10 percent of the interstate, interexchange market; (2) the transferee will provide competitive telephone exchange services exclusively in geographic areas served by a dominant local exchange carrier that is not a party to the proposed transaction; and (3) neither the Comcast Entities nor the Insight Entities, nor any affiliate of either, is dominant with respect to any service.

The Comcast Entities, all of which are organized under Delaware law, currently provide local exchange service, exchange access, and long distance telephone service in Ohio, Indiana, and Kentucky. These entities are ultimately owned by Comcast Corporation, a Delaware corporation. The Insight Entities, all of which also are organized under Delaware law, operate cable television systems in Ohio, Indiana, and Kentucky. These entities are ultimately owned by Comcast Corporation and by Insight Communications Company, Inc., a Delaware corporation. Although various Comcast affiliates provide telecommunications services, none are dominant in the provision of such service in any market. Wallace R. Weitz & Company, which is organized under the laws of Nebraska, owns 14% of the outstanding shares of Insight Communications Corporation, Inc., and also owns an 11.6% interest in Charter Communications (“Charter”). Charter provides telecommunications services in parts of the United States but is not dominant in any market, and does not offer such services in markets served by Insight.⁴ No other Insight affiliate provides any telecommunications service.⁵

Upon Commission approval of this application, pursuant to a purchase agreement dated July 2, 2004, (1) Insight Midwest proposes to acquire Comcast Indiana; (2) Insight Kentucky proposes to acquire Comcast Kentucky;⁶ and (3) Insight Ohio proposes to acquire those assets of Comcast Ohio used in connection with provision of telephone service in Columbus, Ohio. Comcast Ohio will retain other telephone operations in Ohio.

Applicants state that the proposed transaction will benefit the public interest by integrating the telephone operations of the Comcast Entities and the Insight Entities in the affected markets. Applicants assert that the Comcast Entities’ operations already rely on the Insight Entities’ networks. This transfer, they state, will permit the Insight Entities to control quality of service and to provide innovative services and service bundles that will benefit consumers. Applicants emphasize that the transaction will not reduce competition in the local exchange or long distance marketplace because the Insight Entities currently do not provide telephone service in the affected markets.

⁴ See Letter from J.G. Harrington, Counsel for Insight Communications, to Marlene H. Dortch, Secretary, FCC, WC Docket No. 04-292, at 1-2 (filed Oct. 6, 2004) (“*October 6 Letter*”); Letter from J.G. Harrington, Counsel for Insight Communications, to Marlene H. Dortch, Secretary, FCC, WC Docket No. 04-292, at 1 (filed Sept. 14, 2004) (“*September 14 Letter*”).

⁵ See *September 14 Letter* at 2.

⁶ See *October 6 Letter* at 2.

GENERAL INFORMATION

The transaction identified herein has been found, upon initial review, to be acceptable for filing as a streamlined application. The Commission reserves the right to return any application if, upon further examination, it is determined to be defective and not in conformance with the Commission's rules and policies. Interested parties may file **comments on or before October 27, 2004** and **reply comments on or before November 3, 2004**.⁷ Unless otherwise notified by the Commission, this application will be deemed granted on the 31st day after the date of this notice.⁸ Comments may be filed using the Commission's Electronic Comment Filing System (ECFS) or by filing paper copies. *See Electronic Filing of Documents in Rulemaking Proceedings*, 63 Fed. Reg. 24121 (1998).

Comments filed through the ECFS can be sent as an electronic file via the Internet to <<http://www.fcc.gov/e-file/ecfs.html>>. Generally, only one copy of an electronic submission must be filed. If multiple docket or rulemaking numbers appear in the caption of this proceeding, however, commenters must transmit one electronic copy of the comments to each docket or rulemaking number referenced in the caption. In completing the transmittal screen, commenters should include their full name, U.S. Postal Service mailing address, and the applicable docket or rulemaking number. Parties may also submit an electronic comment by Internet e-mail. To get filing instructions for e-mail comments, commenters should send e-mail to ecfs@fcc.gov, and should include the following words in the subject line "get form <your e-mail address>." A sample form and directions will be sent in reply.

Parties who choose to file by paper must file an original and four copies of each filing. If more than one docket or rulemaking number appears in the caption of this proceeding, commenters must submit two additional copies for each additional docket or rulemaking number. Filings can be sent by hand or messenger delivery, by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail (although we continue to experience delays in receiving U.S. Postal Service mail). The Commission's contractor, Natek, Inc., will receive hand-delivered or messenger-delivered paper filings for the Commission's Secretary at 236 Massachusetts Avenue, N.E., Suite 110, Washington, D.C. 20002. The filing hours at this location are 8:00 a.m. to 7:00 p.m. All hand deliveries must be held together with rubber bands or fasteners. Any envelopes must be disposed of before entering the building. Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9300 East Hampton Drive, Capitol Heights, MD 20743. U.S. Postal Service first-class mail, Express Mail, and Priority Mail should be addressed to 445 12th Street, SW, Washington, D.C. 20554. All filings must be addressed to the Commission's Secretary, Office of the Secretary, Federal Communications Commission.

⁷ *See* 47 C.F.R. § 63.03(a).

⁸ Such authorization is conditioned upon receipt of any other necessary approvals from the Commission in connection with the proposed transaction.

In addition, one copy of each pleading must be sent to each of the following:

- (1) The Commission's duplicating contractor, Best Copy and Printing, Inc., 445 12th Street, S.W., Room CY-B402, Washington, D.C. 20554; e-mail: www.bcpweb.com; phone: 202-488-5300 fax: 202-488-5563;
- (2) Tracey Wilson, Competition Policy Division, Wireline Competition Bureau, 445 12th Street, S.W., Room 5-C437, Washington, D.C. 20554; e-mail: tracey.wilson-parker@fcc.gov;
- (3) Russell Hanser, Competition Policy Division, Wireline Competition Bureau, 445 12th Street, S.W., Room 5-B155, Washington, D.C. 20554; e-mail: russell.hanser@fcc.gov;
- (4) Julie Veach, Competition Policy Division, Wireline Competition Bureau, 445 12th Street, S.W., Room 5-C124, Washington, D.C. 20554; e-mail: julie.veach@fcc.gov;
- (5) James Bird, Office of General Counsel, 445 12th Street, S.W., Room 8-C740, Washington, D.C. 20554; e-mail: james.bird@fcc.gov.

Filings and comments are also available for public inspection and copying during regular business hours at the FCC Reference Information Center, Portals II, 445 12th Street, SW, Room CY-A257, Washington, DC, 20554. They may also be purchased from the Commission's duplicating contractor, Best Copy and Printing, Inc., Portals II, 445 12th Street, SW, Room CY-B402, Washington, DC, 20554, telephone: 202-488-5300, fax: 202-488-5563, or via e-mail www.bcpweb.com.

For further information, please contact Tracey Wilson, at (202) 418-1394, or Russell Hanser at (202) 418-0832.

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