



PUBLIC NOTICE

Federal Communications Commission
445 12th St., S.W.
Washington, D.C. 20554

News Media Information 202 / 418-0500
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DA 17-1109
November 13, 2017

DOMESTIC SECTION 214 APPLICATION FILED FOR THE TRANSFER OF CONTROL OF INFINITY FIBER, LLC TO NEUTRAL PATH HOLDINGS, LLC

STREAMLINED PLEADING CYCLE ESTABLISHED

WC Docket No. 17-286

Comments Due: November 27, 2017

Reply Comments Due: December 4, 2017

By this Public Notice, the Wireline Competition Bureau seeks comment from interested parties on an application filed by Mr. Kevin Smith, Infinity Fiber, LLC (Infinity Fiber), and Neutral Path Holdings, LLC (Neutral Path) (collectively, Applicants), pursuant to section 214 of the Communications Act of 1934, as amended, and sections 63.03-04 of the Commission's rules, requesting consent to transfer control of Infinity Fiber from Kevin Smith to Neutral Path.¹

Infinity Fiber, an Indiana limited liability company, provides facilities-based point to point fiber transport in Indiana and between South Bend, Indiana and Chicago, Illinois. Mr. Kevin Smith, a U.S. citizen, is currently the sole owner of Infinity Fiber.

Neutral Path, a Minnesota limited liability company, is a holding company that does not itself provide telecommunications services. Neutral Path wholly owns Neutral Path Communications, LLC, a Minnesota limited liability company, and Near North Partners, LLC, an Illinois limited liability company (collectively, the Neutral Affiliates). The Neutral Affiliates provide facilities-based point to point transport communications facilities and related services in Minnesota, Iowa, Nebraska, Colorado, Illinois, and Missouri. Applicants state that, following the consummation of the proposed transaction, the following U.S. citizens and Illinois limited liability company will hold a 10 percent greater interest in Neutral Path: Scott J. Bergs (30.555 percent); Jason Hanke (30.555 percent); Charles A. Frentz (24.010 percent); and Cityfront Partners, LLC (14.867 percent).²

¹ See 47 U.S.C. § 214; 47 CFR §§ 63.03-04. On October 31, 2017 and November 13, 2017 Applicants filed a supplement to their domestic section 214 Application.

² Applicants state that the members of Cityfront Partners, LLC consists of the following U.S. citizens and Florida corporation: Christopher J. Jensen, Kenneth D. Anderson, Gerald E. Gill, and Near North Leasing Company, Inc. Applicants further state no other person or entity will own a 10 percent or greater interest in Neutral Path nor Infinity Fiber. Applicants further state that none of the entities affiliated with, or who have ownership interest in, Neutral Path hold interests in any other telecommunications provider.

Pursuant to the terms of the proposed transaction, Neutral Path will acquire all the equity interests of Infinity Fiber, which will become a direct, wholly owned subsidiary of Neutral Path. Applicants state that the service areas of Infinity Fiber and the Neutral Affiliates are adjacent to each other but do not overlap. Applicants assert that the proposed transaction is entitled to presumptive streamlined treatment under section 63.03(b)(2)(i) of the Commission's rules and that a grant of the application will serve the public interest, convenience, and necessity.³

Domestic Section 214 Application Filed for the Transfer of Control of Infinity Fiber, LLC to Neutral Path Holdings, LLC, WC Docket No. 17-286 (filed Oct. 20, 2017).

GENERAL INFORMATION

The transfer of control 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 transfer application if, upon further examination, it is determined to be defective and not in conformance with the Commission's rules and policies. Pursuant to section 63.03(a) of the Commission's rules, 47 CFR § 63.03(a), interested parties may file comments **on or before November 27, 2017**, and reply comments **on or before December 4, 2017**. Pursuant to section 63.52 of the Commission's rules, 47 CFR § 63.52, commenters must serve a copy of comments on the Applicants no later than the above comment filing date. Unless otherwise notified by the Commission, the Applicants may transfer control on the 31st day after the date of this notice.

Pursuant to section 63.03 of the Commission's rules, 47 CFR § 63.03, parties to this proceeding should file any documents using the Commission's Electronic Comment Filing System (ECFS): <http://apps.fcc.gov/ecfs/>.

In addition, e-mail one copy of each pleading to each of the following:

- 1) Tracey Wilson, Competition Policy Division, Wireline Competition Bureau, tracey.wilson@fcc.gov;
- 2) Gregory Kwan, Competition Policy Division, Wireline Competition Bureau, gregory.kwan@fcc.gov;
- 3) Jim Bird, Office of General Counsel, jim.bird@fcc.gov;

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The proceeding in this Notice shall be treated as a "permit-but-disclose" proceeding in accordance with the Commission's ex parte rules. Persons making ex parte presentations must file a copy of any written presentation or a memorandum summarizing any oral presentation within two business days after the presentation (unless a different deadline applicable to the Sunshine period applies). Persons making oral ex parte presentations are reminded that memoranda summarizing the presentation must (1) list all persons attending or otherwise participating in the meeting at which the ex parte presentation was made, and (2) summarize all data presented and arguments made during

³ 47 CFR § 63.03(b)(2)(i).

the presentation. If the presentation consisted in whole or in part of the presentation of data or arguments already reflected in the presenter's written comments, memoranda or other filings in the proceeding, the presenter may provide citations to such data or arguments in his or her prior comments, memoranda, or other filings (specifying the relevant page and/or paragraph numbers where such data or arguments can be found) in lieu of summarizing them in the memorandum. Documents shown or given to Commission staff during ex parte meetings are deemed to be written ex parte presentations and must be filed consistent with rule 1.1206(b), 47 CFR § 1.1206(b). Participants in this proceeding should familiarize themselves with the Commission's ex parte rules.

For further information, please contact Tracey Wilson at (202) 418-1394 or Gregory Kwan at (202) 418-1191.

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