

FCC IBFS - Electronic Filing

Submission_id :IB2016001993

Successfully filed on :Sep 2 2016 5:25:02:213PM

[Return to Main Menu](#)

Approved by OMB
3060-0686

**INTERNATIONAL SECTION 214 AUTHORIZATIONS
FOR ASSIGNMENT OR
TRANSFER OF CONTROL
FCC FORM 214TC
FOR OFFICIAL USE ONLY**

APPLICANT INFORMATION

Enter a description of this application to identify it on the main menu:
Blue Sky Network Assignment Application

1. Legal Name of Applicant			
Name:	BLUE SKY NETWORK. LLC	Phone Number:	858-551-3894
DBA Name:		Fax Number:	858-551-3891
Street:	1298 PROSPECT ST SUITE 1D	E-Mail:	jon@blueskynetwork.com
City:	LA JOLLA	State:	CA
Country:	USA	Zipcode:	92037 -
Attention:	Jon Gilbert		
2. Name of Contact Representative			
Name:	Jennifer L. Kostyu	Phone Number:	202-783-4141
Company:	Wilkinson Barker Knauer, LLP	Fax Number:	202-783-5851
Street:	1800 M St., N.W. Suite 800N	E-Mail:	jkostyu@wbklaw.com
City:	Washington	State:	DC
Country:	USA	Zipcode:	20036-
Attention:		Relationship:	Legal Counsel

CLASSIFICATION OF FILING

3. Choose the button next to the classification that best describes this filing. Choose only one.

a. Assignment of Section 214 Authority
An Assignment of an authorization is a transaction in which the authorization, or a portion of it, is assigned from one entity to another. Following an assignment, the authorization will usually be held by an entity other than the one to which it was originally granted. (See Section 63.24(b).)

b. Transfer of Control of Section 214 Authority
A Transfer of Control is a transaction in which the authorization remains held by the same entity, but there is a change in the entity or entities that control the authorization holder. (See Section 63.24(c).)

c. Notification of Pro Forma Assignment of Section 214 Authority (**No fee required**)

d. Notification of Pro Forma Transfer of Control of Section 214 Authority (**No fee required**)

Date of Consummation: **Must be completed if you select c or d.**

4. File Number(s) of Section 214 Authority(ies) for Which You Seek Consent to Assign or Transfer Control.
Note: If the Section 214 Authorization Holder whose authority is being assigned or transferred does not have an "ITC" File No. under which it is operating, contact the Help Desk for assistance before proceeding further with this application. You cannot enter an "ITC-ASG" or "ITC-T/C" File No. in response to this question. Your response must

specify one or more "ITC" File Nos. Relevant "ITC-ASG" or "ITC-T/C" File Nos. should be listed only in Attachment 1 in response to Question 10.

File Number: ITC2142001071300369	File Number:						
----------------------------------	--------------	--------------	--------------	--------------	--------------	--------------	--------------

5. Name of Section 214 Authorization Holder

Name: Blue Sky Network, LLC Phone Number: 858-551-3894
 DBA Name: Fax Number: 858-551-3891
 Street: 1298 PROSPECT ST E-Mail: jon@blueskynetwork.com
 SUITE 1D
 City: LA JOLLA State: CA
 Country: USA Zipcode: 92037 -
 Attention: Jon Gilbert

6. Name of Assignor / Transferor

Name: Blue Sky Network, LLC Phone Number: 858-551-3894
 DBA Name: Fax Number: 858-551-3891
 Street: 1298 PROSPECT ST E-Mail: jon@blueskynetwork.com
 SUITE 1D
 City: LA JOLLA State: CA
 Country: USA Zipcode: 92037 -
 Attention: Jon Gilbert

7. Name of Assignee / Transferee

Name: BSN Buyer, LLC Phone Number: 310-428-8665
 DBA Name: Fax Number: 310-820-3214
 Street: 10513 Santa Monica Blvd E-Mail: gdemory@kerwoodcp.com
 City: Los Angeles State: CA
 Country: USA Zipcode: 90025 -
 Attention: Gregoire Demory

8a. Is a fee submitted with this application?

If Yes, complete and attach FCC Form 159.

If No, indicate reason for fee exemption (see 47 C.F.R. Section 1.1114).

Governmental Entity Noncommercial educational licensee Notification of Pro Forma (No fee required.)

Other (please explain):

8b. You must file a separate application for each legal entity that holds one or more Section 214 authorizations to be assigned or transferred.

Fee Classification CUT - Section 214 Authority

9. Description (Summarize the nature of the application.)

Joint International and Domestic Section 214 Application to Assign Assets from Blue Sky Network, LLC to BSN Buyer, LLC

10. In Attachment 1, please respond to paragraphs (c) and (d) of Section 63.18 with respect to the assignor/transferor and the assignee/transferee. Label your response "Answer to Question 10".

11. Does any entity, directly or indirectly, own at least ten (10) percent of the equity of the assignee/transferee as determined by successive multiplication in the manner specified in the note to Section 63.18(h) of the rules? Yes No

If you answered "Yes" to this question, provide in Attachment 1, the name, address, citizenship, and principal businesses of each person or entity that directly or indirectly owns at least ten (10) percent of the equity of the assignee/transferee, and the percentage of equity owned by each of those persons or entities (to the nearest one percent). Label your response "Answer to Question 11."

12. Does the assignee/transferee have any interlocking directorates with a foreign carrier? Yes No

If you answered "Yes" to this question, identify each interlocking officer/director in Attachment 1. (See Section 63.09(g).) Provide the name and position/title of the individual or entity, the name of the foreign carrier, and the country in which the foreign carrier is authorized to operate. Label your response: "Answer to Question 12."

13. Provide in Attachment 1 a narrative of the means by which the proposed assignment or transfer of control will take place. In circumstances of a substantial assignment or transfer of control pursuant to Section 63.24(e), where the assignor seeks authority to assign only a portion of its U.S. international assets and/or customer base, please specify whether the assignor requests authority to continue to operate under any or all of its international Section 214 File Nos. after consummation; and, if so, please specify in Attachment 1 each File No. it seeks to retain in its own name. Label your response "Answer to Question 13."

Note: The assignor may retain any or all of its international Section 214 File Nos. In that case, the assignor will continue to hold the international section 214 authorizations that it specifies in response to this question. The ITC-ASG File No. that the Commission assigns to this application will, when granted, constitute Commission authorization of the proposed assignment of assets and /or customers from the assignor to the assignee. Unless Commission grant of the assignment application specifies otherwise, the assignee may provide the same services on the same routes as permitted under the assignor's Section 214 authorization(s), and the assignee may provide such service to any customers it may obtain in the ordinary course of business.

If this filing is not a notification of a *pro forma* assignment or *pro forma* transfer of control, please respond to Questions 14-20 below. (See Section 63.24(d).) Otherwise, you may proceed to Question 21 below.

14. Check "Yes" below if the assignee is a foreign carrier or if, upon consummation of the proposed assignment or transfer of control, the Section 214 holder would be affiliated with a foreign carrier. (See Section 63.18 (i).) The terms "foreign carrier" and "affiliated" are defined in Section 63.09 (d) & (e) of the rules respectively. Yes No

If you answered "Yes" to this question, please specify in Attachment 1 each foreign country in which the assignee is a foreign carrier or in which the Section 214 holder, upon consummation, would be affiliated with a foreign carrier. Label your response, "Answer to Question 14."

15. If this application is granted and the proposed assignment or transfer is consummated, would the Section 214 holder be authorized to provide service to any destination country for which any of the following statements is true? Yes No

- (1) The Section 214 holder is a foreign carrier in that country; or
- (2) The Section 214 holder controls a foreign carrier in that country; or
- (3) Any entity that owns more than 25 percent of the Section 214 holder, or that controls the Section 214 holder, controls a foreign carrier in that country.
- (4) Two or more foreign carriers (or parties that control foreign carriers) own, in the aggregate, more than 25 percent of the Section 214 holder and are parties to, or the beneficiaries of, a contractual relation (e.g., a joint venture or market alliance) affecting the provision or marketing of international basic telecommunications services in the United States.

If you answered "Yes" to this question, please specify in Attachment 1 each foreign carrier and country for which any of the above statements would be true. Label your response, "Answer to Question 15."

16. If you answered "Yes" to question 14, do you request classification of the Section 214 holder as a "non-dominant" carrier, upon consummation of the proposed transaction, between the United States and *any or all* countries listed in response to Question 14? See Section 63.10 of the rules. Yes No

If you answered "Yes" to this question, you must provide information in Attachment 1 to demonstrate that the Section 214 holder would qualify for non-dominant classification under Section 63.10 of the rules on each U.S.-destination country route where it would be a foreign carrier, or would be affiliated with a foreign carrier and for which you request non-dominant classification. Label your response, "Answer to Question 16."

17. If you answered "Yes" to question 14 and you have not provided information in response to Question 16 to demonstrate that the Section 214 holder would qualify for non-dominant classification under Section 63.10 of the rules on each U.S.-destination route where it would be a foreign carrier, or be affiliated with a foreign carrier, check "Yes" below to certify that the assignee/transferee agrees to comply with the dominant carrier safeguards in Section 63.10 (c) & (e) of the rules in the provision of international service between the United States and any foreign country(ies) for which you have not provided the required information.

Yes, I certify that I agree to comply with the dominant carrier safeguards in Section 63.10 (c) & (e) of the rules in my provision of international service between the United States and the following foreign country(ies):

No, Does not apply.

18. If you answered "Yes" to question 15, and if you have not provided information in response to question 16 to demonstrate that the Section 214 holder would qualify for non-dominant classification under Section 63.10 of the rules in its provision of service to each of the countries identified in response to question 15, the Section 214 holder may not be eligible to provide international telecommunications service between the U.S. and each such country following consummation of the assignment or transfer. In order to determine whether the public interest would be served by authorizing service on these U.S.-destination country routes, the assignee/transferee must provide information, in Attachment 1, to satisfy one of the showings specified in Section 63.18(k) of the rules. Label your response, "Answer to Question 18."

19. *If the assignee, or the Section 214 holder that is the subject of this transfer of control application, is a provider of Commercial Mobile Radio Services, you need not answer this question.*

If any of the Section 214 authorization(s) that would be assigned or transferred, authorize the Section 214 holder to resell the international switched services of an unaffiliated U.S. carrier for the purpose of providing international telecommunications services to a country listed in response to question 14, and unless you have provided information in response to question 16 to demonstrate that the Section 214 holder would qualify for non-dominant classification under Section 63.10(a)(3) of the rules for each country, check "Yes" below to certify that the assignee/transferee will file the quarterly traffic reports required by Section 43.61(c) of the rules; and/or state in Attachment 1 that the foreign carrier(s) for which the applicant has not made a showing under Section 63.10(c)(3) do(es) not collect settlement payments from U.S. international carriers. (See Section 63.18(l).)

Yes, I certify that I agree to comply with the quarterly traffic reporting requirements set forth in section 43.61(c) of the rules.

20. If the applicant desires streamlined processing pursuant to Section 63.12 of the rules, provide in Attachment 1 a statement of how the application qualifies for streamlined processing. (See Section 63.18(p).) Note that, if the application is being filed in connection with a sale of assets or reorganization of a carrier or its parent pursuant to the U.S. bankruptcy laws, the application may not be eligible for streamlined processing until final bankruptcy court approval of the proposed sale or reorganization.

Applicant certifies that its responses to questions 21 through 25 are true:

21. The assignee/transferee certifies that it has not agreed to accept special concessions directly or indirectly from a foreign carrier with respect to any U.S. international route where the foreign carrier possesses sufficient market power on the foreign end of the route to affect competition adversely in the U.S. market and will not enter into any such agreements in the future. Yes No

22. By signing this application, the undersigned certify either (1) that the authorization(s) will not be assigned or that control of the authorization(s) will not be transferred until the consent of the Federal Communications Commission has been given, or (2) that prior Commission Yes No

consent is not required because the transaction is subject to the notification procedures for *pro forma* transactions under Section 63.24 of the rules. The assignee/transferee also acknowledges that the Commission must be notified by letter within 30 days of a consummation or of a decision not to consummate. (See Section 63.24(e)(4).)

23. If this filing is a notification of a *pro forma* assignment or transfer of control, the undersigned certify that the assignment or transfer of control was *pro forma* and that, together with all previous *pro forma* transactions, does not result in a change in the actual controlling party. Yes No Not a Pro Forma

24. The undersigned certify that all statements made in this application and in the exhibits, attachments, or documents incorporated by reference are material, are part of this application, and are true, complete, correct, and made in good faith. Yes No

25. The assignee/transferee certifies that neither it nor any other party to the application is subject to a denial of Federal benefits pursuant to Section 5301 of the Anti-Drug Abuse Act of 1988, 21 U.S.C. § 862, because of a conviction for possession or distribution of a controlled substance. See Section 1.2002(b) of the rules, 47 CFR § 1.2002(b), for the definition of "party to the application" as used in this certification. Yes No

CERTIFICATION

26. Printed Name of Assignor / Transferor Blue Sky Network, LLC	29. Printed Name of Assignee / Transferee BSN Buyer, LLC
27. Title (Office Held by Person Signing) President & CEO	30. Title (Office Held by Person Signing) President
28. Signature (Enter the name of the person who will sign the paper version of this form for retention in their files) Jon Gilbert	31. Signature (Enter the name of the person who will sign the paper version of this form for retention in their files) Gregoire Demory
WILLFUL FALSE STATEMENTS MADE ON THIS FORM ARE PUNISHABLE BY FINE AND / OR IMPRISONMENT (U.S. Code, Title 18, Section 1001), AND/OR REVOCATION OF ANY STATION AUTHORIZATION (U.S. Code, Title 47, Section 312(a)(1)), AND/OR FORFEITURE (U.S. Code, Title 47, Section 503).	

FCC NOTICE REQUIRED BY THE PAPERWORK REDUCTION ACT

The public reporting for this collection of information is estimated to average 8 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the required data, and completing and reviewing the collection of information. If you have any comments on this burden estimate, or how we can improve the collection and reduce the burden it causes you, please write to the Federal Communications Commission, AMD-PERM, Paperwork Reduction Project (3060-0686), Washington, DC 20554. We will also accept your comments regarding the Paperwork Reduction Act aspects of this collection via the Internet if you send them to PRA@fcc.gov. PLEASE DO NOT SEND COMPLETED FORMS TO THIS ADDRESS.

Remember - You are not required to respond to a collection of information sponsored by the Federal government, and the government may not conduct or sponsor this collection, unless it displays a currently valid OMB control number or if we fail to provide you with this notice. This collection has been assigned an OMB control number of 3060-0686.

THE FOREGOING NOTICE IS REQUIRED BY THE PAPERWORK REDUCTION ACT OF 1995, PUBLIC LAW 104-13, OCTOBER 1, 1995, 44 U.S.C. SECTION 3507.

ATTACHMENT 1

Joint International and Domestic Section 214 Application to Assign Assets from Blue Sky Network, LLC to BSN Buyer, LLC

This joint application seeks Commission consent under Section 214 of the Communications Act of 1934, as amended (the “Act”), and Sections 63.04 and 63.24 of the Commission’s rules,¹ to assign the assets and international Section 214 authorization of Blue Sky Network, LLC (“Blue Sky”) to BSN Buyer, LLC (“BSN”). Information shown in this joint application is as of the closing date.

I. RESPONSES TO QUESTIONS SET FORTH IN THE FCC SECTION 214 MAIN FORM

Responses to certain questions set forth in the application’s FCC Section 214 Main Form are as follows:

Answers to Question 10

Assignor Contact Information

Jon Gilbert
Blue Sky Network, LLC
1298 Prospect St., Suite 1D
La Jolla, CA 92037
Tel. 858-551-3894
Fax 858-551-3891
jon@blueskynetwork.com

With a copy to:

Jennifer L. Kostyu
Wilkinson Barker Knauer, LLP
1800 M St., N.W., Suite 800N
Washington, D.C. 20036
Tel. 202-783-4141
Fax 202-783-5851
jkostyu@wbklaw.com

Assignee Contact Information

Gregoire Demory
BSN Buyer, LLC
10513 Santa Monica Blvd
Los Angeles, CA 90025
Tel. 310-428-8665
Fax 310-820-3214

With a copy to:

Joseph A. Godles
Goldberg, Godles, Wiener & Wright LLP
1229 19th St., N.W.
Washington, D.C. 20036
Tel. 202-429-4900
Fax 202-429-4912
jgodles@g2w2.com

¹ 47 U.S.C. § 214; 47 C.F.R. §§ 63.04, 63.24.

Place of Organization

Blue Sky is a limited liability company organized under the laws of the state of Delaware. BSN is a limited liability corporation organized under the laws of the state of Delaware.

Prior International Section 214 Authorizations

Blue Sky holds one international Section 214 authorization, File No. ITC-214-20010713-00369, which authorizes it to provide telecommunications service on a facilities and resale basis. BSN holds no international Section 214 authorizations.

Answer to Question 11

Pursuant to Section 63.18(h) of the Commission's rules, the following entities hold a direct 10 percent or greater equity interest in BSN:

BSN Midco, LLC, a limited liability company organized under the laws of Delaware ("Midco"), and whose principal business is acting as an investment holding company, is the managing member of BSN and holds 100% of the equity of BSN;

Kerwood Capital Partners, LLC, a limited liability company organized under the laws of Delaware ("Kerwood"), and whose principal business is acting as an investment company, is the managing member of Midco and holds 100% of the equity of Midco;

Kerwood is managed by its board of managers, which is comprised of the following individuals: Jon Gilbert, Kambiz Aghili, Gregoire Demory,² Craig Jones, David Dodson, and Robert Whitelaw, all of whom are U.S. citizens.

Jon Gilbert, a U.S. citizen, holds approximately 15 percent of Kerwood's equity.

Craig Jones, a U.S. citizen, in part directly and in part indirectly through two investment funds he controls, Ticonderoga KI III, L.P., a limited partnership organized under the laws of Delaware, and Ticonderoga JW L.P, a limited partnership organized under the laws of Delaware, holds approximately 10 percent of Kerwood's equity.

The addresses for each of the persons and entities identified above are as follows:

BSN Midco, LLC
10513 Santa Monica Blvd
Los Angeles, CA 90025

Kerwood Capital Partners, LLC
10513 Santa Monica Blvd
Los Angeles, CA 90025

² Messrs. Aghili and Demory share a single board seat.

Jon Gilbert
1298 Prospect St., Suite 1-D
La Jolla, CA 92037

Kambiz Aghili
10513 Santa Monica Blvd
Los Angeles, CA 90025

Gregoire Demory
10513 Santa Monica Blvd
Los Angeles, CA 90025

Craig Jones
Ticonderoga Private Equity
1942 Broadway St., Suite 211
Boulder, CO 80302

David Dodson
PO Box 10707
Jackson, WY 83002

Robert Whitelaw
4151 Gulf Shore Blvd North #1601
Naples, FL 34103

Ticonderoga KI III, L.P.
Ticonderoga Private Equity
1942 Broadway St., Suite 211
Boulder, CO 80302

Ticonderoga JW L.P.
Ticonderoga Private Equity
1942 Broadway St., Suite 211
Boulder, CO 80302

No other entity or individual directly or indirectly holds a 10 percent or greater interest in BSN.

Answer to Question 13

Description of Transaction and Public Interest Statement

Blue Sky is a principal supplier of satellite tracking and communication solutions for the aviation, land mobile and maritime industries. Its solutions leverage the power of the Iridium satellite network to deliver reliable GPS tracking, interconnected voice, two-way messaging, and asset monitoring for improved fleet management. Blue Sky's interconnected voice services are provided on a common carrier basis.

The shareholders of BSN formed the company for the purpose of acquiring Blue Sky's communications business. BSN will acquire Blue Sky's communications business, including its international Section 214 authorization, pursuant to an asset purchase agreement.

The proposed transaction will serve the public interest by providing additional capital for the provision of satellite tracking and communications solutions to Blue Sky customers, which will in turn allow BSN to maintain and improve Blue Sky's services and promote competition in the telecommunications marketplace. Moreover, Blue Sky currently holds, and BSN post-closing will hold, only *de minimis* shares of the domestic and U.S.-international telecommunications markets. The proposed transaction thus poses no risk of competitive harm to the telecommunications markets within the U.S. or on routes between the United States and foreign points.

Answer to Question 20

This application qualifies for streamlined processing pursuant to Section 63.12 of the Commission's rules. BSN is not and upon closing BSN will not be affiliated with any foreign carrier. It therefore qualifies for a presumption of non-dominance under Section 63.10 of the Commission's rules on all U.S.-international routes. BSN is not and upon closing will also not be affiliated with a dominant U.S. carrier.

II. INFORMATION REQUIRED BY SECTION 63.04 OF THE FCC'S RULES IN RELATION TO BLUE SKY'S DOMESTIC SECTION 214 AUTHORITY

In support of the applicants' request for consent to assign the telecommunications service assets of Blue Sky to BSN, the following information is submitted pursuant to Section 63.04 of the Commission's rules.³ Specifically, Section 63.04(b) provides that applicants submitting a joint international/domestic Section 214 application should submit in an attachment to the international Section 214 application responses to the information requested in paragraphs (a)(6) through (a)(12) of Section 63.04:

(a)(6) Description of the transaction:

A description of the transaction is set forth in Section I above.

(a)(7) Description of the geographic areas in which the applicants offer domestic telecommunications services, and what services are provided in each area:

Blue Sky provides interstate, interexchange interconnected voice calling services via satellite in all fifty states, the District of Columbia, and any U.S. territories or possessions. BSN provides no telecommunications services.

³ 47 C.F.R. § 63.04.

(a)(8) Statement as to how the application qualifies for streamlined treatment:

This application qualifies for streamlined treatment under Section 63.03(b) of the Commission's rules because: (1) the transferee is not a telecommunications provider; (2) Blue Sky's market share of the interstate, interexchange market is significantly less than 10 percent; and (3) Blue Sky provides competitive telecommunications services exclusively in geographic markets served by a dominant local exchange carrier that is not a party to this transaction. Neither applicant is affiliated with a carrier that is dominant with respect to any telecommunications service offered in the United States.

(a)(9) Identification of all other Commission applications related to this transaction:

This joint application is the only application filed with the Commission that relates to the proposed transaction.

(a)(10) Statement of whether the applicants request special consideration because either party is facing imminent business failure:

The applicants request no special consideration of this application for reasons relating to imminent business failure.

(a)(11) Identification of any separately filed waiver requests being sought in conjunction with this transaction:

The applicants seek no separately filed waiver requests in conjunction with this transaction.

(a)(12) Statement showing how grant of the Application will serve the public interest, convenience and necessity:

A demonstration of how the grant of the proposed transaction serves the interest, convenience and necessity is set forth in Section I above.