



PUBLIC NOTICE

Federal Communications Commission
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DA 18-1174

November 16, 2018

**DOMESTIC SECTION 214 APPLICATIONS FILED FOR THE TRANSFER OF
CONTROL OF ENDSTREAM COMMUNICATIONS, LLC TO
HAMMER FIBER OPTICS HOLDINGS CORP.**

STREAMLINED PLEADING CYCLE ESTABLISHED

WC Docket Nos. 18-321 and 18-322

Comments Due: November 30, 2018

Reply Comments Due: December 7, 2018

By this Public Notice, the Wireline Competition Bureau (Bureau) seeks comment from interested parties on applications filed by Endstream Communications, LLC (Endstream) and Hammer Fiber Optics Holdings Corp. (Hammer) (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 Commission approval to transfer control of Endstream to Hammer.¹

Endstream, a New York limited liability company, provides wholesale domestic and international telecommunications services that are purchased by other carriers to provide interconnected VoIP, toll free, calling card and other communications services.

Hammer, a publicly held New Jersey corporation, does not itself provide telecommunications services but, through its subsidiaries, specializes in the financing and development of fiber and wireless broadband assets. Applicants state that Hammer is controlled by a Board of Directors and that no single stockholder holds more than 10 percent of Hammer.²

¹ See 47 U.S.C. § 214; 47 CFR §§ 63.03-04. Applicants also filed an application for the transfer of authorizations associated with international services. On November 5, 2018 Applicants filed a supplement to their domestic section 214 application. Any action on the domestic section 214 application is without prejudice to Commission action on other related, pending applications. On December 31, 2011, an unauthorized transfer of control of Endstream occurred when Dov Schwartz, a U.S. citizen, who previously held 50 percent of Endstream, distributed his shares to various owners, each U.S. citizens, who currently still hold interests in Endstream. Letter from Sharon Thomas, consultant to Applicants, to Marlene H. Dortch, Secretary, FCC, WC Docket Nos. 18-321 and 18-322 (filed Nov. 5, 2018). On November 15, 2018, the Bureau granted Applicants request for special temporary authority to authorize Endstream to continue providing service for 60 days pending approval of the domestic section 214 application. A grant of the applications would be without prejudice to any enforcement action by the Commission for non-compliance with the Act or the Commission's rules.

² Applicants state that the following are the board members of Hammer, each U.S. citizens: Michael Cothill

Applicants further state that Hammer wholly owns Hammer Fiber Optic Investments Ltd., a Delaware corporation, that provides interconnected VoIP services in New Jersey.

Pursuant to the terms of the proposed transaction, Hammer will purchase all of the outstanding stock of Endstream. Applicants assert the proposed transaction is entitled to presumptive streamlined treatment under section 63.03(b)(1)(ii) 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
Endstream Communications, LLC to Hammer Fiber Optics Holdings Corp.,
WC Docket Nos. 18-321 and 18-322 (filed Oct. 11, 2018).

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 30, 2018**, and reply comments **on or before December 7, 2018**. 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) David Krech, International Bureau; david.krech@fcc.gov;
- 4) Sumita Mukhoty, International Bureau; sumita.mukhoty@fcc.gov; and
- 5) Jim Bird, Office of General Counsel, jim.bird@fcc.gov.

(Executive Chairman), Erik Levitt (Interim CEO), Mark Stogdill (CFO and Executive Director), Michael Sevell (Non-Executive Director), Donald MacNeil (Non-Executive Director), and Denis Doll (Non-Executive Director). Applicants further state that Mr. Levitt and Mr. Stogdill are primarily responsible for the day-to-day operations of Hammer.

³ 47 CFR § 63.03(b)(1)(ii).

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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 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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