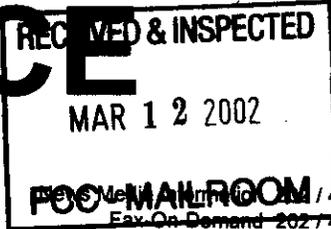




# PUBLIC NOTICE



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DA 02-586

Released: March 11, 2002

## COMMISSION SEEKS COMMENT ON A JOINT APPLICATION FILED BY NEPTUNE COMMUNICATIONS, LLC, ALASKA FIBER STAR LICENSE CORPORATION AND NORTHSTAR LICENSE CORPORATION FOR TRANSFER OF CONTROL

### PLEADING CYCLE ESTABLISHED

CC Docket No. 02-51

On January 23, 2002, Neptune Communications, LLC ("Neptune Communications"), Alaska Fiber Star License Corporation ("Alaska License"), and Northstar License Corporation ("Northstar") pursuant to section 214 of the Communications Act of 1934, as amended, 47 U.S.C. § 214, and section 63.01 of the Commission's Rules, 47 C.F.R. § 63.01, filed an application requesting permanent authority to transfer control over Alaska Fiber Star, L.L.C. ("AFS") and WCI Cable, Inc. ("WCI Cable") from AMP Life to Neptune Communications. AFS and WCI Cable are authorized to provide domestic interstate telecommunications services.<sup>1</sup>

Neptune Communications, LLC is a limited liability company organized under the laws of the State of Delaware. Alaska Fiber Star License Corporation and Northstar License Corporation are corporations organized under the laws of the State of Delaware. All intermediate corporations and limited liability companies of Neptune Communications, are also organized under the laws of the State of Delaware. WCI Cable, Inc. is a corporation organized under the laws of the State of Delaware. AMP Life Limited is a company organized under the laws of Australia.

The Applicants request that the public notice period for this application be shortened from 30 days to 14 days.<sup>2</sup>

<sup>1</sup> The Domestic Authorization held by AFS is referred to herein as the "AFS Domestic Authorization" and the Domestic Authorization held by WCI Cable is referred to herein as the "WCI Domestic Authorization." On August 20, 2001, WCI Cable, together with AFS and certain of its other affiliates and subsidiaries, sought and subsequently were granted bankruptcy protection.

<sup>2</sup> Non-streamlined international applications related to this proposed transaction were placed on public notice February 25<sup>th</sup>. See Non-streamlined International Applications Accepted for Filing, *Public Notice*, Report No. TEL-00499NS (rel. Feb. 25, 2002).

On August 20, 2001, 2001, WCI Cable, together with certain affiliates and subsidiaries ("Debtor"), filed a voluntary petition for relief commencing a case under Chapter 11 of the U.S. Bankruptcy Code.<sup>3</sup> On November 8, 2001, the Bankruptcy Court entered an Order establishing bidding procedures for the sale of Debtor's assets.<sup>4</sup> Pursuant to this Order, an auction of Debtors' assets was conducted December 18-19, 2001. On December 19, 2001, Debtor selected Neptune Communications' bid as the highest and best offer.

Upon receipt of the Bankruptcy Court approval and all requisite regulatory approvals, Neptune Communications, through its wholly-owned subsidiary, Crest Communications Corporation, a Delaware corporation ("Crest"), will acquire pursuant to a Stock Purchase Agreement dated January 5, 2002 (the "Purchase Agreement"), a 95% ownership interest in WCI Cable ("the "Total Stock Purchase"). In addition, as required under the Purchase Agreement, to ensure continuity of operations pending consummation of the Total Stock Purchase, Debtor, Neptune Communications, Crest, Alaska License, and Northstar will enter into an operating agreement whereby Neptune Communications, Alaska License, and Northstar would manage the cable systems and related facilities subject to the Domestic Authorizations pending consummation of the Total Stock Purchase (the "Operating Agreement"). Applicants assert that the Operating Agreement contains provisions concerning control that are consistent with well-established Commission criteria for such arrangements.<sup>5</sup>

Upon Bankruptcy Court and Commission approval, at closing of the contemplated Total Stock Purchase: (i) Crest will be issued convertible preferred stock in WCI Cable and one or more of WCI Cable's stockholders or creditors will retain certain common stock ownership interests (*i.e.*, approximately 5 percent or less economic interest); and (ii) the Domestic Authorizations will be held by Alaska License and Northstar, which then will be indirect, wholly-owned subsidiaries of WCI Cable.<sup>6</sup>

Debtor owns and operates certain fiber-optic network businesses and related assets in the state of Oregon, Alaska and Washington, including (i) a terrestrial fiber optic cable network located in Alaska known as "Alaska Fiber Star;" (ii) a submarine fiber optic cable network located in the Pacific Ocean off the northwest coast of the United States and Canada connecting Whittier to Valdez and Juneau, Alaska, and to the continental United States, known as "Alaska

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<sup>3</sup> See Bank. Ct. Case No. 301-38242-rld11 (Bankr. D. Or. filed Aug. 20, 2001).

<sup>4</sup> Order Approving Bidding Procedures in Connection with the Proposed Sale of Substantially All of the Assets of the Debtors and Scheduling a Hearing Date, Sale Date and Bidding Deadline in Bankruptcy Case No. 301-38242-rld11 (Bankr. D. Or. Nov. 8, 2001) (the "Order").

<sup>5</sup> Pursuant to provisions in the Purchase Agreement and in the Operating Agreement, if the Total Stock Purchase is not consummated, but if the Application has been granted, Neptune Communications and Crest have agreed to take all appropriate actions to ensure that such a grant has no force and effect and to ensure that all affected Commission authorizations will continue to be held by Debtor, AFS, or WCI Cable (as appropriate) and by AMP Life.

<sup>6</sup> Upon confirmation of its plan by the Bankruptcy Court, WCI Cable no longer will be a debtor-in-possession.

North Star;" (iii) network operation control centers (each, a "NOCC") in Anchorage Alaska, and Hillsboro, Oregon; (iv) cable landing facilities in Whittier, Juneau, and Valdez, Alaska, and Nedonna Beach, Oregon; (v) terrestrial transport from the Nedonna Beach, Oregon, landing facility to the Hillsboro, Oregon, NOCC; and (vi) collocation facilities located in Anchorage, Alaska, Hillsboro and Portland, Oregon, and Seattle, Washington. In 1995 and 1996, the submarine cable and cable landing facilities were originally licensed by the Commission to Alaska Telecom Ltd., L.L.C. and Alaska Northstar Communications, L.L.C. on a non-common carrier basis: (1) between Alaska and the contiguous 48 states; and (2) between Whittier and Valdez, Alaska (collectively, "the Licenses").<sup>7</sup> These Licensees were subsequently assigned to WCI Cable<sup>8</sup> and have since come into service.<sup>9</sup>

Applicants assert that granting this Application is in the public interest because it will allow Neptune Communications, Crest, Alaska License and Northstar to provide communication services under the domestic authorizations without disruption to the customers that currently rely on them. In addition, Applicants assert that granting this application will promote the policies of the bankruptcy laws. Applicants state that Neptune Communications, Alaska License, Northstar, and Crest currently have no operations in Debtor's service area.

### **GENERAL INFORMATION**

The transfer of control request identified herein has been found, upon initial review, to be acceptable for filing. The Commission reserves the right to return any transfer of control 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 petitions to deny within 14 days following the release of this Public Notice.<sup>10</sup> Final action will not be taken on the applications earlier than 15 days following the date of this Public Notice.<sup>11</sup> Interested parties may file petitions to deny on or before March 25, 2002.

All filings concerning any or all matters in this Public Notice should refer to **CC Docket No. 02-51**. Due to the threat of contamination that resulted in the disruption of regular mail, the Commission released on November 29, 2001, an Order<sup>12</sup> temporarily amending certain

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<sup>7</sup> See *Alaska Telecom Ltd., L.L.C.*, 10 FCC Rcd 6072 (Intl. Bur. 1995) (File No. SCL-94-004); *Alaska Northstar Communications, L.L.C.*, 11 FCC Rcd 16842 (Intl. Bur. 1996) (File No. SCL-96-002).

<sup>8</sup> See *In the Matter of Alaska Northstar Communications, L.L.C. Transferor, and WCI Cable, Inc. Transferee; Application for Modification of Submarine Cable Landing Licenses*, 12 FCC Rcd 20330 (1997).

<sup>9</sup> See *International Authorizations Granted*, Report No. TEL-00225 (May 4, 2000) (File No. ITC-214-20000330-00209).

<sup>10</sup> See, e.g., 47 C.F.R. § 63.52(c).

<sup>11</sup> See 47 C.F.R. § 63.52(b).

<sup>12</sup> See *Implementation of Interim Electronic Filing Procedures for Certain Commission Filings*, Order, FCC 01-345 (rel. Nov. 29, 2001).

procedural rules on an emergency basis. Pleadings must be filed electronically (*i.e.*, by e-mail or facsimile), by overnight delivery service, or by hand delivery to the Commission's Massachusetts Avenue location.<sup>13</sup>

- **If filed electronically** by e-mail, pleadings shall be filed at the following e-mail addresses: [CCBSecretary@fcc.gov](mailto:CCBSecretary@fcc.gov). Please also copy all those listed below. For security purposes, it is recommended that documents filed via electronic mail be converted to PDF format.
- **If filed by facsimile**, pleadings shall be faxed to (202) 418-0187. The fax transmission should include a cover sheet listing contact name, phone number, and an e-mail address (if available).
- **If filed by hand delivery**, documents shall be delivered to the Commission's contractor, Vistronix, at 236 Massachusetts Avenue, N.E., Suite 110, Washington, D.C. 20002. All hand deliveries must be held together with rubber bands or fasteners, and any envelopes must be disposed of before entering the building.
- **If filed by overnight delivery service** other than U.S. Postal Service (USPS) Express Mail and Priority Mail, filings must be addressed to 9300 East Hampton Drive, Capitol Heights, MD 20743. USPS first-class mail, Express Mail, and Priority Mail should continue to be addressed to the Commission's headquarters at 445 12<sup>th</sup> Street, S.W., Washington, D.C. 20554.

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

- (1) the Commission's duplicating contractor, Qualex International, 445 12<sup>th</sup> Street, S.W., Room CY-B402, Washington, D.C. 20554; e-mail: [qualexint@aol.com](mailto:qualexint@aol.com); facsimile: (202) 863-2898; phone: (202) 863-2893.
- (2) Bill Dever, Policy and Program Planning Division, Common Carrier Bureau, 445 12<sup>th</sup> Street, S.W., Room 5-C266, Washington, D.C. 20554; e-mail: [wdever@fcc.gov](mailto:wdever@fcc.gov); and
- (3) Nandan Joshi, Office of General Counsel, 445 12<sup>th</sup> Street, S.W., Room 8-A820, Washington, D.C. 20554; e-mail: [njoshi@fcc.gov](mailto:njoshi@fcc.gov).
- (4) Janice Myles, Common Carrier Bureau, 445 12<sup>th</sup> Street, S.W., 5-B145, Washington, D.C. 20554; e-mail: [jmyles@fcc.gov](mailto:jmyles@fcc.gov).

Copies of the application and any subsequently-filed documents in this matter may be obtained from Qualex International, in person at 445 12<sup>th</sup> Street, S.W., Room CY-B402, Washington, D.C. 20554, via telephone at (202) 863-2893, via facsimile at (202) 863-2898, or

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<sup>13</sup> See *FCC Announces a New Filing Location for Paper Documents and a New Fax Number for General Correspondence*, Public Notice, DA 01-2919 (rel. Dec. 14, 2001).

via e-mail at [qualexint@aol.com](mailto:qualexint@aol.com). The applications and any associated documents are available for public inspection and copying during normal reference room hours at the following Commission office: FCC Reference Information Center, 445 12<sup>th</sup> Street, S.W., Room CY-A257, Washington, D.C. 20554. The applications are also available electronically through the Commission's Electronic Comment Filing System (ECFS).

In addition to filing paper comments, parties may also file comments using the ECFS.<sup>14</sup> 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. Parties may also submit an electronic comment by Internet e-mail. To obtain filing instructions for e-mail comments, commenters should send an e-mail to [ecfs@fcc.gov](mailto:ecfs@fcc.gov), and include the following words in the body of the message, "get form <your e-mail address>." A sample form and directions will be sent in reply.

For further information, please contact Tracey Wilson, at (202) 418-1394, or Bill Dever, Policy and Program Planning Division, Common Carrier Bureau (202) 418-1578.

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<sup>14</sup> See Electronic Filing of Documents in Rulemaking Proceedings, 63 Fed. Reg. 24,121 (1998).