



# PUBLIC NOTICE

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DA 02-2733

Released: October 17, 2002

## DOMESTIC SECTION 214 APPLICATION FILED FOR CONSENT TO TRANSFER OF CONTROL OF IMPSAT USA, INC.

### STREAMLINED PLEADING CYCLE ESTABLISHED

WC Docket No. 02-326

On August 30, 2002, Impsat USA, Inc. (Impsat USA), pursuant to section 214 of the Communications Act of 1934, as amended, 47 U.S.C. § 214, and section 63.04(b) of the Commission's rules, filed an application requesting Commission consent to the transfer of control of Impsat USA from its parent company, Impsat Fiber Networks, Inc. (Impsat Fiber Networks) as Debtor-in-Possession to the new shareholders of Impsat Fiber Networks.'

Impsat USA asserts that this transaction is entitled to presumptive streamlined treatment pursuant to section 63.03(b)(2)(i) of the Commission's rules because the transferee will have a market share in the interstate, interexchange market of significantly less than 10 percent, no dominant local exchange carrier is a party to this transaction, and Impsat USA is not dominant with respect to any telecommunications service in any market.

On June 11, 2002, Impsat Fiber Networks filed a voluntary petition for reorganization under Chapter 11 of the United States Bankruptcy Code, and the company plans to restructure its indebtedness by converting certain of its existing debt into equity.'

<sup>1</sup> Other applications involving this proposed transaction have been filed at the Commission and will be processed separately. Any action on this domestic 214 application is without prejudice to Commission action on other related pending applications. In addition to this application, filed jointly with an international section 214 application. Impsat USA is filing individual applications relating to 17 non-common carrier earth station licenses and a cable landing license. See, e.g., Streamlined Submarine Cable Landing Modifications Applications Accepted for Filing, DA No. 02-2663 (rel. Oct. 16, 2002).

<sup>2</sup>

See In re Impsat Fiber Networks, Case No. 02-12882 (R.E.G.) (Bankr.S.D.N.Y.), filed June 11, 2002. On July 11, 2002, Impsat USA submitted a letter notification with respect to its blanket domestic section 214 authorization advising the Commission that control of Impsat USA had transferred from Impsat Fiber Networks to Impsat Fiber Networks as Debtor-in-Possession. See 47 C.F.R. § 63.03(d).

Impsat USA is a Delaware corporation based in Florida that provides satellite and submarine cable-based international private line voice, data, video and business telecommunications services not interconnected with the public switched network between the United States and Latin America. Impsat USA also provides a small amount of interstate telecommunications services incidental to its international services.<sup>3</sup> The jurisdictions in which Impsat USA currently provides domestic interstate telecommunications service are California, Florida, Michigan, New Jersey, New York, Pennsylvania, Puerto Rico, Tennessee, Texas, the U.S. Virgin Islands, Virginia, and Wisconsin. Impsat USA states that revenues from its provision of such domestic interstate telecommunications services represent less than 1 percent of Impsat USA's total domestic and international telecommunications revenues, and that Impsat USA does not provide intrastate telecommunications services.

Impsat USA is wholly owned by Impsat Fiber Networks, a Delaware holding company based in Buenos Aires, Argentina. Through its subsidiaries in Argentina, Colombia, Venezuela, Ecuador, Mexico, Brazil, the United States (Impsat USA), Chile, and Peru, Impsat Fiber Networks provides broadband data transmission and private network integrated data and voice telecommunications services to approximately 3,000 national and multinational companies and governmental entities, and wholesale services to carriers, ISPs and other service providers throughout Latin America.

**As** noted, Impsat Fiber Networks filed for bankruptcy on June 11, 2002. Under a pre-negotiated reorganization plan, all existing equity in Impsat Fiber Networks will be extinguished, approximately \$525 million of indebtedness represented by Impsat Fiber Networks' \$300 million Senior Notes due 2005 and its \$225 million Senior Notes due 2008 will be converted and exchanged into 98 percent of the outstanding new common stock of Impsat Fiber Networks. Other indebtedness of, or guarantees by, Impsat Fiber Networks, including its \$125 million Senior Notes due 2003, will be exchanged for convertible notes, warrants to acquire common stock, and other reduced amounts of restructured indebtedness.

Following consummation of the proposed transfer of control, no single stockholder will control the reorganized company. Impsat Fiber Networks has advised Impsat USA that it understands that the largest holders of its Senior Notes due 2005 and Senior Notes due 2008, who will acquire voting common stock of the reorganized Impsat Fiber Networks pursuant to the reorganization plan, are Morgan Stanley & Co., Inc., York Capital Management, and Merrill Lynch Asset Management. Impsat Fiber Networks' representatives have advised Impsat USA that based on their review of available information, these entities are expected to hold approximately 18 percent, 16.2 percent, and 12.5 percent of the reorganized company's newly issued common stock, respectively. Impsat Fiber Network' management will receive

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<sup>3</sup> In addition to its blanket domestic section 214 authorization and three international section 214 authorizations, Impsat USA holds 17 non-common carrier earth station licenses and is one of several consortium members that holds a cable landing license to operate the submarine cable system called **AMERICAS II**.

approximately 2 percent of the newly issued common stock, and the remaining equity in Impsat Fiber Networks is likely to be widely dispersed among the stockholders.

Impsat **USA** states that approval of the proposed transfer of control will serve the public interest because it will strengthen Impsat Fiber Networks financially, which in turn will enhance Impsat USA's own financial viability and ability to compete with well-financed rival companies in the domestic and international telecommunications markets. Impsat **USA** further states that consumers will benefit through continued and enhanced choice among telecommunications providers. Finally, Impsat **USA** notes that the proposed transaction will not adversely impact competition in any of the markets in which Impsat **USA** currently provides service.

### **GENERAL INFORMATION**

The transfer of control application 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 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 **comments within 14 days** and **reply comments within 21 days** of this notice.<sup>4</sup> Unless otherwise notified by the Commission, an applicant is permitted to transfer control of the domestic lines or authorization to operate on the 31<sup>st</sup> day after the date of this notice. 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 an e-mail to [ecfs@fcc.gov](mailto:ecfs@fcc.gov), and should 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.

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 appear 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, Vistrionix, Inc., will receive

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<sup>4</sup> See 47 C.F.R. § 63.03(a).

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.

**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) Tracey Wilson, Competition Policy Division, Wireline Competition Bureau, 445 12<sup>th</sup> Street, S.W., Room 5-C437, Washington, D.C. 20554; e-mail: [twilson@fcc.gov](mailto:twilson@fcc.gov), and
- (3) William Dever, Competition Policy Division, Wireline Competition 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
- (4) Imani Ellis-Cheek, Telecommunications Division, International Bureau, 445 12<sup>th</sup> Street, S.W., Room 6-A739, Washington, D.C. 20554; email: [ielis@fcc.gov](mailto:ielis@fcc.gov); and
- (5) Nandan Joshi, Office of General Counsel, 445 12<sup>th</sup> Street, S.W., Room 8-A820, Washington, D.C. 20554; e-mail: [nioshi@fcc.gov](mailto:nioshi@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, Qualex International, Portals II, 445 12th Street, SW, Room CY-B402, Washington, DC, 20554, telephone 202-863-2893, facsimile 202-863-2898, or via e-mail [qualexint@aol.com](mailto:qualexint@aol.com).

For further information, please contact Tracey Wilson, at (202) 418-1394 or William Dever, Competition Policy, Wireline Competition Bureau at (202) 418-1578.

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