



PUBLIC NOTICE

Federal Communications Commission
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DA 05-315
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DOMESTIC SECTION 214 APPLICATION FILED FOR TRANSFER OF CONTROL OF CONVERSENT HOLDINGS, INC. AND MOUNTAINEER TELECOMMUNICATIONS, LLC TO CONVERSENT COMMUNICATIONS, INC.

STREAMLINED PLEADING CYCLE ESTABLISHED

WC Docket No. 05-27

Comments Due: February 18, 2005
Reply Comments Due: February 25, 2005

On January 18, 2005, Conversent Holdings, Inc. ("Conversent") and Mountaineer Telecommunications, LLC ("Mountaineer") (collectively, the "Applicants"), filed an application pursuant to sections 63.03 and 63.04 of the Commission's rules¹ requesting authority to transfer control of Conversent and Mountaineer, as well as their subsidiaries, to a new company to be called Conversent Communications, Inc. ("New Conversent").²

Applicants assert that this transaction is entitled to presumptive streamlined treatment pursuant to section 63.03(b)(2)(i) of the Commission's rules because immediately following the transaction: (1) New Conversent will have a less than ten percent (10%) share of the interstate interexchange market; (2) New Conversent will provide, through its subsidiaries, competitive telephone exchange services, exchange access services, and other telecommunications services exclusively in geographic areas served by dominant local exchange carriers not parties to the proposed transaction; and (3) none of the Applicants is dominant with respect to any domestic telecommunications service.³

Conversent, a Delaware corporation, is the parent company of numerous subsidiaries operating as facilities-based communications providers that offer small and medium-sized

¹ 47 C.F.R. §§ 63.03, 63.04; *see* 47 U.S.C. § 214.

² Applicants have also filed for transfer of control of authorization for international services. Any action on this domestic 214 application is without prejudice to Commission action on other related, pending applications.

³ 47 C.F.R. § 63.03(b)(2)(i).

businesses a broad portfolio of voice, data, and Internet services. Through its subsidiaries, Conversent serves more than 38,000 business customers in the Northeast in the following states: Connecticut, Maine, Massachusetts, New Hampshire, New Jersey, New York, Rhode Island, and Vermont.⁴ Conversent is currently controlled by Robert C. Fanch, its co-founder, who indirectly (through his ownership interests in NEVD Holdings, LLC and the Robert C. Fanch Revocable Trust) holds over 60 percent of its shares.

Mountaineer, a West Virginia limited liability company, is a parent company to subsidiaries that operate as competitive local exchange carriers (LECs) in Pennsylvania, Maryland, and West Virginia. Through its subsidiaries, Mountaineer offers a range of telecommunications services, including basic local telephone service, Internet access, broadband service, and virtual private networks to approximately 13,000 residential and business customers. While Mountaineer itself does not provide domestic or international telecommunications services, Mountaineer's wholly owned subsidiaries, FiberNet, L.L.C. and FiberNet Telecommunications of Pennsylvania, LLC provide domestic interstate and international resale services.⁵ Mountaineer's largest shareholders with current control are two private equity funds, Blackstone TWF Capital Partners, L.P. ("Blackstone") and Blackstone TWF Family Investment Partnership, L.P., with a combined 46 percent of its shares. Robert C. Fanch also has a minority ownership interest in Mountaineer of approximately 30 percent.

Conversent and Mountaineer have signed a letter of intent to combine their businesses and to effectuate the combination, a new company has been formed, which will be called New Conversent. Upon consummation of the proposed merger, Mountaineer and Conversent will become wholly owned subsidiaries of New Conversent but will remain separate legal operating entities. All direct subsidiaries of Conversent will remain unchanged and will become indirect subsidiaries of New Conversent. Post merger, Robert C. Fanch will have approximately 51 percent ownership, Blackstone will hold approximately 11 percent, and Seaport Capital Partners

⁴ Conversent Communications, LLC ("Conversent Communications"), a wholly owned subsidiary of Conversent, provides domestic interstate and international telecommunications services through its wholly owned subsidiaries. The subsidiaries are as follows: Conversent Communications of Connecticut, LLC; Conversent Communications of Maine, LLC; Conversent Communications of Massachusetts, LLC; Conversent Communications of New Hampshire, LLC; Conversent Communications of New Jersey, LLC; Conversent Communications of New York, LLC; Conversent Communications of Rhode Island, LLC; and Conversent Communications of Vermont, LLC. The Applicants state that Conversent Communications of Pennsylvania, LLC, another wholly owned subsidiary of Conversent Communications, does not currently serve any customers, but it may do so in the future under the international Section 214 authorization held by Conversent Communications. The Applicants add that Conversent Communications Long Distance, LLC, a wholly owned subsidiary of Conversent, holds an international Section 214 authorization but does not currently provide domestic interstate or international telecommunications services and does not have an ownership interest in any entity that provides interstate or international telecommunications services.

⁵ The Applicants state that Mountaineer's wholly owned subsidiary, Fibernet of Ohio, LLC, is authorized to provide service in Ohio but has not yet begun to provide domestic interstate or international services. Mountaineer subsidiaries are also authorized to operate as competitive LECs in Kentucky but are not yet providing telecommunications services in that state.

II, L.P. ("Seaport"), another private equity fund, will hold a 15 percent ownership interest in New Conversent. The Applicants note that no party will have clear control of a majority of the New Conversent board of directors.⁶ The combined companies will have 51,000 customers and more than 800 employees in ten states in the Northeast and Mid-Atlantic regions. The companies operate 300,000 local access lines, 3,900 route miles of fiber optic cable, seven voice switches, and 189 collocation arrangements.

Applicants assert that the proposed transaction will serve the public interest promoting competition among telecommunications carriers. New Conversent will have greater size and financial resources thereby allowing it to benefit from economics of scale and scope. In addition, New Conversent will benefit from network efficiencies and reduced transaction costs by, for example, keeping traffic exchanged between Conversent and Mountaineer customers entirely on the New Conversent network. As a result, the proposed transaction is expected to yield both financial benefits and operational flexibility that will result in substantial improvements to consumer welfare. The Applicants add that the proposed transaction will be seamless to consumers as the two companies will maintain their current brands and facilities after the proposed transaction. Moreover, customers will continue to receive bills from the same operating entities from which they received bills prior to the proposed transaction, and the rates, terms, and conditions of the services will be the same before and after the transaction.

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 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 on or before February 18, 2005** and **reply comments on or before February 25, 2005.**⁷ Unless otherwise notified by the Commission, Applicants are permitted to transfer the stock and related control on the 31st day after the date of this notice.⁸ 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,

⁶ Robert C. Fanch will control four seats of the nine seats of the board of directors and must consent to the choice of a fifth board member. Seaport will control two of the nine seats, and Blackstone will control one seat. Of the remaining two seats, one will be held by the CEO of New Conversent, and the other will be filled by a minority shareholder.

⁷ See 47 C.F.R. § 63.03(a).

⁸ Such authorization is conditioned upon receipt of any other necessary approvals from the Commission in connection with the proposed transaction.

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 e-mail to ecfs@fcc.gov, and should include the following words in the subject line "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 appears 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, Natek, Inc., will receive 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, Best Copy and Printing, Inc., 445 12th Street, SW, Room CY-B402, Washington, DC 20554, www.bcpweb.com; phone: (202) 488-5300 fax: (202) 488-5563;
- (2) Tracey Wilson-Parker, Competition Policy Division, Wireline Competition Bureau, 445 12th Street, S.W., Room 5-C212, Washington, D.C. 20554; e-mail: tracey.wilson-parker@fcc.gov;
- (3) Denise Coca, Competition Policy Division, Wireline Competition Bureau, 445 12th Street, S.W., Room 5-C260, Washington, D.C. 20554; e-mail: denise.coca@fcc.gov;
- (4) Terri B. Natoli, Competition Policy Division, Wireline Competition Bureau, 445 12th Street, S.W., Room 5-C234, Washington, D.C. 20554; e-mail: terri.natoli@fcc.gov;
- (5) Susan O'Connell, Policy Division, International Bureau, 445 12th Street, S.W., Room 7-B544, Washington, D.C. 20554; email: susan.o'connell@fcc.gov; and
- (6) James Bird, Office of General Counsel, 445 12th Street, S.W., Room 8-C824, Washington,

D.C. 20554; e-mail: james.bird@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, Best Copy and Printing, Inc., Portals II, 445 12th Street, SW, Room CY-B402, Washington, DC 20554, telephone: (202) 488-5300, fax: (202) 488-5563, or via e-mail www.bcpweb.com.

For further information, please contact Tracey Wilson-Parker, at (202) 418-1394, or Denise Coca at (202) 418-0574.

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