PUBLIC NOTICE

Federal Communications Commission
445 12th St., S.W.
Washington, D.C. 20554

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Internet: http://www.fcc.gov
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DA 06-1904
September 21, 2006

DOMESTIC AUTHORIZATION GRANTED

Application Filed for the Transfer of Control of Capital Telecommunications, Inc. to StarVox Communications, Inc.

WC Docket No. 06-127

By the Chief, Wireline Competition Bureau:

On June 16, 2006, StarVox Communications, Inc. ("StarVox") and Capital Telecommunications, Inc. ("CTI") (together, the "Applicants") filed an application, pursuant to sections 63.03 and 63.04 of the Commission's rules,[1] seeking authority to transfer control of CTI to StarVox.

The Commission released a public notice accepting the application for streamlined processing on July 7, 2006.[2] On July 21, 2006, the United States Department of Homeland Security ("DHS") with the concurrence of the United States Department of Justice ("DOJ"), including the Federal Bureau of Investigation ("FBI") (collectively, the "Executive Branch Agencies") filed a letter requesting that the Commission defer grant of the transaction while the Executive Branch Agencies address potential national security, law enforcement, and public safety issues.[3] In response to the requests filed by the Executive Branch Agencies, the Wireline Competition Bureau removed the application from streamlined review.[4]

On September 15, 2006, the Executive Branch Agencies submitted a Petition to Adopt Conditions to Authorizations and Licenses ("Petition").[5] In the Petition, the Executive Branch Agencies advised the

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

[2] *Domestic Section 214 Application Filed for Transfer of Control of Capital Telecommunications, Inc. to StarVox Communications, Inc.*, WC Docket No. 06-127, Public Notice, DA 06-1409 (rel. July 7, 2006). Applicants have also filed an application for transfer of control associated with authorization for international services. Any action on this domestic 214 application is without prejudice to Commission action on other related, pending applications.

[3] *See* Letter from Stewart A. Baker, Assistant Secretary for Policy, United States Department of Homeland Security, to Marlene H. Dortch, Secretary, Federal Communications Commission, WC Docket No. 06-127 (filed July 21, 2006).

[4] *See Notice of Removal of Domestic Section 214 Application From Streamlined Treatment*, WC Docket No. 06-127, Public Notice, DA 06-1521 (rel. July, 26, 2006).

[5] *See* Joint Petition to Adopt Conditions to Authorizations and Licenses, WC Docket No. 06-127 and ITC-T/C-20060616-00317 (filed Sept. 15, 2006).

Commission that they have no objection to the Commission's granting its consent in this proceeding, provided the Commission conditions the grant on compliance with the terms of the Assurances Letter executed by the Applicants, a copy of which was filed in WC Docket No. 06-127 on September 18, 2006 ("Assurances Letter").[6]

The Wireline Competition Bureau finds, upon consideration of the record, that grant of the application, subject to compliance with the Assurances Letter, will serve the public interest, convenience, and necessity. Upon consummation of the transaction, the resulting entity will have a market share in the U.S. interstate interexchange market of less than 10 percent, and will provide competitive telephone exchange services or exchange access services exclusively in geographic areas served by a dominant local exchange carrier in the U.S. that is not a party to the transaction. In addition, no party to these transactions is dominant with respect to any domestic service.

Consistent with Commission precedent, the Wireline Competition Bureau accords the appropriate level of deference to the Executive Branch Agencies' expertise on national security and law enforcement issues.[7] Therefore, pursuant to section 214 of the Communications Act of 1934, as amended, 47 U.S.C. § 214, and section 0.291 of the Commission's rules,[8] the Wireline Competition Bureau hereby grants the application discussed in this Public Notice.

Pursuant to section 1.103 of the Commission's rules, the grant is effective upon release of this Public Notice.[9] Petitions for reconsideration under section 1.106 or applications for review under section 1.115 of the Commission's rules may be filed within 30 days of the date of this Public Notice.[10]

For further information, please contact Gail Cohen at (202) 418-0939, Competition Policy Division, Wireline Competition Bureau.

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[6] *See* Letter from Jonathan S. Marashlian, Counsel for StarVox and CTI, to Sigal P. Mandelker, U.S. Department of Justice, Stewart A. Baker, U.S. Department of Homeland Security, Elaine N. Lammert, FBI, WC Docket No. 06-127 (filed Sept. 18, 2006).

[7] The Commission considers national security, law enforcement, foreign policy, and trade policy concerns when analyzing a transfer of control or assignment application in which foreign ownership is an issue. *See Amendment of the Commission's Regulatory Policies to Allow Non-U.S. Licensed Satellites Providing Domestic and International Service in the United States*, Report and Order, 12 FCC Rcd 24094, 24170-72, paras. 178-82 (1997); *Rules and Policies on Foreign Participation in the U.S. Telecommunications Market*, Report and Order and Order on Reconsideration, 12 FCC Rcd 23891, 23919-21, paras. 61-66 (1997) ("*Foreign Participation Order*"), Order on Reconsideration, 15 FCC Rcd 18158 (2000). In assessing the public interest, the Commission considers the record and accords the appropriate level of deference to Executive Branch expertise on national security and law enforcement issues. *See Foreign Participation Order*, 12 FCC Rcd at 23919-21, paras. 61-66.

[8] 47 C.F.R. § 0.291.

[9] *See* 47 C.F.R. § 1.103.

[10] *See* 47 C.F.R. §§ 1.106, 1.115.