



# PUBLIC NOTICE

Federal Communications Commission  
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DA 06-2569

Released: December 21, 2006

## DOMESTIC SECTION 214 APPLICATION FILED FOR THE ACQUISITION OF CERTAIN ASSETS OF CAUSE BASED COMMERCE INCORPORATED AND POWERNET GLOBAL COMMUNICATIONS

### STREAMLINED PLEADING CYCLE ESTABLISHED

WC Docket No. 06-224

**Comments Due: January 4, 2007**

**Reply Comments Due: January 11, 2007**

On November 30, 2006, Cause Based Commerce Incorporated ("CBCI") and PowerNet Global Communications ("PNG") (collectively, the "Applicants") filed an application pursuant to sections 63.04 and 63.24(e) of the Commission's rules<sup>1</sup> seeking authority to transfer certain assets of PNG to CBCI.<sup>2</sup>

Applicants submit that this transaction is entitled to presumptive streamlined treatment under 63.03(b)(2)(i) of the Commission's rules because, post-consummation: (a) CBCI will have a market share in the interstate, interexchange market of less than 10 percent; (b) CBCI will provide competitive services exclusively in areas served by a dominant local carrier not a party to the transaction; and (c) neither of the Applicants is dominant with respect to any domestic service.<sup>3</sup>

PNG, an Ohio company, provides resold local, intraLATA toll and long distance services in forty-eight states to approximately 400,000 customers, both business and residential. The following individuals hold 10% or more of PNG's stock: Bernie Stevens (32.3%); Larry Moses (17.2%); and Hubert Dudley (14.0%).

<sup>1</sup> 47 C.F.R. § 63.04; *see* 47 U.S.C. § 214.

<sup>2</sup> Applicants are also filing 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. Applicants filed a supplement to their application on December 19, 2006. *See* Cause Based Commerce and PowerNet Global Domestic 214 Application, WC Docket No. 06-224 (filed Dec. 19, 2006).

<sup>3</sup> 47 C.F.R. § 63.03(b)(2)(i).

CBCI, an Ohio corporation, provides interexchange telecommunications services in twelve states, and has certifications pending to provide such services in eighteen additional states.<sup>4</sup> By year's end, CBCI expects to be certified in the 48 contiguous states. Three individuals, all of whom are U.S. citizens, hold a 10 percent or greater ownership interest in CBCI: Timothy Bischel (33.28%), Mark J. Eicher (33.28%), and David W. Condit (33.28%). None of these individuals hold other equity interests in telecommunications carriers in excess of 10 percent. No other person or entity holds a 10 percent or greater direct or indirect interest in CBCI.

Pursuant to an agreement and plan of merger, dated September 26, 2006, CBCI will acquire a portion of the PNG assets/customer base<sup>5</sup> located across the lower 48 contiguous states. CBCI will provide long distance telecommunication services to the transferred PNG customers pursuant to its own Section 214 authorizations, and PNG will continue to provide service to its remaining customers pursuant to its existing authorizations.

The Applicants state that the proposed transfer of customers to CBCI will serve the public interest. Applicants maintain that the proposed transaction is not expected to result in any loss or impairment of service to any of the PNG customers that CBCI will acquire. Applicants assert that these customers will continue to receive their existing long distance services at the same rates and under the same service options. Applicants state that the only material change will be in the customers' long distance service provider.

## **GENERAL INFORMATION**

The transfer of assets 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 assets application if, upon further examination, it is determined to be defective and not in conformance with the Commission's rules and policies. Pursuant to sections 1.415 and 1.419 of the Commission's rules, 47 CFR §§ 1.415, 1.419, interested parties may file **comments on or before January 4, 2007** and **reply comments on or before January 11, 2007**.<sup>6</sup> Unless otherwise notified by the Commission, Applicants are permitted to transfer the assets and related control on the 31<sup>st</sup> day after the date of this notice.<sup>7</sup> Comments may be filed using: (1) the Commission's Electronic Comment Filing System (ECFS), (2) the Federal Government's eRulemaking Portal, or (3) by filing paper copies. *See Electronic Filing of Documents in Rulemaking Proceedings*, 63 FR 24121 (1998).

- **Electronic Filers:** Comments may be filed electronically using the Internet by accessing the ECFS: <http://www.fcc.gov/cgb/ecfs/> or the Federal eRulemaking Portal:

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<sup>4</sup> CBCI is certified and providing service in the following states: Indiana Iowa, Kentucky, Michigan, Minnesota, Montana, North Carolina, Ohio, Texas, Virginia, Washington, and Wisconsin. CBCI's certification is pending in the following states: Illinois, California, Oregon, Missouri, Maryland, Louisiana, Florida, Pennsylvania, New York, Arizona, Massachusetts, Connecticut, New Hampshire, Tennessee, Kansas, Georgia, Colorado, New Jersey.

<sup>5</sup> CBCI will acquire approximately 16,000 long distance service customers from PNG.

<sup>6</sup> See 47 C.F.R. § 63.03(a).

<sup>7</sup> Such authorization is conditioned upon receipt of any other necessary approvals from the Commission in connection with the proposed transaction.

<http://www.regulations.gov>. Filers should follow the instructions provided on the website for submitting comments.

- For ECFS filers, if multiple docket or rulemaking numbers appear in the caption of this proceeding, filers must transmit one electronic copy of the comments for each docket or rulemaking number referenced in the caption. In completing the transmittal screen, filers 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, filers 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." A sample form and directions will be sent in response.
- Paper Filers: 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, filers 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). All filings must be addressed to the Commission's Secretary, Office of the Secretary, Federal Communications Commission.

The Commission's contractor 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, Express, and Priority mail should be addressed to 445 12th Street, S.W., Washington D.C. 20554.

People with Disabilities: To request materials in accessible formats for people with disabilities (braille, large print, electronic files, audio format), send an e-mail to [fcc504@fcc.gov](mailto:fcc504@fcc.gov) or call the Consumer & Governmental Affairs Bureau at 202-418-0530 (voice), 202-418-0432 (tty).

**You may submit comments, identified by the above noted docket number, by any of the following methods:**

- Federal eRulemaking Portal: <http://www.regulations.gov>. Follow the instructions for submitting comments.
- Federal Communications Commission's Web Site: <http://www.fcc.gov/cgb/ecfs/>. Follow the instructions for submitting comments.
- People with Disabilities: Contact the FCC to request reasonable accommodations (accessible format documents, sign language interpreters, CART, etc.) by e-mail: [FCC504@fcc.gov](mailto:FCC504@fcc.gov) or phone: 202-418-0530 or TTY: 202-418-0432.

**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, S.W., Room CY-B402, Washington, D.C. 20554, [www.bcpweb.com](http://www.bcpweb.com); phone: (202) 488-5300 fax: (202) 488-5563;

- (2) Myrva Charles, Competition Policy Division, Wireline Competition Bureau, 445 12th Street, S.W., Room 5-C230, Washington, D.C. 20554; email: [myrva.charles@fcc.gov](mailto:myrva.charles@fcc.gov);
- (3) Alex Johns, Competition Policy Division, Wireline Competition Bureau, 445 12th Street, S.W., Room 5-C317, Washington, D.C. 20554; e-mail: [alexis.johns@fcc.gov](mailto:alexis.johns@fcc.gov);
- (4) 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](mailto:susan.o'connell@fcc.gov); and
- (5) Jim Bird, Office of General Counsel, 445 12th Street, S.W., Room 8-C824, Washington, D.C. 20554; e-mail: [jim.bird@fcc.gov](mailto:jim.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, S.W., Room CY-A257, Washington, D.C. 20554. They may also be purchased from the Commission's duplicating contractor, Best Copy and Printing, Inc., Portals II, 445 12th Street, S.W., Room CYB402, Washington, D.C. 20554, telephone: (202) 488-5300, fax: (202) 488-5563, or via e-mail [www.bcpweb.com](http://www.bcpweb.com).

For further information, please contact Myrva Charles at (202) 418-1506, or Alex Johns at (202) 418-1167.

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