

UC 09-139

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READ INSTRUCTIONS CAREFULLY  
BEFORE PROCEEDING

**FCC/US BANK JUL 23 2009**  
FEDERAL COMMUNICATIONS COMMISSION  
REMITTANCE ADVICE  
FORM 159

Approved by OMB  
3060-0589  
Page No. 1 of 2

(1) LOCKBOX # <b>979091</b>	<b>DOCKET FILE COPY ORIGINAL</b>	SPECIAL-USE ONLY
		FCC USE ONLY

**SECTION A - PAYER INFORMATION**

(2) PAYER NAME (if paying by credit card enter name exactly as it appears on the card) <b>Shelsky &amp; Froelich Ltd. (FBO Qualstar Communications, Inc.)</b>	(3) TOTAL AMOUNT PAID (U.S. Dollars and cents) <b>\$1,015.00</b>
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(4) STREET ADDRESS LINE NO. 1  
**111 East Wacker 28th Fl**

(5) STREET ADDRESS LINE NO. 2

(6) CITY <b>Chicago</b>	(7) STATE <b>IL</b>	(8) ZIP CODE <b>60601</b>
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(9) DAYTIME TELEPHONE NUMBER (include area code) <b>312-836-4195</b>	(10) COUNTRY CODE (if not in U.S.A.)
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**FCC REGISTRATION NUMBER (FRN) REQUIRED**

(11) PAYER (FRN) <del>0006-7614-15</del> <b>0018976480</b>	(12) FCC USE ONLY
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IF MORE THAN ONE APPLICANT, USE CONTINUATION SHEETS (FORM 159-C)  
COMPLETE SECTION BELOW FOR EACH SERVICE, IF MORE BOXES ARE NEEDED, USE CONTINUATION SHEET

(13) APPLICANT NAME  
**QualStar Communications, Inc.**

(14) STREET ADDRESS LINE NO. 1  
**417 Wayne Ave, Suite 102 P.O. Box 504**

(15) STREET ADDRESS LINE NO. 2

(16) CITY <b>Defiance</b>	(17) STATE <b>OH</b>	(18) ZIP CODE <b>43512</b>
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(19) DAYTIME TELEPHONE NUMBER (include area code) <b>419-782-8990</b>	(20) COUNTRY CODE (if not in U.S.A.)
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**FCC REGISTRATION NUMBER (FRN) REQUIRED**

(21) APPLICANT (FRN) <b>0006-7614-15</b>	(22) FCC USE ONLY
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COMPLETE SECTION C FOR EACH SERVICE, IF MORE BOXES ARE NEEDED, USE CONTINUATION SHEET

(23A) CALL SIGN/OTHER ID	(24A) PAYMENT TYPE CODE <b>TC CUT</b>	(25A) QUANTITY
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(26A) FEE DUE FOR (PTC) <b>\$1,015.00</b>	(27A) TOTAL FEE <b>\$1,015.00</b>	FCC USE ONLY
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(28A) FCC CODE 1	(29A) FCC CODE 2
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(23B) CALL SIGN/OTHER ID	(24B) PAYMENT TYPE CODE	(25B) QUANTITY
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(26B) FEE DUE FOR (PTC)	(27B) TOTAL FEE	FCC USE ONLY
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(28B) FCC CODE 1	(29B) FCC CODE 2
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**SECTION D - CERTIFICATION**

CERTIFICATION STATEMENT  
*[Signature]* certify under penalty of perjury that the foregoing and supporting information is true and correct to the best of my knowledge, information and belief.

SIGNATURE *[Signature]* DATE **7-23-2009**

**SECTION E - CREDIT CARD PAYMENT INFORMATION**

MASTERCARD \_\_\_\_\_ VISA \_\_\_\_\_ AMEX \_\_\_\_\_ DISCOVER \_\_\_\_\_

ACCOUNT NUMBER \_\_\_\_\_ EXPIRATION DATE \_\_\_\_\_

I hereby authorize the FCC to charge my credit card for the service(s)/authorization herein described.

SIGNATURE \_\_\_\_\_ DATE \_\_\_\_\_

**Shesky  
& Froelich**  
Attorneys at Law

111 E. Wacker Drive, Suite 2800  
Chicago, Illinois 60601-3713  
Tel 312.527.4000 Fax 312.527.4011  
www.shesksylaw.com

**M. GAVIN MCCARTY**

Direct: (312) 836-4195  
Facsimile: (312) 275-7645  
E-mail: mccarty@shesksylaw.com

IS REFERENCE TO  
029874-00001

July 23, 2009

**Via Federal Express**

Marlene H. Dortch  
Secretary  
Federal Communications Commission  
Wireline Competition Bureau Application  
P. O. Box 979091  
St. Louis, MO 63197

***Re: In the Matter of the Application of Qualstar Communications, Inc. and  
Defiance Holdings, LLC for Grant of Authority Pursuant to Section 214 of the  
Communications Act of 1934, as Amended, and Section 63.04 of the  
Commissions Rules to Complete a Transfer of Control to Defiance Holdings,  
LLC.***

Dear Ms. Dortch:

On behalf of Qualstar Communications, Inc. ("Qualstar") and Defiance Holdings, LLC ("Defiance"), collectively ("Applicants"), enclosed please find an original and six (6) copies of an application for approval and transfer of control of Qualstar to Defiance.

Also enclosed is a completed Fee Remittance Form 159 and a check in the amount of \$1,015.00 to the Federal Communications Commission, which satisfies the filing fee requirement for this application.

Please date-stamp the enclosed extra copy of this filing and return it in the enclosed envelope. Please direct any questions regarding this filing to the undersigned.

Very truly yours,

SHEFSKY & FROELICH LTD.

A handwritten signature in black ink, appearing to read "M. Gavin McCarty", is written over a horizontal line. The signature is stylized and somewhat illegible.

M. Gavin McCarty  
Counsel for Qualstar Communications, Inc.

MGM/ds/1125636\_1  
Enclosures



**B. Request for Streamlined Processing**

Applicants respectfully submit that this Application is eligible for streamlined processing pursuant to Section 63.03 of the Commission's Rules, 47 C.F.R. § 63.03. With respect to domestic authority, this Application is eligible for streamlined processing pursuant to Section 63.03(b)(2)(ii) because, immediately following the closing of the transaction, (1) Applicants and their affiliates, as defined in Section 3(1) of the Communications Act (“Affiliates”) combined will hold less than a ten percent (10%) share of the interstate, interexchange market; (2) Applicants and their Affiliates will provide local exchange service only in areas served by dominant local exchange carriers (none of which is a party to the proposed transactions) and; (3) the Applicants or their Affiliates are dominant single exchange carriers and the non-dominant transferor carrier provides services exclusively outside the geographic area where the dominant carrier is dominant.

In support of this Application, Applicants provide the following information:

**II. DESCRIPTION OF THE APPLICANTS**

**A. Qualstar Communications, Inc. (“Transferor”)**

Qualstar, an Ohio corporation with its principal offices located at 417 Wayne Avenue, Suite 102, Defiance, OH 43412, is a local exchange provider to small business customers in Ohio. The selling stockholders of Qualstar are The Harpest Revocable Trust u/a/d May 29, 2004, Deborah K. Harpest, Kisha Merkel and Julie Latham, collectively referred to as “Selling Stockholders”.

**B. Defiance Holdings, LLC (“Transferee”)**

Defiance is an Ohio limited liability company located at 417 Wayne Avenue, Suite 102, Defiance, OH 43412. For the purpose of accomplishing this transaction, Defiance is acquiring

all outstanding stock of Qualstar from Selling Stockholders. Defiance, through Affiliates, provides local exchange services to residential and small to medium size business customers in the following markets:

- Ayersville, OH
- Arthur, OH
- Sherwood, OH

**C. Section 214 Authorizations**

Qualstar holds blanket domestic Section 214 authority to provide telecommunications service pursuant to 47 C.F.R. § 63.01.

Defiance operates its communications business through Affiliates, and therefore, does not directly hold any domestic or international Section 214 authority. The following Affiliates of Defiance hold Section 214 authority:

**Ayersville Telephone Company** holds blanket domestic Section 214 authority. FRN 0004-3286-54.

**Arthur Mutual Telephone Company** holds blanket domestic Section 214 authority. FRN 0004-3293-30.

**Sherwood Mutual Telephone Association, Inc.** holds blanket domestic Section 214 authority. FRN 0005-0756-43.

**III. DESCRIPTION OF THE TRANSACTION**

Defiance and the Selling Stockholders of Qualstar entered into a Stock Purchase Agreement (“Agreement”) on July 22, 2009 whereby Defiance upon closing will acquire all outstanding stock of Qualstar from existing individual stockholders. As a result, Qualstar will be a wholly-owned subsidiary of Defiance, and Defiance will control Qualstar. Applicants therefore request authority for the transfer of control of Qualstar to Defiance. For the Commission’s convenience, pre- and post-transaction illustrative organization charts for the combined operating companies are provided as Exhibit A.

Immediately following the consummation of the proposed transaction, Qualstar will continue to offer service with no change in the name of the company, or its rates or terms and conditions of service. Therefore, the transfer of control of Qualstar will be seamless and virtually transparent to consumers of Qualstar. If in the future Defiance seeks to change the Qualstar name, it will do so in accordance with Commission's requirements applicable to such changes.

#### **IV. PUBLIC INTEREST STATEMENT**

Applicants submit that the proposed transaction will serve the public interest. The proposed acquisition will enable Qualstar to obtain access to additional financial and operational resources from its new parent company. These additional resources will allow Qualstar to strengthen its competitive position to the benefit of its consumers and the telecommunications marketplace.

In addition, the transaction will be conducted in a manner that will be transparent to customers of Qualstar. The transfer of ultimate control of Qualstar will not result in a change of carrier for customers or any transfer of authorizations. Following consummation of the proposed transaction, Qualstar will continue to provide high-quality communications services to its customers without interruption and without change in rates, terms or conditions. Applicants emphasize that the proposed transfer of control will be seamless and transparent to the customers of Qualstar, and in no event will it result in the discontinuance, reduction, loss, or impairment of service to customers.

#### **V. INFORMATION REQUIRED BY SECTION 63.04**

In lieu of an attachment, pursuant to Commission Rule 63.04(a), 47 C.F.R. § 63.04(a) Applicants submit the following information in support of their request for domestic Section 214

authority in order to address the requirements set forth in Commission Rule 63.04(a), 47 C.F.R. §

63.04(a):

**(a)(1)** Qualstar Communications, Inc.  
417 Wayne Avenue  
Suite 102  
Defiance, OH 43512  
(419) 782-6990 Ext. 110

Defiance Holdings, LLC  
417 Wayne Avenue  
Suite 102, P. O. Box 504  
Defiance, OH 43512  
(419) 782-6990 Ext. 110

**(a)(2)** Qualstar Communications, Inc., is an Ohio corporation. Defiance Holdings, LLC,  
is an Ohio limited liability company.

**(a)(3)** M. Gavin McCarty  
Mitchell D. Goldsmith  
Shefsky & Froelich Ltd.  
111 East Wacker Drive  
Suite 2800  
Chicago, IL 60601  
Tel: (312) 527-4000  
Fax: (312) 527-4011  
e-mails: [gmcarty@shefskylaw.com](mailto:gmcarty@shefskylaw.com)  
[mgoldsmith@shefskylaw.com](mailto:mgoldsmith@shefskylaw.com)

William Adams  
Bailey Cavalieri LLC  
10 West Broad Street  
Columbus, OH 43215  
Tel: (614) 229-3278  
Fax: (614) 221-0479  
e-mail: [William.Adams@baileycavalieri.com](mailto:William.Adams@baileycavalieri.com)

**(a)(4)** Ayersvile Telephone Company  
27932 Watson Road  
Defiance, OH 43512-8850  
Ayersvile Exchange – local exchange services  
33½ % of Defiance Holdings, LLC

Arthur Mutual Telephone Company

21980 State Route 637  
Defiance, OH 43512  
Arthur Exchange – local exchange services  
33⅓ % of Defiance Holdings, LLC

Sherwood Mutual Telephone Association, Inc.  
P. O. Box 4572  
Sherwood, OH 43556-0572  
Sherwood Exchange – local exchange services  
33⅓ % of Defiance Holdings, LLC

- (a)(5) Each Applicant certifies pursuant to §§1.2001 through 1.2003 in accordance with this Section that no party to the application is subject to a denial of federal benefits pursuant to §5301 of the Anti-Drug Abuse Act of 1988.
- (a)(6) A description of the transaction is set forth in Section III above.
- (a)(7) Qualstar, Inc. is authorized to provide telecommunications services in Ohio. The authorized services are competitive local and/or interexchange domestic services. All services provided by Qualstar are competitive in nature. No Affiliates of Qualstar are or hold a dominant position in any market. In fact, Qualstar, although authorized to provide services, is not fully, commercially operational and serves fewer than five (5) physical locations.

Defiance Holdings, LLC is jointly owned by Ayersville Telephone Company (“Ayersville”), Arthur Mutual Telephone Company (“Arthur”), and Sherwood Mutual Telephone Association, Inc. (“Sherwood”). Each affiliate is a single exchange local telecommunications provider authorized to provide local and/or domestic services in Ohio. Arthur serves the Arthur Exchange located near Defiance, OH; Ayersville serves the Ayersville Exchange near Defiance, OH; and, Sherwood serves the Sherwood Exchange near Defiance, OH.

- (a)(8) Applicants respectfully submit that this Application is eligible for streamlined processing pursuant to Sections 63.03 of the Commission’s Rules, 47 C.F.R. §63.03. In particular, with respect to domestic authority, this Application is eligible for streamlined processing pursuant to Section 63.03(b)(2)(ii) because, immediately following the transaction, (1) Applicants and their affiliates (as defined in Section 3(I) of the Communications Act – (“Affiliates”)) combined will hold less than a ten percent (10%) share of the interstate, interexchange market; (2) Applicants and their Affiliates will provide local exchange service only in areas served by dominant local exchange carriers (none of which is a party to the proposed transaction) and; (3) the Applicant or their Affiliates are dominant single exchange carriers and the non-dominant Transferor (Qualstar) provides services exclusively outside the geographic area where the dominant Affiliates provide services.
- (a)(9) By this Application, Applicants seek authority with respect to domestic 214 authorizations. Applicants are also filing a 603 form with the Wireless Bureau

with respect to this transaction because Defiance is also purchasing all outstanding stock in Link Investments, Ltd., an affiliate of Qualstar which currently holds four (4) point-to-point wireless licenses.

(a)(10) Prompt completion of the proposed transaction is critical to ensure that Applicants can obtain the benefits described in the foregoing application. Accordingly, Applicants respectfully request that the Commission approve this Application expeditiously in order to allow Applicants to consummate the proposed transaction as soon as possible.

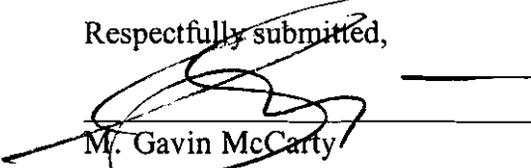
(a)(11) Not applicable.

(a)(12) A statement showing how grant of the application will serve the public interest, convenience and necessity is provided in **Section IV** above.

## VI. CONCLUSION

For the reasons stated above, Applicants respectfully submit that the public interest, convenience, and necessity would be furthered by a grant of this Application for the above-described transaction. Applicants respectfully request expedited treatment to permit Applicants to complete the transaction as soon as possible.

Respectfully submitted,



M. Gavin McCarty  
Shefsky & Froelich  
111 E. Wacker Drive, Suite 2800  
Chicago, IL 60601  
email: [gmccarty@shefskylaw.com](mailto:gmccarty@shefskylaw.com)

Dated: July 13, 2008

Counsel for Applicants

**EXHIBIT A**

**Pre- and Post- Transaction Illustrative Charts**

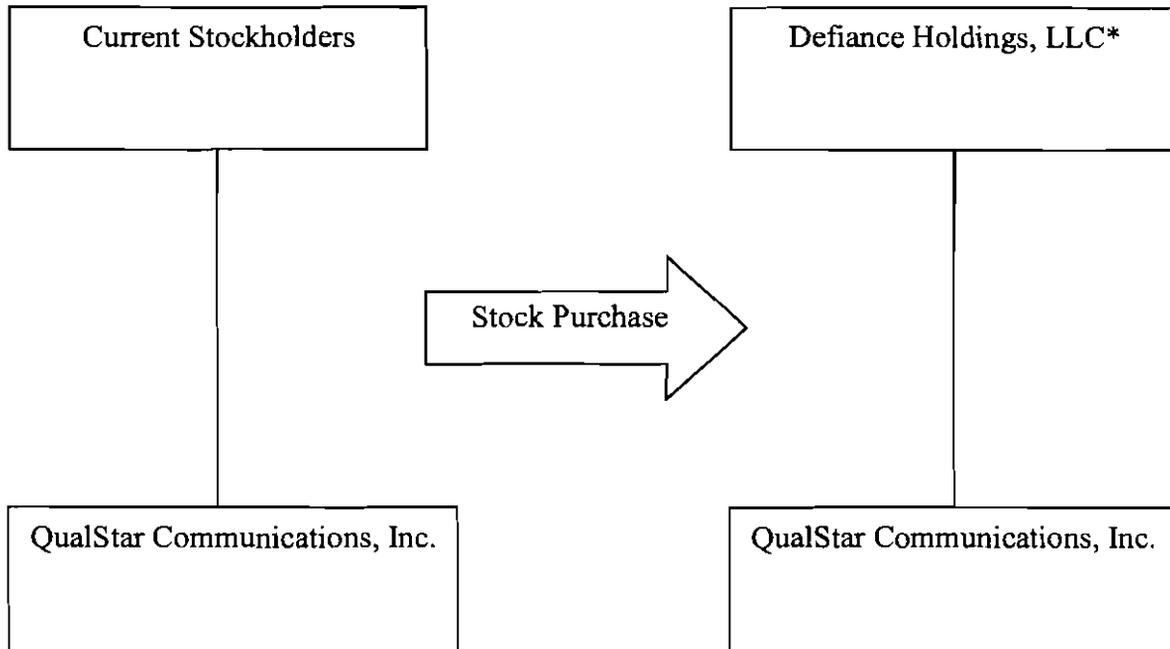
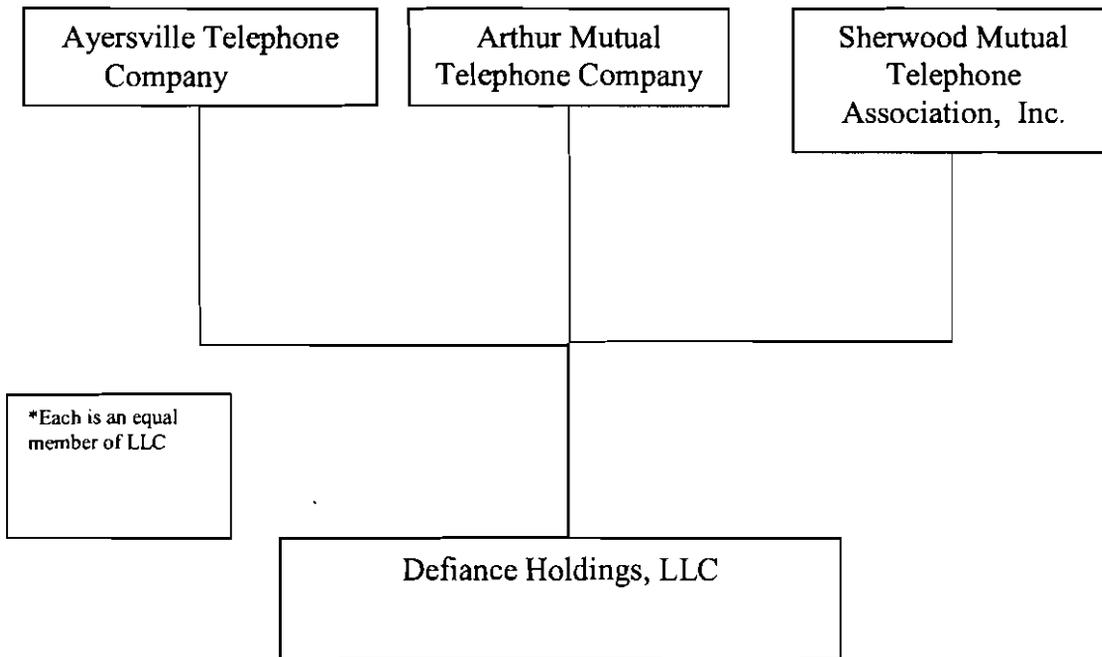


Illustration of Holding Co Ownership

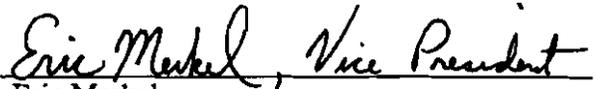


**VERIFICATION**

I, Eric Merkel, state that I am Vice President and Director of Qualstar Communications, Inc. and authorized representative of Selling Stockholders; that I am authorized to make this Verification on behalf of Qualstar and Selling Stockholders; that I have reviewed the foregoing filing; and, that the contents with respect to Qualstar are true and accurate to the best of my knowledge and belief.

I declare under penalty of perjury that the foregoing is true and correct. Executed this 23<sup>rd</sup> day of July, 2009.

Name:  
Title:

  
Eric Merkel  
Vice President and Director of  
Qualstar Communications, Inc.

VERIFICATION

I, Phillip D. Maag, state that I am President of Defiance Holdings, LLC; that I am authorized to make this Verification on behalf of Defiance; that I have reviewed the foregoing filing; and, that the contents with respect to Defiance are true and accurate to the best of my knowledge and belief.

I declare under penalty of perjury that the foregoing is true and correct. Executed this 23<sup>rd</sup> day of July, 2009.

Name:  
Title:

Phillip D. Maag  
President  
Defiance Holdings, LLC