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**NOWALSKY, BRONSTON & GOTHARD**

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Philip R. Adams, Jr.

DOCKET FILE COPY ORIGINAL

August 27, 2009

**BY OVERNIGHT DELIVERY  
AND ELECTRONIC FILING**

Federal Communications Commission  
Wireline Competition Bureau  
9300 E. Hampton Drive  
Capitol Heights, MD 20743

US BANK/FCC SEP 08 2009

FCC c/o US Bank (Via U.S. Mail)  
Wireline Competition Bureau - CPD- 214 Appls.  
P.O. Box 979091  
St. Louis, MO 63197-9000

RE: Combined application for consent to the transfer of control of a business which has Blanket Domestic Interstate 214 Authority - Transfer of Benchmark Communications, LLC, Licensee, Mark Guidry, Jason Veasey, Warren Gottsegen and Benjamin Bronston, Transferors to TDMM Cable Funding, LLC, Transferee

Dear Sir or Madam:

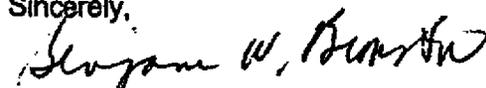
Enclosed please find the following documents submitted on behalf of Benchmark Communications, LLC and TDMM Cable Funding, LLC.

1. The original and four (4) copies of an Application for consent to the transfer of control of a business which has blanket domestic interstate 214 authority.
2. The original and four (4) copies of FCC Form 159.
3. Our AMEX number authorizing a charge in the amount of \$965.00 representing the filing fee for this Application.

Should you have any questions or require additional information, please do not hesitate to contact me.

I would appreciate if you would return a copy of this letter, date-stamped, in the envelope provided.

Sincerely,



Benjamin W. Bronston  
[bbronston@nbglaw.com](mailto:bbronston@nbglaw.com)

cc: FCC Copy Contractor

READ INSTRUCTIONS CAREFULLY  
BEFORE PROCEEDING

FEDERAL COMMUNICATIONS COMMISSION  
REMITTANCE ADVICE  
FORM 159

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

(1) LOCKBOX #	SPECIAL USE ONLY	
SECTION A - PAYER INFORMATION		
(2) PAYER NAME (if paying by credit card enter name exactly as it appears on the card) <b>Leon Nowalsky</b>	(3) TOTAL AMOUNT PAID (U.S. Dollars and cents) <b>\$965.00</b>	
(4) STREET ADDRESS LINE NO. 1 <b>1420 Veterans Blvd.</b>		
(5) STREET ADDRESS LINE NO. 2		
(6) CITY <b>Metairie</b>	(7) STATE <b>LA</b>	(8) ZIP CODE <b>70005</b>
(9) DAYTIME TELEPHONE NUMBER (include area code) <b>(504) 832-1984</b>	(10) COUNTRY CODE (if not in U.S.A.)	
FCC REGISTRATION NUMBER (FRN) REQUIRED		
(11) PAYER (FRN) <b>0005659958</b>	(12) FCC USE ONLY	
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 <b>Benchmark Communications, LLC</b>		
(14) STREET ADDRESS LINE NO. 1 <b>106 Metairie Lawn, Suite 220</b>		
(15) STREET ADDRESS LINE NO. 2		
(16) CITY <b>Metairie</b>	(17) STATE <b>LA</b>	(18) ZIP CODE <b>70001</b>
(19) DAYTIME TELEPHONE NUMBER (include area code)	(20) COUNTRY CODE (if not in U.S.A.)	
FCC REGISTRATION NUMBER (FRN) REQUIRED		
(21) APPLICANT (FRN) <b>0011618238</b>	(22) FCC USE ONLY	
COMPLETE SECTION C FOR EACH SERVICE, IF MORE BOXES ARE NEEDED, USE CONTINUATION SHEET		
(23A) CALL SIGN/OTHER ID	(24A) PAYMENT TYPE CODE <b>CUT</b>	(25A) QUANTITY <b>1</b>
(26A) FEE DUE FOR (PTC)	(27A) TOTAL FEE <b>\$965.00</b>	FCC USE ONLY
(28A) FCC CODE 1	(29A) FCC CODE 2	
(23B) CALL SIGN/OTHER ID	(24B) PAYMENT TYPE CODE	(25B) QUANTITY
(26B) FEE DUE FOR (PTC)	(27B) TOTAL FEE	FCC USE ONLY
(28B) FCC CODE 1	(29B) FCC CODE 2	
SECTION D - CERTIFICATION		
CERTIFICATION STATEMENT <u>Leon Nowalsky</u> 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 <u>Leon Nowalsky</u>	DATE <u>8-27-09</u>	

FEDERAL COMMUNICATIONS COMMISSION  
REMITTANCE ADVICE (CONTINUATION SHEET)  
FORM 159-C

Page No 2 of 2

SPECIAL USE
FCC USE ONLY

USE THIS SECTION ONLY FOR EACH ADDITIONAL APPLICANT  
SECTION BB - ADDITIONAL APPLICANT INFORMATION

(13) APPLICANT NAME  
**TDMM Cable Funding, LLC**

(14) STREET ADDRESS LINE NO. 1  
**5000 SW 75th Avenue, Suite 103**

(15) STREET ADDRESS LINE NO. 2

(16) CITY <b>Miami</b>	(17) STATE <b>FL</b>	(18) ZIP CODE <b>33155</b>
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(19) DAYTIME TELEPHONE NUMBER (include area code)      (20) COUNTRY CODE (if not in U.S.A.)

FCC REGISTRATION NUMBER (FRN) REQUIRED

(21) APPLICANT (FRN) <b>0018731885</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	(25A) QUANTITY
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(26A) FEE DUE FOR (PTC)	(27A) TOTAL FEE	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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(23C) CALL SIGN/OTHER ID	(24C) PAYMENT TYPE CODE	(25C) QUANTITY
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(26C) FEE DUE FOR (PTC)	(27C) TOTAL FEE	FCC USE ONLY
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(28C) FCC CODE 1	(29C) FCC CODE 2
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(23D) CALL SIGN/OTHER ID	(24D) PAYMENT TYPE CODE	(25D) QUANTITY
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(26D) FEE DUE FOR (PTC)	(27D) TOTAL FEE	FCC USE ONLY
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(28D) FCC CODE 1	(29D) FCC CODE 2
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(23E) CALL SIGN/OTHER ID	(24E) PAYMENT TYPE CODE	(25E) QUANTITY
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(26E) FEE DUE FOR (PTC)	(27E) TOTAL FEE	FCC USE ONLY
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(28E) FCC CODE 1	(29E) FCC CODE 2
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(23F) CALL SIGN/OTHER ID	(24F) PAYMENT TYPE CODE	(25F) QUANTITY
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(26F) FEE DUE FOR (PTC)	(27F) TOTAL FEE	FCC USE ONLY
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(28F) FCC CODE 1	(29F) FCC CODE 2
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**Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554**

In the Matter of	)	
	)	
<b>Benchmark Communications, LLC</b>	)	WB Docket No. 09-_____
<i>Licensee</i>	)	
	)	
<b>Mark Guidry</b>	)	
<b>Jason Veasey</b>	)	
<b>Warren Gottsegen and</b>	)	
<b>Benjamin Bronston</b>	)	File No. ITC-T/C-2009_____
<i>Transferors</i>	)	
	)	
<b>TDMM Cable Funding, LLC</b>	)	
<i>Transferee</i>	)	
	)	
Application for Consent to Transfer Control	)	
of Company Holding International	)	
Authorization and Blanket Domestic	)	
Authorization Pursuant to Section 214 of the	)	
Communications Act of 1934, as Amended	)	

**APPLICATION**

Benchmark Communications, LLC (“Benchmark” or “Licensee”), Mark Guidry, Jason Veasey, Warren Gottsegen and Benjamin Bronston (collectively, “Transferors”) and TDMM Cable Funding, LLC (“TDMM” and, together with Benchmark and Transferors, the “Applicants”) hereby request authority pursuant to Section 214 of the Communications Act of 1934, as amended, 47 U.S.C. §214 (the “Act”), and Sections 63.04 and 63.24(e) of the Commission’s Rules, 47 C.F.R. §§ 63.04, 63.24(e), to transfer control of Benchmark to TDMM. Pursuant to a Purchase Agreement (the “Agreement”), TDMM will become the direct 100 percent owner of Benchmark as a result of an all-cash transaction. Benchmark is a provider of resold local and long distance services, internet

access and private cable service to multiple dwelling unit (MDU) properties along the Gulf Coast. TDMM currently owns and operates, either directly or indirectly through wholly-owned subsidiaries, cable, high-speed Internet and information systems at three communities in the State of Florida: (i) the Keys Cove community located in the Miami-Dade County; (ii) the Cutler Cay community located in Miami-Dade County; and (iii) the Little Harbor community located in Hillsborough County.

Pursuant to Section 63.04(b) of the Commission's Rules, 47 C.F.R. § 63.04(b), the Applicants are filing a combined application for Commission consent to the proposed transfer of control. The Applicants provide below the information required by Section 63.24(e)(2) of the Commission's Rules, 47 C.F.R. § 63.24(e)(2). *Exhibit A* provides the additional information requested by Section 63.04(a)(6) through (a)(12) of the Commission's Rules, 47 C.F.R. § 63.04(a)(6)-(12).

This transaction will not involve a transfer of operating authority, assets or customers. Benchmark will continue to provide service to its existing customers under existing service arrangements. The proposed transaction, therefore, will be transparent and seamless to Benchmark's customers.

The Applicants respectfully request streamlined treatment of this Application pursuant to Sections 63.03 and 63.12 of the Commission's Rules, 47 C.F.R. §§ 63.03 and 63.12. This Application is eligible for streamlined processing pursuant to Section 63.03(b)(2) of the Commission's Rules, 47 C.F.R. § 63.03(b)(2), because (1) the proposed transaction will result in TDMM (including its affiliates, as that term is defined in Section 3(1) of the Act) having a market share in the interstate, interexchange market of less than 10 percent; (2) TDMM (through Benchmark, including their respective

affiliates) will provide competitive telephone exchange services or exchange access services (if at all) exclusively in geographic areas served by a dominant local exchange carrier that is not a party to the transaction; and (3) neither TDMM, Benchmark, nor any of their respective affiliates are regulated as dominant with respect to any service.

This Application also qualifies for streamlined treatment under Section 63.12 because post-close (1) TDMM is not affiliated with any dominant U.S. carrier whose services TDMM (through Benchmark) may resell; (2) TDMM is not affiliated with any foreign carriers; and (3) none of the other provisions contained in Section 63.12(c) of the Commission's Rules, 47 C.F.R. § 63.12(c), apply.

## **I. APPLICANTS**

### **A. Benchmark Communications, LLC (FRN 0011618238)**

Benchmark Communications, LLC is a Louisiana limited liability company formed in 2006. Benchmark is located at 106 Metairie Lawn, Suite 220, Metairie, LA 70001. Benchmark is a provider of resold local and long distance services, internet access and private cable service to multiple dwelling unit (MDU) properties along the Gulf Coast.

Benchmark was authorized by the Commission under Section 214 of the Act in File No. ITC-214-20041005-00393 to provide international telecommunications services on a global or limited global facilities-based and resale basis. Benchmark will continue to hold its Commission authorizations to provide international services following the transfer of control.

Benchmark is 100% owned by the Transferors (i.e. 25% each by Mark Guidry, Jason Veasey, Warren Gottsegen and Benjamin Bronston) as more fully described in Section IV below.

**B. TDMM (FRN 0018731885)**

TDMM, a Florida limited liability company, is located at 5000 SW 75th Avenue, Suite 103, Miami, FL 33155. TDMM currently owns and operates, either directly or indirectly through wholly-owned subsidiaries, cable, high-speed Internet and information systems at three communities in the State of Florida: (i) the Keys Cove community located in the Miami-Dade County; (ii) the Cutler Cay community located in Miami-Dade County; and (iii) the Little Harbor community located in Hillsborough County.

TDMM is not authorized to provide telecommunications services in any state, nor is it authorized by the Commission under Section 214 of the Act to provide international telecommunications services.

The complete ownership of TDMM is described in Section IV below.

**II. DESCRIPTION OF THE TRANSACTION**

By this Application, the Applicants request approval for the transfer of control of Benchmark from Transferors to TDMM. Pursuant to a Purchase Agreement (the "Agreement"), TDMM will become the direct 100 percent owner of Benchmark as a result of an all-cash transaction in which TDMM will acquire 100 percent of the issued and outstanding limited liability company membership interests of Benchmark from Transferors. Thus, TDMM will become the new corporate parent of Benchmark. The post-close ownership of Benchmark is described in Section IV below.

**III. PUBLIC INTEREST STATEMENT**

The proposed transfer of control described herein will serve the public interest. Benchmark provides resold local and long distance services to residential customers in MDU developments along the Gulf Coast. With the acquisition of Benchmark by TDMM, Benchmark will be able to continue to provide high-quality, uninterrupted

services to its customers. With the backing of TDMM, Benchmark will solidify its financial condition, expand its reach and be able to continue to serve its customers with domestic and international communications needs. Although Benchmark will be strategically and operationally integrated within TDMM, the key senior management and day-to-day management of Benchmark will remain with the company through a transition period and continue their current responsibilities during such time.

At the same time, the proposed transaction does not present any anti-competitive issues. The transaction will be completely transparent to consumers. Benchmark will continue to provide high-quality communications services to its customers without interruption and without change in rates, terms or conditions. Furthermore, the proposed transaction will not have a negative impact on competition. No existing or potential competitors will be eliminated as a result of the proposed transaction. To the contrary, the proposed transaction will provide Benchmark the financial and operational ability to continue to provide service to its customers, thereby furthering the Commission's policies favoring increased competition and greater diversity and quality of services. This will enable Benchmark to be more effective competitors in the markets in which it operates, which will further benefit consumers by bringing a diversity of services at competitive prices.

#### **IV. INFORMATION REQUIRED BY SECTION 63.24(E) OF THE COMMISSION'S RULES**

In support of this Application, the Applicants submit the following information pursuant to Section 63.24(e) of the Commission's Rules, including the information requested in Section 63.18:

(a) Name, address and telephone number of the Applicants:

Licensee:  
Benchmark Communications, LLC  
106 Metairie Lawn  
Suite 220  
Metairie, Louisiana 70001  
Tel: (504) 293-4000

Transferors:  
Mark Guidry, Jason Veasey, Warren Gottsegen and Benjamin Bronston  
c/o Mark Guidry  
106 Metairie Lawn  
Suite 220  
Metairie, Louisiana 70001  
Tel: (504) 293-4000

Transferee:  
TDMM Cable Funding, LLC  
99 Pine Street  
Suite 500  
Albany, New York 12207  
Attn: Joseph Carr, Esq.  
Tel: (518) 449-5131

- (b) Benchmark is a limited liability company organized under the laws of the State of Louisiana. BENCHMARK holds domestic and international authority pursuant to section 214 of the Act. Authority was granted in File No. ITC-214-20041005-00393.

Transferors Guidry, Veasey, Gottsegen and Bronston are individuals residing in the states of Louisiana, Alabama, Louisiana and Texas, respectively.

TDMM is a limited liability company organized under the laws of the State of Florida. TDMM does not hold domestic or international authority pursuant to section 214 of the Act.

- (c) Correspondence concerning this Application should be sent to:

For Benchmark and Transferors:

Benjamin W. Bronston  
Nowalsky, Bronston & Gothard  
A Professional Limited Liability Company  
6300 West Loop South  
Suite 395  
Bellaire, Texas 77401  
Telephone: (713) 723-3000  
Fax: (713) 583-9720  
Email: [bbronston@nbglaw.com](mailto:bbronston@nbglaw.com)

For TDMM:

Mark D. Hobson, Esq.  
Shutts & Bowen LLP  
201 S. Biscayne Blvd.  
Suite 1500  
Miami, Florida 33131  
Telephone: (305) 379-9151  
Fax: (305) 347-7851  
Email: [MHobson@shutts.com](mailto:MHobson@shutts.com)

- (d) Benchmark is authorized by the Commission in File No. ITC-214-20041005-00393 to provide international telecommunications services on a global or limited global facilities-based and resale basis. TDMM does not hold Section 214 authority.

Responses (e) through (g) are not applicable to this Application.

- (h) Following the transaction described herein, Benchmark will be a 100% wholly-owned subsidiary of TDMM.

The following individuals own 10% or more of the equity or voting interests in TDMM:

<i>Name:</i>	Timothy M. McGinn
<i>Address:</i>	99 Pine Street Suite 500 Albany, New York 12207
<i>Citizenship:</i>	USA
<i>Principal Business:</i>	Investments
<i>Percentage of Equity in TDMM:</i>	40% direct

*Name:* David L. Smith  
*Address:* 99 Pine Street  
Suite 500  
Albany, New York 12207  
*Citizenship:* USA  
*Principal Business:* Investments  
*Percentage of Equity in TDMM:* 40% direct

*Name:* Mario Bustamante  
*Address:* 99 Pine Street  
Suite 500  
Albany, New York 12207  
*Citizenship:* USA  
*Principal Business:* Telecommunications  
*Percentage of Equity in TDMM:* 20% direct

No other person or entity holds 10% or more of the equity or voting interests in TDMM.

- (i) Applicants certify that they are not, and following the proposed transaction will not be, affiliated with any foreign carrier within the meaning of section 63.09(d) and (e).
- (j) The Applicants certify that they do not seek authority to provide service to any country described in paragraphs (1) through (4) of section 63.18(j).
- (k) Not applicable.
- (l) Not applicable.
- (m) Not applicable.
- (n) Applicants certify that they have not agreed to accept special concessions directly or indirectly from any foreign carrier with respect to any U.S. international route where the foreign carrier possesses market power on the foreign end of the route and will not enter into such agreements in the future.
- (o) Applicants certify that no party to the Application is subject to a denial of Federal benefits pursuant to section 5301 of the Anti-Drug Abuse Act of 1988.
- (p) This international section 214 Application qualifies for streamlined processing pursuant to section 63.12 because the applicants are not affiliated with any foreign carriers; are not affiliated with any dominant

U.S. carriers whose international switched or private line services the applicant seeks authority to resell; and do not seek authority to provide switched basic services over private lines to a country for which the Commission has not previously authorized the provision of switched services over private lines. This Application therefore should be granted, pursuant to section 63.12(a), fourteen days after the date of public notice listing this Application as accepted for filing.

#### V. INFORMATION REQUIRED BY SECTION 63.04(B) OF THE COMMISSION'S RULES

In accordance with the requirements of Section 63.04(b) of the Commission's Rules, the additional information required for the domestic Section 214 transfer of control application is provided in *Exhibit A*.

#### VI. CONCLUSION

Based on the foregoing, the Applicants respectfully submit that the public interest, convenience, and necessity would be furthered by grant of this Application.

Respectfully submitted,

**TDDM Cable Funding, LLC**

**Benchmark Communications, LLC**  
("Licensee") and Mark Guidry, Jason Veasey, Warren Gottsegen and Benjamin Bronston (collectively, "Transferors")

*Mark Hobson, Esq.*  
Mark D. Hobson, Esq. /m  
Shutts & Bowen LLP  
201 S. Biscayne Blvd.  
Suite 1500  
Miami, Florida 33131  
Telephone: (305) 379-9151  
Fax: (305) 347-7851  
Email: [Mhobson@shutts.com](mailto:Mhobson@shutts.com)

Counsel to Transferee

*Benjamin W. Bronston, Esq.*  
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Nowalsky, Bronston & Gothard  
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Suite 395  
Bellaire, Texas 77401  
Telephone: (713) 723-3000  
Fax: (713) 583-9720  
Email: [bbronston@nbglaw.com](mailto:bbronston@nbglaw.com)

Counsel to Licensee and Transferors

Date: Aug. 27, 2009

## **EXHIBIT A**

### **DOMESTIC SECTION 214 TRANSFER OF CONTROL INFORMATION**

In accordance with the requirements of Section 63.04(b) of the Commission's Rules, 47 C.F.R. § 63.04, the Applicants provide the following information in support of their request.

#### **63.04(b)(6): Description of the Transaction**

The proposed transaction is described in Section II of the Application.

#### **63.04(b)(7): Description of Geographic Service Area and Services in Each Area**

A description of the geographic service areas and services provided in each area is described in Sections I and IV of the Application.

#### **63.04(b)(8): Presumption of Non-Dominance and Qualification for Streamlining**

This Application is eligible for streamlined processing pursuant to Section 63.03(b)(2) of the Commission's Rules, 47 C.F.R. § 63.03(b)(2), because (1) the proposed transaction will result in TDMM (including its affiliates, as that term is defined in Section 3(1) of the Act) having a market share in the interstate, interexchange market of less than 10 percent; (2) TDMM (through Benchmark, including their respective affiliates) will provide competitive telephone exchange services or exchange access services (if at all) exclusively in geographic areas served by a dominant local exchange carrier that is not a party to the transaction; and (3) neither Benchmark, TDMM, nor any of their respective affiliates are regulated as dominant with respect to any service.

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**63.04(b)(9): Other Pending Commission Applications Concerning the Proposed Transaction**

None.

**63.04(b)(10): Special Considerations**

None.

**63.04(b)(11): Waiver Requests (If Any)**

None.

**63.04(b)(12): Public Interest Statement**

The proposed transaction is in the public interest for the reasons detailed in Section III of the Application.