



# PUBLIC NOTICE

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DA 11-52

January 11, 2011

## DOMESTIC SECTION 214 AUTHORIZATION GRANTED

**Application Filed for the Transfer of Control of  
Cypress Communications Operating Company, LLC to The Broadvox Holding Company, LLC**

**WC Docket No. 10-216**

### **By the Chief, Wireline Competition Bureau:**

On October 15, 2010, Cypress Communications Operating Company, LLC (Cypress), TechInvest Holding Company, Inc., and The Broadvox Holding Company, LLC (Broadvox) (collectively, Applicants) filed an application pursuant to section 63.03 of the Commission's rules to transfer control of Cypress to Broadvox.<sup>1</sup>

The Commission released a public notice accepting the application for streamlined processing on November 1, 2010.<sup>2</sup> On November 15, 2010, the Department of Justice, including the Federal Bureau of Investigation, with the concurrence of the Department of Homeland Security (collectively, the Executive Branch Agencies), filed a letter requesting that the Commission defer action on this application while they reviewed potential national security, law enforcement, and public safety issues.<sup>3</sup> In response to the request filed by the Executive Branch Agencies, the Wireline Competition Bureau removed the application from streamlined review.<sup>4</sup>

On January 10, 2011, the Executive Branch Agencies submitted a Petition to Adopt Conditions to Authorizations and Licenses (Petition).<sup>5</sup> In the Petition, the Executive Branch Agencies advised the

<sup>1</sup> 47 C.F.R § 63.03; *see* 47 U.S.C. § 214. Applicants also filed an application for transfer of control associated with authorizations for international services. Any action on this domestic section 214 application is without prejudice to Commission action on other pending applications.

<sup>2</sup> *Domestic Section 214 Application Filed for the Transfer of Control of Cypress Communications Operating Company, LLC to The Broadvox Holding Company, LLC*, WC Docket No. 10-216, Public Notice, DA 10-2099 (rel. Nov. 1, 2010).

<sup>3</sup> Letter from Jennifer Rockoff, U.S. Department of Justice, to Marlene H. Dortch, FCC, WC Docket No. 10-216, ITC-T/C-20101015-00413 (filed Nov. 15, 2010).

<sup>4</sup> *Notice of Removal of Domestic Section 214 Application From Streamlined Treatment*, WC Docket No. 10-216, Public Notice, DA 10-2228 (rel. Nov. 23, 2010).

<sup>5</sup> *Petition to Adopt Conditions to Authorizations and Licenses*, WC Docket No. 10-216 and IB File No. ITC-T/C-20101015-00413 (filed Jan. 10, 2011).

Commission that they have no objection to the Commission granting its consent in this proceeding, provided the Commission conditions the grant on compliance by Broadvox with the commitments and undertakings set forth in the January 9, 2011 Letter of Assurances from Broadvox to the Executive Branch Agencies (Letter of Assurances). The Executive Branch Agencies filed the Letter of Assurances in WC Docket No. 10-216 on January 10, 2011.<sup>6</sup>

The Wireline Competition Bureau finds, upon consideration of the record, that grant of the application, subject to Broadvox abiding by the commitments and undertakings contained in the Letter of Assurances, 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 the transaction 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.<sup>7</sup> 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, 47 C.F.R. § 0.291, the Wireline Competition Bureau hereby grants the application discussed in this Public Notice.

Pursuant to section 1.103 of the Commission's rules, 47 C.F.R. § 1.103, the grant is effective upon release of this Public Notice. Petitions for reconsideration under section 1.106 or applications for review under section 1.115 of the Commission's rules, 47 C.F.R. §§ 1.103, 1.115, may be filed within 30 days of the date of this Public Notice.

For further information, please contact Jodie May at (202) 418-0913, Competition Policy Division, Wireline Competition Bureau.

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<sup>6</sup> Petition Attach., Letter to David S. Kris, U.S. Department of Justice, and David Heyman, Department of Homeland Security, WC Docket No. 10-216 and IB File No. ITC-T/C-20101015-00413 (filed Jan. 10, 2011).

<sup>7</sup> 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.