PUBLIC NOTICE

Federal Communications Commission
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DA 11-1563
Released: September 15, 2011

APPLICATIONS FILED FOR THE TRANSFER OF CONTROL OF PAETEC HOLDING CORPORATION TO WINDSTREAM CORPORATION

PLEADING CYCLE ESTABLISHED

WC Docket No. 11-142

Comments Due: September 29, 2011
Reply Comments Due: October 6, 2011

PAETEC Holding Corporation (PAETEC) and Windstream Corporation (Windstream) (together, Applicants) filed applications pursuant to section 214 of the Communications Act of 1934, as amended, 47 U.S.C. § 214, seeking approval for various assignments and transfers of control of PAETEC and its subsidiaries to Windstream.

PAETEC, a Delaware corporation, provides – through its competitive local exchange carrier (LEC) subsidiaries – telecommunications services primarily to business customers in 49 states and the District of Columbia.[1] PAETEC operates seven data centers in the United States and owns approximately 36,700 route miles of fiber in portions of 39 states and the District of Columbia. Applicants state that neither PAETEC nor its subsidiaries provide incumbent LEC services in any state.

Windstream, a publicly-traded Delaware corporation with no 10 percent or greater interest holders, provides incumbent LEC services in Alabama, Arkansas, Florida, Georgia, Iowa, Kentucky, Minnesota, Mississippi, Missouri, Nebraska, New Mexico, New York, North Carolina, Ohio, Oklahoma, Pennsylvania, South Carolina and Texas. Windstream's competitive LEC subsidiaries offer service in Alabama, Arkansas, Florida, Georgia, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Minnesota, Mississippi, Missouri, Nebraska, North Carolina, Ohio, Oklahoma, Pennsylvania, South Carolina,

[1] This includes all states with the exception of Alaska. The following subsidiaries of PAETEC hold section 214 authorization: PaeTec Corp. (holding international 214 authorization through its subsidiaries PaeTec Communications, Inc. and PaeTec Communications of Virginia, Inc.); McLeodUSA Telecommunications Services L.L.C.; US LEC LLC; US LEC Communications, LLC; US LEC of Alabama, LLC; US LEC of Florida; US LEC of Georgia; US LEC of Maryland; US LEC of North Carolina, LLC; US LEC of Pennsylvania, LLC; US LEC of South Carolina, LLC; US LEC of Tennessee, LLC; US LEC of Virginia, LLC; Cavalier Telephone, LLC; Cavalier Telephone Mid-Atlantic, LLC; Talk America, Inc.; Talk America of Virginia, Inc.; LDMI Telecommunications, Inc.; Network Telephone Corp.; The Other Telephone Company, Inc.; and Intellifiber Networks, Inc. Except for PAETEC Corp. and US LEC LLC, which only hold international section 214 authorizations under which certain of their subsidiaries operate, and Talk America of Virginia, Inc., which only holds domestic 214 authorization, each PAETEC Licensee holds domestic section 214 authorization and holds (or operates under a parent company's) international section 214 authorization. Applicants filed a supplement to their applications on September 14, 2011.

Tennessee, and Texas and Wisconsin. Applicants state that there are certain markets in Buffalo and Syracuse, New York; Charlotte, North Carolina; Atlanta, Georgia; and Louisville and Winchester, Kentucky in which PAETEC's competitive LEC service areas overlap with Windstream's incumbent LEC service areas.

Pursuant to an Agreement and Plan of Merger (the Agreement), by and among Windstream, Peach Merger Sub, Inc. (MergerCo) (a direct, wholly-owned subsidiary of Windstream created for the purpose of the merger), and PAETEC, Windstream will acquire PAETEC. Under the terms of the Agreement, PAETEC will merge with MergerCo, and upon consummation of the merger, PAETEC will continue as the surviving corporation in the merger as a wholly owned subsidiary of Windstream. Thus, as a result of the proposed transaction, Windstream will be the new parent company of PAETEC and its subsidiaries.

Applicants state that the proposed transaction is in the public interest. They maintain that acquisition of PAETEC will expand the network coverage of Windstream's subsidiaries to 42 states and expand Windstream's route miles to 100,000 miles across the country, thus advancing Windstream's ability to deploy and maintain innovative telecommunications offerings, benefiting consumers and serving the public interest, convenience and necessity. Applicants claim that the transaction will also allow each merging company to benefit from the other's innovative product offerings, advanced network capabilities, technical and financial strengths and complementary services, which together will help the combined entity compete with local exchange carriers, incumbent cable companies and other communications carriers. Applicants assert that there are a minimal number of overlaps between Windsteam's incumbent LEC and PAETEC's competitive LEC operations, and that there are other competitors in each of these overlapping areas. Finally, Applicants submit that the transaction itself is not expected to adversely affect customers' rates or other terms of service.

SECTION 214 AUTHORIZATIONS

A. Domestic

The Applicants filed an application to transfer control of domestic section 214 authority in connection with the proposed transaction.[2] They do not seek streamlined treatment for this application under section 63.03(b) of the Commission's rules.[3] In light of the multiple applications pending before the Commission with respect to this transaction and the public interest review associated with them, the domestic transfer of control application is not subject to streamlined treatment.[4]

B. International

The application for consent to the transfer of control of certain international section 214 authorizations from PAETEC to Windstream has been assigned the file numbers listed below.

File Number	Authorization Holder	Authorization Number
ITC-T/C-20110819-00269	PAETEC Corp.	ITC-214-19980925-00658
ITC-T/C-20110819-00270	McLeodUSA Telecommunications	ITC-214-19930827-00153

[2] PAETEC Holdings Corporation and Windstream Corporation, Applications for Consent to Transfer of Control Under Section 214 of the Communications Act, as Amended, WC Docket No. 11-142 (filed Aug. 23, 2011).

[3] 47 C.F.R. § 63.03(b).

[4] *See Implementation of Further Streamlining Measures for Domestic Section 214 Authorizations*, Report and Order, 17 FCC Rcd 5517, 5535, para. 34 (2002).

	Services, Inc.	
ITC-T/C-20110819-00271	Network Telephone Corp.	ITC-214-19981228-00911
ITC-T/C-20110819-00272	US LEC Corp.	ITC-214-19990303-00104
ITC-T/C-20110819-00273	Talk America, Inc.	ITC-214-19960119-00025
ITC-T/C-20110819-00274	The Other Phone Company, Inc.	ITC-214-19980501-00289
ITC-T/C-20110819-00275	LDMI Telecommunications, Inc.	ITC-214-19940517-00169
ITC-T/C-20110819-00276	Intellifiber Networks, Inc.	ITC-214-20020730-00389
ITC-T/C-20110819-00277	US LEC of Georgia, Tennessee, Virginia, Florida, S. Carolina	ITC-214-19970929-00589
ITC-T/C-20110819-00278	US LEC of North Carolina Inc.	ITC-214-19970220-00101

EX PARTE STATUS OF THIS PROCEEDING

This proceeding shall be treated as a "permit-but-disclose" proceeding in accordance with the Commission's *ex parte* rules.[5] Persons making *ex parte* presentations must file a copy of any written presentation or a memorandum summarizing any oral presentation within two business days after the presentation (unless a different deadline applicable to the Sunshine period applies). Persons making oral *ex parte* presentations are reminded that memoranda summarizing the presentation must (1) list all persons attending or otherwise participating in the meeting at which the *ex parte* presentation was made, and (2) summarize all data presented and arguments made during the presentation. If the presentation consisted in whole or in part of the presentation of data or arguments already reflected in the presenter's written comments, memoranda or other filings in the proceeding, the presenter may provide citations to such data or arguments in his or her prior comments, memoranda, or other filings (specifying the relevant page and/or paragraph numbers where such data or arguments can be found) in lieu of summarizing them in the memorandum. Documents shown or given to Commission staff during *ex parte* meetings are deemed to be written *ex parte* presentations and must be filed consistent with rule 1.1206(b). In proceedings governed by rule 1.49(f) or for which the Commission has made available a method of electronic filing, written *ex parte* presentations and memoranda summarizing oral *ex parte* presentations, and all attachments thereto, must be filed through the electronic comment filing system available for that proceeding, and must be filed in their native format (*e.g.*, .doc, .xml, .ppt, searchable .pdf). Participants in this proceeding should familiarize themselves with the Commission's *ex parte* rules.

GENERAL INFORMATION

The applications have been found, upon initial review, to be acceptable for filing. The Commission reserves the right to return any application if, upon further examination, it is determined to be defective and not in conformance with the Commission's rules or policies. Final action on these applications will not be taken earlier than thirty-one days following the date of this Public Notice.[6]

Interested parties must file petitions to deny or comments no later than **September 29, 2011**. Persons and entities that timely file comments or petitions to deny may participate fully in the proceeding. Replies must be filed no later than **October 6, 2011**. All filings concerning matters referenced in this Public Notice should refer to **DA 11-1563** and **WC Docket No. 11-142**, as well as the specific file numbers of the individual applications or other matters to which the filings pertain.

Under the Commission's procedures for the submission of filings and other documents, submissions in this matter may be filed electronically (*i.e.*, though ECFS) or by hand delivery.

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[5] 47 C.F.R. §§ 1.1200 *et seq.*

[6] *See* 47 U.S.C. § 309(b).

- Electronic Filers: Comments may be filed using the Commission's Electronic Comment Filing System (ECFS) at http://fjallfoss.fcc.gov/ecfs2/. *See Electronic Filing of Documents in Rulemaking Proceedings*, 63 FR 24121 (1998).

- Paper Filers: Parties who choose to file by paper must file an original and one copy 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. All filings must be addressed to the Commission's Secretary, Office of the Secretary, Federal Communications Commission.

  - All hand-delivered or messenger-delivered paper filings for the Commission's Secretary must be delivered to FCC Headquarters at 445 12th St., SW, Room TW-A325, Washington, DC 20554. The filing hours are 8:00 a.m. to 7:00 p.m. All hand deliveries must be held together with rubber bands or fasteners. Any envelopes and boxes 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 must be addressed to 445 12th Street, SW, Washington DC 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 or call the Consumer & Governmental Affairs Bureau at 202-418-0530 (voice), 202-418-0432 (tty).

Additionally, filers must deliver courtesy copies by email or facsimile to the following Commission staff:

1) Dennis Johnson, Competition Policy Division, Wireline Competition Bureau, at dennis.johnson@fcc.gov or (202) 418-1413 (facsimile);
2) David Krech, Policy Division, International Bureau, at david.krech@fcc.gov or (202) 418-2824 (facsimile); and
3) Neil Dellar, Office of General Counsel, at neil.dellar@fcc.gov or (202) 418-1234 (facsimile).

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For further information, contact Dennis Johnson, Competition Policy Division, Wireline Competition Bureau, at (202) 418-0809 or David Krech, Policy Division, International Bureau, at (202) 418-7443.

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