PUBLIC NOTICE

Federal Communications Commission
445 12th St., S.W.
Washington, D.C. 20554

News Media Information 202 / 418-0500
Internet: http://www.fcc.gov
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DA 12-1161
July 19, 2012

DOMESTIC SECTION 214 AUTHORIZATION GRANTED

Domestic Section 214 Application Filed for the Transfer of Control of Keywest Communications (USA) Inc. to Sifa Technology Limited

WC Docket No. 12-7

On January 11, 2012, Keywest Communications (USA) Inc. (KCUSA). Key West Global Telecommunications Berhad (Keywest) and Sifa Technology Limited (SIFA) (collectively, the Applicants) filed an application, pursuant to section 63.03 of the Commission's rules,[1] to transfer control of KCUSA from Keywest to SIFA.

On February 15, 2012, the Bureau released a public notice accepting the application for streamlined processing.[2] On February 29, 2012, 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.[3] In response to the request, the Bureau removed the application from streamlined review.[4] On July 18, 2012, the Executive Branch Agencies withdrew their request to defer action, stating that they have no objection to the application.[5]

The Bureau finds, upon consideration of the record, that grant of the application will serve the public interest, convenience, and necessity. Upon consummation of the transaction, the resulting entity would have a market share in the U.S. interstate interexchange market of less than 10 percent and would provide competitive telephone exchange services or exchange access services (if at all) exclusively in

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[1] 47 C.F.R § 63.03; *see* 47 U.S.C. § 214.

[2] *Domestic Section 214 Application Filed for the Transfer of Control of Keywest Communications (USA) Inc. to SIFA Technology Limited*, WC Docket No. 12-7, Public Notice, DA 12-221 (WCB 2012).

[3] Letter from Christopher Hale, U.S. Department of Justice, to Marlene H. Dortch, FCC, WC Docket No. 12-7 (filed Feb. 29, 2012).

[4] *Notice of Removal of Domestic Section 214 Application From Streamlined Treatment*, WC Docket No. 12-7, Public Notice, DA 12-365 (WCB 2012).

[5] Letter from Jennifer Rockoff, U.S. Department of Justice, to Marlene H. Dortch, FCC, WC Docket No. 12-7 (filed July 18, 2012).

geographic areas served by a dominant local exchange carrier that is not a party to the transaction. In addition, neither of the Applicants are dominant with respect to any domestic service.[6]

Consistent with Commission precedent, the Bureau accords the appropriate level of deference to the Executive Branch Agencies' expertise on national security and law enforcement issues.[7] 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 Bureau hereby grants the application discussed in this Public Notice.[8]

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. §§ 1.106, 1.115, may be filed within 30 days of the date of this Public Notice.

For further information, please contact Dennis Johnson at (202) 418-0809, Competition Policy Division, Wireline Competition Bureau.

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[6] 47 C.F.R. 63.03(b)(2)(i).

[7] 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.

[8] A grant of the application will be without prejudice to any enforcement action by the Commission for non-compliance with the Communications Act of 1934, as amended, or the Commission's rules.