PUBLIC NOTICE

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DA 03-3198
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DOMESTIC SECTION 214 APPLICATION FILED FOR TRANSFER OF CONTROL OF ADELPHIA BUSINESS SOLUTIONS, INC. (DEBTOR-IN-POSSESSION) D/B/A TELCOVE AND CERTAIN SUBSIDIARIES (AS DEBTORS-IN-POSSESSION)

STREAMLINED PLEADING CYCLE ESTABLISHED

WC Docket No. 03-204

On September 3, 2003, Adelphia Business Solutions, Inc. (debtor-in-possession) d/b/a TelCove (ABIZ or the Company) and certain subsidiaries (as debtors-in-possession)[1] and other subsidiaries that are non-debtors[2] (the TelCove Subsidiaries) (collectively, TelCove or the Applicants) filed an application, pursuant to sections 63.03 and 63.04 of the Commission's rules,[3] to transfer control of the TelCove Subsidiaries, many of which hold blanket domestic section 214 authorizations. The transfer of control will occur as part of the reorganization of ABIZ (hereinafter Reorganized ABIZ) through Chapter 11 bankruptcy.[4]

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1 The TelCove subsidiaries seeking the authority pursuant to this application are: Adelphia Business Solutions of Kentucky, Inc. d/b/a TelCove; Adelphia Business Solutions of Vermont, Inc. d/b/a TelCove; Adelphia Business Solutions Atlantic, Inc. d/b/a TelCove; Adelphia Business Solutions Operations, Inc. d/b/a TelCove; Adelphia Business Solutions Long Haul, L.P.; Adelphia Business Solutions International, LLC; Adelphia Business Solutions Investment, LLC d/b/a TelCove; Adelphia Business Solutions of Jacksonville, Inc. d/b/a TelCove; Adelphia Business Solutions of Louisiana, LLC d/b/a TelCove; Adelphia Business Solutions of Nashville, L.P. d/b/a TelCove; Adelphia Business Solutions of South Carolina, Inc. d/b/a TelCove; and Adelphia Business Solutions of Virginia, LLC d/b/a TelCove.

2 Adelphia Business Solutions of Pennsylvania, Inc. d/b/a TelCove did not file for Chapter 11 protection and operates as a competitive local exchange carrier (LEC) and interexchange carrier in the Commonwealth of Pennsylvania. It is a 50% general partner in Susquehanna Adelphia Business Solutions and PECO Hyperion Telecommunications that each operate as competitive LECs and interexchange carriers in the Commonwealth of Pennsylvania.

3 47 C.F.R §§ 63.03, 63.04; *see* 47 U.S.C. § 214.

4 Applicants have also filed a transfer of control application related to international services. Also, Applicants state that TelCove is filing applications for consent to transfer control of a variety of wireless licenses.

Applicants assert that the proposed transaction is eligible for presumptive streamlined treatment under section 63.03(b)(2)(i) because the proposed transaction will result in every transferee having a market share in the interstate, interexchange market of less than 10 percent and every transferee would 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 none of the applicants are dominant with respect to any service.

ABIZ is a Delaware corporation with its principal place of business located at 712 N. Main Street, Coudersport, Pennsylvania 16915. Until January 11, 2002, ABIZ was a subsidiary of Adelphia Communications Corporation (ACC), the then fifth largest cable company in the United States. On January 11, 2002, ACC effected a spin-off of ABIZ from ACC. At the time of the spin-off, ACC owned stock representing approximately 79 percent of ABIZ's outstanding common stock. Prior to and after the spin-off, both ACC and ABIZ were controlled by John Rigas, Tim Rigas, and James Rigas (the Rigas Family), each of whom served as a senior officer and director of both companies. TelCove is a leading facilities-based provider of integrated communication services that serves medium and large businesses, state and local governmental agencies, educational institutions, and other communications services providers. TelCove offers local and long-distance voice, dedicated data, ATM, frame relay, and Internet services and is focused on serving communications-intensive end users. TelCove operates in 35 medium-to-large sized markets throughout the Eastern United States, along the Gulf Coast and in several Midwestern states.

On March 27, 2002, ABIZ and certain of its subsidiaries each filed a petition for Chapter 11 protection in the United States Bankruptcy Court for the Southern District of New York (the Court) and the cases were assigned joint administration under Case No. 02-11389. Soon after the March 27 filing date, there was public disclosure of alleged accounting irregularities and alleged improprieties involving ACC and the Rigas Family. These events resulted in ABIZ having to further downsize its business plan and a decision was made for most of the remaining subsidiaries to file for Chapter 11 protection, which resulted in the additional filings on June 18, 2002. In July 2002, the Rigas Family resigned their positions on the ABIZ Board of Directors and their officer positions they held with ABIZ and the TelCove subsidiaries. Prior to July 2002, the Rigas Family also had resigned their positions on the ACC Board of Directors and their officer positions they held with ACC and its subsidiaries. Accordingly, the Rigas Family no longer controls the management or day-to-day operations of either ABIZ or ACC.

The reorganization of ABIZ, and the consummation of the Plan of Reorganization (Plan) will create multiple classes of holders of claims against and equity interests in ABIZ. The Plan specifies that certain classes of individuals and entities with allowed claims may elect to receive, generally speaking, a cash payment and/or securities in the form of new common stock and/or

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Any action on this domestic section 214 application is without prejudice to Commission action on other related pending applications.

warrants for complete and full satisfaction of allowed claims. ABIZ will authorize up to ten million shares of new common stock to be issued pursuant to the Plan as well as new warrants and new management warrants. Reorganized ABIZ will continue to hold the stock and/or interest in the TelCove Subsidiaries as it does today. None of the TelCove Subsidiaries will issue any new common stock or new warrants. The existing equity interest, which is the interest of any holder of an equity security in ABIZ, and all issued and outstanding shares of common or preferred stock or other instrument evidencing a present ownership interest in ABIZ will be extinguished on the effective date of the Plan and no holder of an equity interest will receive any distribution of property on account of such equity interest. Accordingly, a transfer of control of each of the TelCove subsidiaries will occur upon the effective date of the Plan.

After the issuance of the new common stock, it is anticipated that there may be two stockholders who will beneficially hold more than a 10 percent interest in Reorganized ABIZ, Bay Harbour Management LC, which could possibly hold more than a 49.9 percent interest in Reorganized ABIZ, and DDJ Capital Management, which will hold less than 49.9% interest in Reorganized ABIZ after closing of the proposed transaction. Until the distributions are made, the percentage of the stock to be held by each individual claim holder is not settled. Under the Plan, no foreign person or foreign entity will hold 25 percent or greater interest in the Reorganized ABIZ.

There are several steps necessary for the approval of the Plan and subsequent emergence by ABIZ and the TelCove Subsidiaries from bankruptcy. The Plan and a redacted copy of the Disclosure Statement were filed with the Court on August 22, 2003. The Applicants anticipate that the Plan should be confirmed in approximately 90 days after the filing of the Plan and the Disclosure Statement, or on or about November 22, 2003. The reorganization becomes effective no earlier than 1) eleven days after the later of the confirmation date, the date any stay of the confirmation order is dissolved or 2) the date on which the conditions to the effectiveness of the plan have been satisfied or waived (Effective Date).

Upon the Effective Date, the management, control and operation of the Reorganized ABIZ will be the general responsibility of the Board of Directors of the Reorganized ABIZ. It is possible that one of the secured claims holds may exercise either de jure or de facto control, or both, over the Reorganized ABIZ. The current officers of ABIZ will serve as the initial officers of the Reorganized ABIZ on and after the Effective Date. They include Robert E. Guth, CEO of ABIZ, Edward Babcock, Vice President and Chief Financial Officer, and John B. Glicksman, Vice President and General Counsel.

The Applicants assert that approval of this proposed transfer of control will serve public interest as the reorganized, emerging companies will be financially stronger and will continue to provide the quality service to their end users. Applicants state that the proposed transfer of control will occur at the parent company level and the transfer will be transparent at the subsidiary level that serves the end user customers. Applicants argue that the emergence from bankruptcy of these companies will foster continued competition in the local exchange and interexchange markets. Furthermore, Applicants state that neither ACC nor the Rigas Family will have any day-to-day management control of ABIZ and upon the Effective Date of the Plan, and any equity interests in ABIZ by the Rigas Family will be extinguished. Consequently, Applicants argue, any alleged misconduct or improprieties by either ACC or the Rigas Family should have no effect on the eligibility of the TelCove Subsidiaries to hold their respective FCC authorizations or licenses.

GENERAL INFORMATION

The transfer of control identified herein has been found, upon initial review, to be acceptable for filing as a non-streamlined application. The Commission reserves the right to return any transfer of control application if, upon further examination, it is determined to be defective and not in conformance with the Commission's rules and policies. Interested parties may file **comments within 14 days** and **reply comments within 21 days** of this notice.[5] Unless otherwise notified by the Commission, Applicants are permitted to transfer control on the 31st day after the date of this notice.[6] Comments may be filed using the Commission's Electronic Comment Filing System (ECFS) or by filing paper copies. *See Electronic Filing of Documents in Rulemaking Proceedings*, 63 Fed. Reg. 24121 (1998).

Comments filed through the ECFS can be sent as an electronic file via the Internet to <http://www.fcc.gov/e-file/ecfs.html>. Generally, only one copy of an electronic submission must be filed. If multiple docket or rulemaking numbers appear in the caption of this proceeding, however, commenters must transmit one electronic copy of the comments to each docket or rulemaking number referenced in the caption. In completing the transmittal screen, commenters should include their full name, U.S. Postal Service mailing address, and the applicable docket or rulemaking number. Parties may also submit an electronic comment by Internet e-mail. To get filing instructions for e-mail comments, commenters should send e-mail to ecfs@fcc.gov, and should include the following words in the subject line "get form <your e-mail address>." A sample form and directions will be sent in reply.

Parties who choose to file by paper must file an original and four copies of each filing. If more than one docket or rulemaking number appears in the caption of this proceeding, commenters 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 (although we continue to experience delays in receiving U.S. Postal Service mail). The Commission's contractor, Vistronix, Inc., will receive hand-delivered or messenger-delivered paper filings for the Commission's Secretary at 236 Massachusetts Avenue, N.E., Suite 110, Washington, D.C. 20002. The filing hours at this

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5 *See* 47 C.F.R. § 63.03(a).

6 Such authorization is conditioned upon receipt of any other necessary approvals from the Commission in connection with the proposed transaction.

location are 8:00 a.m. to 7:00 p.m. All hand deliveries must be held together with rubber bands or fasteners. Any envelopes 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 mail, Express Mail, and Priority Mail should be addressed to 445 12th Street, SW, Washington, D.C. 20554. All filings must be addressed to the Commission's Secretary, Office of the Secretary, Federal Communications Commission.

In addition, one copy of each pleading must be sent to each of the following:

(1) the Commission's duplicating contractor, Qualex International, 445 12th Street, S.W., Room CY-B402, Washington, D.C. 20554; e-mail: qualexint@aol.com; facsimile: (202) 863-2898; phone: (202) 863-2893;

(2) Tracey Wilson, Competition Policy Division, Wireline Competition Bureau, 445 12th Street, S.W., Room 5-C437, Washington, D.C. 20554; e-mail: twilson@fcc.gov;

(3) Dennis Johnson, Competition Policy Division, Wireline Competition Bureau, 445 12th Street, S.W., Room 6-A461, Washington, D.C. 20554; e-mail: dcjohnso@fcc.gov;

(4) Jeremy Miller, Competition Policy Division, Wireline Competition Bureau, 445 12th Street, S.W., Room 5-C211, Washington, D.C. 20554; e-mail: jemiller@fcc.gov;

(5) Imani Ellis-Cheek, Telecommunications Division, International Bureau, 445 12th Street, S.W., Room 6-A739, Washington, D.C. 20554; email: iellis@fcc.gov;

(6) Erin McGath, Commercial Wireless Division, Wireless Telecommunications Bureau, 445 12th Street, S.W., Washington, D.C. 20554; email: Erin.Mcgrath@fcc.gov;

(7) Jeffrey Tobias, Public Safety and Private Wireless Division, Wireless Telecommunications Bureau, 445 12th Street, S.W., Room 2-C828, Washington, D.C. 20554; email; jtobias@fcc.gov;

(8) Christopher Killion, Office of General Counsel, 445 12th Street, S.W., Room 8-C740, Washington, D.C. 20554; e-mail: ckillion@fcc.gov.

Filings and comments are also available for public inspection and copying during regular business hours at the FCC Reference Information Center, Portals II, 445 12th Street, SW, Room CY-A257, Washington, DC, 20554. They may also be purchased from the Commission's duplicating contractor, Qualex International, Portals II, 445 12th Street, SW, Room CY-B402, Washington, DC, 20554, telephone 202-863-2893, facsimile 202-863-2898, or via e-mail qualexint@aol.com.

For further information, please contact Tracey Wilson, at (202) 418-1394, or Dennis

Johnson at (202) 418-0809.

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