



PUBLIC NOTICE

Federal Communications Commission
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DA 03-417

Released: February 11, 2003

DOMESTIC SECTION 214 APPLICATION FILED FOR ACQUISITION OF ASSETS OF TXU COMMUNICATIONS BY GRANDE COMMUNICATIONS NETWORKS, INC.

STREAMLINED PLEADING CYCLE ESTABLISHED

WC Docket No. 03-28

On January 22, 2003, TXU Communications Telecom Services Company (TXU CTSC) and Fort Bend Long Distance Company (Fort Bend) d/b/a TXU Communications (TXU Communications or "Transferors") and Grande Communications Networks, Inc. (Grande or the "Transferee") filed an application pursuant to section 63.04 of the Commission's rules,¹ for consent to the acquisition of assets of TXU CTSC and TXU Communications by Grande.²

Applicants assert that this transaction is entitled to presumptive streamlined treatment pursuant to section 63.03(b)(2)(i) of the Commission's rules because the proposed transaction will result in the Transferee having less than 10 percent of the domestic interexchange market share and the Transferee will provide competitive domestic telephone exchange services and exchange access services in geographic areas served by dominant local exchange carriers (LECs) that are not parties to the transaction.³ Furthermore, neither applicant is a dominant carrier in any of the markets pertaining to this transaction. Whereas affiliates of TXU Communications are dominant LECs in certain other Texas markets, both TXU CTSC and Fort Bend are non-dominant competitive LECs and non-dominant switched toll resale carriers in the specific markets involved in this transaction.

TXU Communications is authorized to provide competitive LEC and other telecommunications services in Texas. TXU Communications offers facilities-based local exchange and exchange access services, domestic and international long distance telephone

¹ 47 C.F.R. § 63.04; *see* 47 U.S.C. § 214.

² Applicants have also filed an application to transfer the international global resale section 214 authority of TXU Communications to Grande. Any action on this domestic application is without prejudice to Commission action on other related pending applications.

³ *See* 47 C.F.R. § 63.03(b)(2)(i).

services, and additional services such as high-speed Internet and enhanced data services to more than 20,000 customers. TXU Communications currently provides competitive local exchange services and exchange access services in the following Texas markets: Austin, Dallas, Fort Worth, Houston, San Antonio, and The Woodlands. TXU Communications also provides exchange access services in the following Texas markets: Lufkin, Conroe, and Katy. Grande Communications Networks, Inc.'s service area for exchange access services includes the following Texas markets: Austin, Corpus Christi, Midland, Odessa, San Marcos, and Waco.

On January 15, 2003, the Applicants entered into an Asset Purchase Agreement to transfer certain telecommunications assets and customer accounts. Specifically, TXU Communications intends to transfer customer accounts in several Texas cities to Grande. Applicants state that TXU Communications will discontinue service to approximately 6,500 business lines in Houston and will file an application pursuant to section 63.71 of the Commission's rules for the appropriate authorization.

The Applicants asserts that this transaction will serve the public interest, convenience and necessity by ensuring continuity of service to the Transferor's customers and promoting competition in the domestic and international interexchange services market.

GENERAL INFORMATION

The transfer of assets application identified herein has been found, upon initial review, to be acceptable for filing as a streamlined application. The Commission reserves the right to return any transfer of assets 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.⁴ Unless otherwise notified by the Commission, an applicant is permitted to transfer control of the domestic lines or authorization to operate on the 31st day after the date of this notice.⁵ 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

⁴ See 47 C.F.R. § 63.03(a).

⁵ Such authorization is conditioned upon receipt of any other necessary approvals from the Commission in connection with the proposed transaction.

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 an e-mail to ecfs@fcc.gov, and should include the following words in the body of the message, "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 appear 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, Vistrionix, 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 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, and
- (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, and
- (4) William Dever, Competition Policy Division, Wireline Competition Bureau, 445 12th Street, S.W., Room , 5-C266, Washington, D.C. 20554; e-mail: wdever@fcc.gov; and
- (5) Imani Ellis-Cheek, Telecommunications Division, International Bureau, 445 12th Street, S.W., Room 6-A739, Washington, D.C. 20554; email: ielis@fcc.gov; and
- (6) Nandan Joshi, Office of General Counsel, 445 12th Street, S.W., Room 8-A820, Washington, D.C. 20554; e-mail: njoshi@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, Dennis Johnson (202) 418-0809, or William Dever, Competition Policy, Wireline Competition Bureau at (202) 418-1578.

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