



PUBLIC NOTICE

Federal Communications Commission
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DA 04-3479
Released: October 29, 2004

DOMESTIC SECTION 214 APPLICATION FILED FOR TRANSFER OF CONTROL OF RCN CORPORATION, DEBTOR-IN-POSSESSION, TO RCN CORPORATION

STREAMLINED PLEADING CYCLE ESTABLISHED

WC Docket No. 04-400

Comments Due: November 12, 2004

Reply Comments Due: November 19, 2004

On October 13, 2004, RCN Corporation, Debtor-in-Possession (RCN-DIP) and RCN Corporation (RCN) (RCN together with RCN-DIP, "Applicants") filed an application, pursuant to sections 63.03 and 63.04 of the Commission's rules,¹ requesting that the Commission grant authority for a series of transactions required in connection with the emergence of RCN-DIP from bankruptcy and the associated conversion of RCN-DIP back to RCN.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 would result in the transferee having a market share in the interstate, interexchange market of less than 10 percent; the transferee would provide competitive telephone exchange services or exchange access services exclusively in geographic areas served by a dominant local exchange carrier that is not a party to the transaction; and neither of the applicants is dominant with respect to any service.³

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

² Applicants are also filing an application for consent to transfer authorization for international services. In addition, Applicants hold other wireless, international, and Open Video System licenses. Applicants state that applications and other filings related to these licenses will be filed under separate cover. Any action on this domestic section 214 application is without prejudice to Commission action on other related pending applications.

³ 47 C.F.R. § 63.03(b)(2)(i); *see* 47 C.F.R. § 63.03(b)(3) ("For purposes of (b)(1) and (2) of this paragraph, the terms 'applicant,' 'carrier,' 'party,' and 'transferee' (and their plural forms) include any affiliates of such entities within the meaning of section 3(1) of the Communications Act of 1934, as amended.").

RCN-DIP, a publicly held Delaware Corporation, is the ultimate corporate parent of the RCN Operating Companies.⁴ RCN-DIP and its operating subsidiaries and joint-ventures own high-speed, high-capacity advanced fiber optic networks that provide a package of services, including local and long distance telephone, high-speed Internet, and video programming services. RCN's services are provided through the RCN Operating Companies primarily to residential customers in a number of major metropolitan areas including Boston, Chicago, Los Angeles, New York City, Philadelphia and San Francisco. Through the proposed transactions, RCN-DIP will convert its existing unsecured indebtedness into new common stock of the reorganized RCN in connection with the emergence of RCN-DIP from bankruptcy.

On May 27, 2004, RCN-DIP and certain of its subsidiaries (not including any of the RCN Operating Companies) filed petitions with the United States Bankruptcy Court for the Southern District of New York to reorganize under Chapter 11.⁵ RCN-DIP, along with its senior secured lenders and the official committee of unsecured creditors of RCN-DIP, have agreed upon a proposed Plan of Reorganization. Under the plan, RCN-DIP will convert its existing unsecured indebtedness into new common stock of the reorganized RCN. The proposed transactions represent a financial restructuring primarily at the holding company level and are anticipated to provide RCN and the RCN Operating Companies with access to the capital required to ensure that telecommunications customers who purchase service from the RCN Operating Companies will continue to receive high quality services on an uninterrupted basis. According to the Applicants, the proposed transactions will not change the rates, terms or conditions of the services provided by the RCN Operating Companies. Thus, the proposed transactions will be transparent with respect to services provided to customers who purchase those services.

The Applicants assert that the proposed transactions serve the public interest because (1) the proposed transactions will not adversely affect Applicants' managerial or technical qualifications, and will enhance the financial qualifications of Applicants; (2) the transactions will benefit competition in the U.S. telecommunications market by enabling the RCN Operating Companies to continue to grow as effective competitors; and (3) the transactions will assure that there is no disruption of service and will be virtually transparent to existing customers of the RCN Operating Companies.

GENERAL INFORMATION

The transfer of control 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 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 on or before November 12,**

⁴ The RCN Operating Companies are RCN Telecom Services, Inc.; RCN Telecom Services of Washington, D.C., Inc.; RCN Telecom Services of Massachusetts, Inc.; RCN Telecom Services of Philadelphia, Inc.; RCN-BecoCom, LLC; RCN Telecom Services of Illinois, LLC; and Starpower Communications, LLC. RCN Telecom Services of Virginia, Inc. surrendered its domestic section 214 authorization as of October 8, 2004. *See Comments Invited on Application of RCN Telecom Services of Virginia, Inc. to Discontinue Domestic Telecommunications Services*, WC Docket No. 04-345; Comp. Pol. File No. 691, Public Notice, DA 04-2899 (rel. Sept. 7, 2004).

⁵ Applicants advised the Commission of the *pro forma* transfer of control of the RCN Operating Companies from RCN to RCN-DIP by letter dated June 24, 2004. *See* Application at 2 n.2.

2004 and reply comments on or before November 19, 2004.⁶ Unless otherwise notified by the Commission, Applicants are permitted to transfer assets on the 31st day after the date of this notice.⁷ 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, Natek, Inc., will receive hand-delivered or messenger-delivered paper filings for the Commission's Secretary at 236 Massachusetts Avenue, NE, 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, Best Copy and Printing, Inc., 445 12th Street, SW, Room CY-B402, Washington, D.C. 20554, www.bcpweb.com; phone: (202) 488-5300; fax: (202) 488-5563;
- (2) Tracey Wilson-Parker, Competition Policy Division, Wireline Competition Bureau, 445 12th Street, SW, Room 5-C212, Washington, D.C. 20554; e-mail: tracey.wilson-parker@fcc.gov;
- (3) Christi Shewman, Competition Policy Division, Wireline Competition Bureau, 445 12th Street, SW, Room 5-C163, Washington, D.C. 20554; e-mail: christi.shewman@fcc.gov;

⁶ See 47 C.F.R. § 63.03(a).

⁷ Such authorization is conditioned upon receipt of any other necessary approvals from the Commission in connection with the proposed transaction.

- (4) Terri Natoli, Competition Policy Division, Wireline Competition Bureau, 445 12th Street, SW, Room 5-C234, Washington, D.C. 20554; e-mail: terri.natoli@fcc.gov;
- (5) Susan O'Connell, Policy Division, International Bureau, 445 12th Street, SW, Room 7-B544, Washington, D.C. 20554; email: susan.o'connell@fcc.gov; and
- (6) James Bird, Office of General Counsel, 445 12th Street, SW, Room 8-C824, Washington, D.C. 20554; e-mail: james.bird@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, D.C. 20554. They may also be purchased from the Commission's duplicating contractor, Best Copy and Printing, Inc., Portals II, 445 12th Street, SW, Room CY-B402, Washington, D.C. 20554, telephone: (202) 488-5300, fax: (202) 488-5563, or via e-mail at www.bcpweb.com.

For further information, please contact Tracey Wilson-Parker at (202) 418-1394, or Christi Shewman at (202) 418-1686.

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