



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>
TTY: 1-888-835-5322

DA 05-2491
September 21, 2005

DOMESTIC AUTHORIZATION GRANTED

**Application for Transfer of Control of Susquehanna Adelphia Business Solutions from
Susquehanna Fiber Systems, Inc. to TelCove Holdings of Pennsylvania, Inc.**

WC Docket No. 05-43

By the Chief, Wireline Competition Bureau:

On January 28, 2005, TelCove of Pennsylvania, Inc. ("TelCove-PA"), Susquehanna Adelphia Business Solutions ("Susquehanna ABS" or "Partnership"), Susquehanna Media Co. ("SusCom"), Susquehanna Fiber Systems, Inc. ("Susquehanna"), and TelCove Holdings of Pennsylvania, Inc. ("TelCove Holdings") (collectively, "Applicants") filed an application, pursuant to section 63.03 and 63.04 of the Commission's rules,¹ requesting approval to transfer control of Susquehanna's fifty percent (50%) interest in the Partnership to TelCove Holdings.² TelCove-PA and TelCove Holdings are corporations organized under the laws of the State of Delaware. The ultimate parent company of TelCove Holdings and TelCove-PA is TelCove Inc. ("TelCove"), which is 20.37% owned by Bay Harbour Partners, Ltd., a Cayman Islands investment firm.

The Commission released a public notice accepting this application for streamlined processing on February 2, 2005. Specifically, the Applicants request approval to transfer control of Susquehanna's fifty percent (50%) interest in the Partnership to TelCove Holdings.³ Subsequently, on February 23, 2005, the Applicants, along with the United States Department of Justice ("DOJ"), the Federal Bureau of Investigation ("FBI") and the United States Department of Homeland Security ("DHS") (collectively, the "Executive Branch Agencies") filed with the Commission a

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

² Upon completion of the buy-out by TelCove Holdings, the name of the Partnership will be changed to TelCove of York.

³ *Domestic Section 214 Application Filed for Transfer of Control of Susquehanna Adelphia Business Solutions from Susquehanna Fiber Systems, Inc. to TelCove Holdings of Pennsylvania, Inc., WC Docket No. 05-43, Public Notice, DA 05-302 (rel. Feb. 2, 2005).*

joint petition to defer grant of this application while the Executive Branch Agencies and Applicants address potential national security, law enforcement, and public safety issues.⁴

On September 7, 2005, the Applicants and the Executive Branch Agencies (together, the “Parties”) submitted a Joint Petition to Adopt Conditions to Authorizations and Licenses.⁵ In the Joint Petition to Adopt Conditions, the Executive Branch Agencies advised the Commission that they do not object to the grant of the instant application, provided that the Commission conditions such grant on compliance by TelCove with the terms of the agreement reached between it and the Executive Branch Agencies on June 15, 2005 (the “Agreement”).⁶

The Wireline Competition Bureau finds, upon consideration of the record, that grant of the Application, subject to the condition set forth in this Public Notice, will serve the public interest, convenience, and necessity.⁷ Upon consummation of the transaction, TelCove will have a market share in the U.S. interstate interexchange market of less than 10 percent, and will provide competitive telephone exchange services or exchange access services exclusively in geographic areas served by a dominant local exchange carrier in the U.S. that is not a party to the transaction. In addition, no party to this transaction is dominant with respect to any domestic service.

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.⁸ The Executive Branch Agencies indicate that the commitments set forth in the Agreement address their stated concerns regarding national security, law enforcement, and public safety.⁹

⁴ See *In the Matter of the Joint Application of TelCove of Pennsylvania, Inc., SusCom Business Solutions of PA, Inc., d/b/a SusCom Business Solutions, Susquehanna Fiber Systems, Inc., Susquehanna Adelphia Business Solutions and TelCove Holdings of Pennsylvania, Inc., for Approval of the Transfer of Assets and Related Transfer of Customers to TelCove Holdings of Pennsylvania Inc.*, WC Docket No. 05-43, Joint Petition to Defer (filed Feb. 23, 2005) (Joint Petition to Defer). The Applicants note that the Application filed with the Commission in this proceeding incorrectly listed SusCom Business Solutions of PA, Inc., d/b/a/ SusCom Business Solutions, as one of the Joint Applicants. The correct entity is Susquehanna Media Co. Joint Petition to Defer at 1-2 n.1.

⁵ See *In the Matter of the Joint Application of TelCove of Pennsylvania, Inc., SusCom Business Solutions of PA, Inc., d/b/a SusCom Business Solutions, Susquehanna Fiber Systems, Inc., Susquehanna Adelphia Business Solutions and TelCove Holdings of Pennsylvania, Inc., for Approval of the Transfer of Assets and Related Transfer of Customers to TelCove Holdings of Pennsylvania Inc.*, filed with Department of Justice, Federal Bureau of Investigation, and Department of Homeland Security, Joint Petition to Adopt Conditions to Authorizations and Licenses, WC Docket No. 05-43 (dated Sept. 6, 2005) (“Joint Petition to Adopt Conditions”).

⁶ See Joint Petition to Adopt Conditions, Exhibit 1 (dated June 15, 2005). This Exhibit is attached to this Public Notice as Appendix A.

⁷ See 47 C.F.R. § 63.03(c)(v). Specifically, the Commission conditions its consent on the compliance by TelCove and its subsidiaries with the commitments set forth in the Agreement, which is attached as Appendix A to this Public Notice, including any subsequent modifications of the Agreement by the Parties.

⁸ 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 24,094, 24,170-72, ¶¶ 178-182 (1997); *Rules and Policies on Foreign Participation in the U.S. Telecommunications Market*, Report and Order and Order on Reconsideration, 12 FCC Rcd 23,891, 23,919-921, ¶¶ 61-66 (1997), Order on Reconsideration, 15 FCC Rcd 18,158 (2000) (“*Foreign Participation Order*”). In assessing the public interest, the Commission considers the record and accords the

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,¹⁰ the Wireline Competition Bureau hereby grants, subject to compliance by TelCove with the terms of the Agreement, the Application discussed in this Public Notice.

Pursuant to section 1.103 of the Commission's rules, the grant is effective upon release of this Public Notice.¹¹ Petitions for reconsideration under section 1.106 or applications for review under section 1.115 of the Commission's rules may be filed within 30 days of the date of this Public Notice.¹²

For further information, please contact Alexis Johns at (202) 418-1167, or Renée Crittendon at (202) 418-2352.

– FCC –

appropriate level of deference to Executive Branch expertise on national security and law enforcement issues. *See Foreign Participation Order*, 12 FCC Rcd at 23,919-921, ¶¶ 61-66.

⁹ *See* Joint Petition to Adopt Conditions at 3-4.

¹⁰ 47 C.F.R. § 0.291.

¹¹ *See* 47 C.F.R. § 1.103.

¹² *See* 47 C.F.R. §§ 1.106, 1.115.

Appendix A