



PUBLIC NOTICE

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

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DA 05-3232

Released: December 19, 2005

**DOMESTIC SECTION 214 APPLICATION FILED FOR TRANSFER OF CONTROL
OF BEAVER CREEK TELEPHONE COMPANY FROM JOEL EISENBERG TO
MARILYN MAY, DEBORAH BOTT, SUZANNE WILSON, PAMELA SMITH AND
CATHERINE HENDRICKSON**

STREAMLINED PLEADING CYCLE ESTABLISHED

WC Docket No. 05-336

Comments Due: January 2, 2006

Reply Comments Due: January 9, 2006

On November 28, 2005, Beaver Creek Telephone Company (“BCTC”), Joel Eisenberg (“Transferor”) and Marilyn May, Deborah Bott, Suzanne Wilson, Pamela Smith and Catherine Hendrickson (“Transferees”) (collectively the “Applicants”), filed an application, pursuant to sections 63.03 and 63.04 of the Commission’s rules,¹ seeking authority to transfer control of BCTC from Joel Eisenberg to the Transferees.

Applicants seek streamlined treatment for this transaction under section 63.03(b)(2)(iii) of the Commission’s rules because the proposed transaction would result in the Transferees having a market share in the interstate, interexchange market of less than 10 percent, and the Transferees 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; the Transferees are affiliated with incumbent independent local exchange carriers that have, in combination, fewer than two percent of the nation’s subscriber lines installed in the aggregate nationwide and no overlapping or adjacent service areas.² Applicants also seek streamlined treatment for this transaction under 63.03(b)(2)(ii) of the Commission’s rules because Beaver Creek is a dominant carrier and an affiliate of the Transferees, Direct

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

² 47 C.F.R. § 63.03(b)(2)(iii). *See* Letter from Gerry J. Duffy, Counsel to Beaver Creek Telephone Company and the Transferees, to Marlene H. Dortch, Secretary, Federal Communications Commission, WC Docket No. 05-336 (filed December 14, 2005) (Duffy Letter).

Communications Star West (“DCSW”) is a non-dominant carrier that provides services exclusively outside of the geographic area where Beaver Creek is dominant.³

BCTC is a corporation organized under the laws of the State of Washington. BCTC is a Washington local exchange carrier that serves exchanges at Silverton (Snohomish County) and Hobart (Devil’s Club area in King County), Washington. On September 8, 1999, the Washington Utilities and Transportation Commission (“WUTC”) authorized the registration of BCTC as a telecommunications company to offer basic telecommunication service to unserved areas in Snohomish County and King County, Washington. BCTC has completed construction of its Silverton exchange in Snohomish County, Washington, which will encompass approximately 20.87 route miles of new buried plant, and which will ultimately serve approximately 62 access lines. BCTC is also constructing a new exchange in the Devil’s Club area near Hobart in King County, Washington, which exchange will encompass approximately 5.9 route miles of new buried plant, and will serve approximately 38 access lines initially and approximately 59 access lines at the end of five years. BCTC is wholly-owned by Joel Eisenberg, a U.S. citizen.

DCSW is a company that is engaged in the provision of Internet service, cable television, long distance toll and call center businesses in southeastern Idaho, an area over five hundred miles to the southeast of the BCTC exchanges. Marilyn May, Deborah Bott, Suzanne Wilson, Pamela Smith and Catherine Hendrickson, all U.S. citizens, each hold a ten percent (10.0%) ownership interest in DCSW. Leonard May (husband of Marilyn May), Garrin Bott (husband of Deborah Bott), Kip Wilson (husband of Suzanne Wilson), Jeremy Smith (husband of Pamela Smith) and Scott Hendrickson (husband of Catherine Hendrickson) each hold a ten percent (10.0%) ownership interest in DCSW.

Leonard May, Garrin Bott, Kip Wilson, Jeremy Smith and Scott Hendrickson are the owners and management employees of Direct Communications Rockland, Inc. (“DCRI”). DCRI is an Idaho incumbent local exchange carrier that provides local exchange service and exchange access to approximately 1,500 rural subscribers in Rockland, Arbon and the southern half of Bear Lake County in southeastern Idaho. DCRI’s service area is not adjacent to the BCTC exchange areas, but rather is located over five hundred miles to the southeast of them. Direct Communications Cedar Valley, LLC (“DCCV”), a subsidiary of DCRI, is presently an applicant before the Commission for the waivers necessary to acquire a municipal telephone system (approximately 2,000 subscribers) owned and operated by Eagle Mountain City in north central Utah.

Leonard May and Garrin Bott each own a separate forty-three percent (43.0%) stock interest in Oregon Telephone Corporation (“OTC”), which provides local exchange and exchange access services to five exchanges (approximately 1,839 access lines) in Grant, Baker and Malheur counties in eastern Oregon. The OTC exchanges are not adjacent to the BCTC exchange areas, both rather are located approximately 450 miles to the southeast of them.

³ 47 C.F.R. § 63.03(b)(2)(ii). See Duffy Letter at 2.

OTC owns 95.29 percent of the stock of North-State Telephone Company (“NSTC”), which provides local exchange and exchange access services to a single exchange (approximately 539 access lines) in Wasco County in north central Oregon. The NSTC exchange is not adjacent to the BCTC exchange areas, but rather is located approximately 310 miles to the south of them.

Applicants state that Marilyn May, Deborah Bott, Suzanne Wilson, Pamela Smith and Catherine Hendrickson have no other affiliates that provide telecommunications services.

The proposed transaction consists of the sale of all of the capital stock of BCTC by Mr. Eisenberg to the Transferees. After the proposed transaction is completed, the Transferees will each own twenty percent (20.0%) of the capital stock (all of which will remain common stock) of BCTC. When the proposed transaction is completed, the Transferees will own all of the capital stock of BCTC, and will thereby control of BCTC and its corporate assets. These assets include the switches, lines, customer lists, blanket domestic Section 214 authorizations, state certifications, and other tangible and intangible assets of the two exchanges. After consummation of the proposed transaction BCTC will provide, or continue to provide, wireline local exchange service and exchange access within the two BCTC exchanges.

Applicants state that the proposed transaction serves the public interest because it comprises the sale of the stock of a small company that is operating or building two small exchanges to serve previously unserved rural areas in the mountains and forests of northwest Washington. Applicants submit that the proposed new owners of BCTC are women whose husbands have been engaged in the local exchange telephone business in southeast Idaho, and who have observed and learned enough to manage and operate their own small telephone company. Applicants assert that whereas the existing owners of BCTC has developed new projects and priorities during the six years that it has taken to obtain the necessary federal, state and lender approvals, the proposed new owners of BCTC are ready, willing and able to initiate, develop and maintain the first telephone service ever available to the residents of the rural Silverton and Devil’s Club areas.

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. Pursuant to sections 1.415 and 1.419 of the Commission’s rules, 47 CFR §§ 1.415, 1.419, interested parties may file **comments on or before January 2, 2006 and reply comments on or before January 9, 2006.**⁴ Unless otherwise notified by the Commission, Applicants are permitted to transfer the assets

⁴ See 47 C.F.R. § 63.03(a).

and related control on the 31st day after the date of this notice.⁵ Comments may be filed using: (1) the Commission's Electronic Comment Filing System (ECFS), (2) the Federal Government's eRulemaking Portal, or (3) by filing paper copies. *See Electronic Filing of Documents in Rulemaking Proceedings*, 63 FR 24121 (1998).

- Electronic Filers: Comments may be filed electronically using the Internet by accessing the ECFS: <http://www.fcc.gov/cgb/ecfs/> or the Federal eRulemaking Portal: <http://www.regulations.gov>. Filers should follow the instructions provided on the website for submitting comments.
- For ECFS filers, if multiple docket or rulemaking numbers appear in the caption of this proceeding, filers must transmit one electronic copy of the comments for each docket or rulemaking number referenced in the caption. In completing the transmittal screen, filers 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, filers should send an e-mail to ecfs@fcc.gov, and include the following words in the body of the message, "get form." A sample form and directions will be sent in response.
- Paper Filers: 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, filers 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). All filings must be addressed to the Commission's Secretary, Office of the Secretary, Federal Communications Commission.

The Commission's contractor 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, Express, and Priority mail should be addressed to 445 12th Street, S.W., Washington D.C. 20554.

People with Disabilities: To request materials in accessible formats for people with disabilities (braille, large print, electronic files, audio format), send an e-mail to fcc504@fcc.gov or call the Consumer & Governmental Affairs Bureau at 202-418-0530 (voice), 202-418-0432

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

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You may submit comments, identified by the above noted docket number, by any of the following methods:

- Federal eRulemaking Portal: <http://www.regulations.gov>. Follow the instructions for submitting comments.
- Federal Communications Commission's Web Site: <http://www.fcc.gov/cgb/ecfs/>. Follow the instructions for submitting comments.
- People with Disabilities: Contact the FCC to request reasonable accommodations (accessible format documents, sign language interpreters, CART, etc.) by e-mail: FCC504@fcc.gov or phone: 202-418-0530 or TTY: 202-418-0432.

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, S.W., 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, S.W., Room 5-C212, Washington, D.C. 20554; email: tracey.wilson-parker@fcc.gov;
- (3) Dennis Johnson, Competition Policy Division, Wireline Competition Bureau, 445 12th Street, S.W., Room 5-, Washington, D.C. 20554; e-mail: dennis.johnson@fcc.gov;
- (4) Susan O'Connell, Policy Division, International Bureau, 445 12th Street, S.W., Room 7-B544, Washington, D.C. 20554; email: susan.o'connell@fcc.gov; and
- (5) James Bird, Office of General Counsel, 445 12th Street, S.W., 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, S.W., 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, S.W., Room CY-B402, Washington, D.C. 20554, telephone: (202) 488-5300, fax: (202) 488-5563, or via e-mail www.bcpweb.com.

For further information, please contact Tracey Wilson-Parker at (202) 418-1394, or Dennis Johnson at (202) 418-0809.

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