PUBLIC NOTICE

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DOMESTIC SECTION 214 APPLICATION FILED FOR TRANSFER OF CONTROL AND ACQUISITION OF ASSETS OF ATX COMMUNICATIONS, INC., BY LEUCADIA NATIONAL CORPORATION

STREAMLINED PLEADING CYCLE ESTABLISHED

WC Docket No. 05-92

Comments Due: April 5, 2005
Reply Comments Due: April 12, 2005

On March 4, 2005, ATX Communications, Inc. ("ATX") and Leucadia National Corporation ("Leucadia" and, together with ATX, "Applicants"), pursuant to sections 63.03 and 63.04 of the Commission's rules,[1] filed an application requesting authority to transfer control of ATX's subsidiaries that hold domestic and international authority under section 214 of the Act and their respective section 214 authorizations, from ATX to Leucadia[2]. In addition, Applicants seek approval for the transfer of a small number of customer accounts between certain of ATX's subsidiaries. The section 214 authorizations currently held by the International 214 Subsidiaries and the Domestic 214 Subsidiaries will continue to be held by those entities following consummation of the proposed transaction.[3]

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

2 ATX's subsidiaries that hold international authority under Section 214 are ATX Licensing, Inc., Debtor-In-Possession ("ATX Licensing") and CoreComm Newcom, Inc., Debtor-In-Possession (collectively, the "International 214 Subsidiaries"). ATX's subsidiaries that operate under domestic authority under Section 214 of the Act are: ATX Licensing, Inc.; ATX Telecommunications Services of Virginia, LLC; Digicom, Inc.; CoreComm Illinois, Inc.; CoreComm Indiana, Inc.; CoreComm Maryland, Inc.; CoreComm Massachusetts, Inc.; CoreComm Michigan, Inc.; CoreComm Missouri, Inc.; CoreComm New Jersey, Inc.; CoreComm New York, Inc.; CoreComm Newco, Inc.; CoreComm Ohio, Inc.; CoreComm Pennsylvania, Inc.; CoreComm Rhode Island, Inc.; CoreComm Vermont, Inc.; CoreComm West Virginia, Inc.; and CoreComm Wisconsin, Inc. (collectively, the "Domestic 214 Subsidiaries"). Any action on this domestic 214 application is without prejudice to Commission action on other related, pending applications.

3 All of the International 214 Subsidiaries and the Domestic 214 Subsidiaries are Debtors-In-Possession, having filed petitions for reorganization under chapter 11 of the United States Bankruptcy Code in the U.S. Bankruptcy Court for the Southern District of New York. *In re:* CoreComm New York, Inc., Chap. 11 Case No.

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 immediately following the transactions: (1) Applicants and their affiliates (as defined in Section 3(1) of the Communications Act – "Affiliates") combined will hold less than a ten percent (10%) share of the interstate, interexchange market; (2) Applicants and their Affiliates will provide local exchange service only in areas served by dominant local exchange carriers (none of which is a party to the proposed transactions) and; (3) None of the Applicants or their Affiliates is dominant with respect to any service.[4]

Leucadia National Corporation, a publicly traded New York corporation, is a diversified financial services holding company engaged, through its consolidated subsidiaries, in a variety of businesses. Leucadia is also the holder of ATX's senior secured debt, which is secured by all or substantially all of the assets of ATX and its subsidiaries. Leucadia became engaged in the telecommunications business in October of 2002, when it invested more than $300 million in WilTel Communications Group, Inc. and its affiliated subsidiaries ("WilTel") as part of a plan of reorganization approved by the United States Bankruptcy Court for the Southern District of New York. Leucadia subsequently acquired 100% of WilTel's common stock, and ensured that WilTel was able to continue to provide competitive telecommunications services throughout the United States. WilTel currently operates and manages a fiber-optic broadband network that spans over 30,000 route-miles connecting 125 cities in the United States and extends to Asia, Europe, Mexico, and the Pacific Rim. As of February 22, 2005, Ian M. Cumming, Chairman of the Board of Leucadia, beneficially owned approximately 11.7% of the outstanding shares of Leucadia, and Joseph Steinberg, President of Leucadia, beneficially owned 12.7% of the outstanding shares of Leucadia (including shares owned by charitable trusts or trusts for the benefit of Mr. Steinberg's children over which Mr. Steinberg does not have voting or dispositive power.

ATX Communications, Inc. is a holding company with principal offices located in King of Prussia, Pennsylvania. The operating subsidiaries of ATX are facilities-based integrated

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04-10214 (PCB) (Bankr. S.D.N.Y.). Following the commencement of the bankruptcy cases, the Section 214 authorizations held by the International 214 Subsidiaries were assigned on a *pro forma* basis to the holders as Debtors-in-Possession. The Commission was notified on February 17, 2004. *See* FCC File Nos. ITC-20040217-00102 for CoreComm Newco, Inc., Debtor-in-Possession and ITC-ASG-20040217-00102 for ATX Licensing, Inc., Debtor-In-Possession. However, the Commission was not notified of the *pro forma* transfer of control of the Domestic 214 Subsidiaries from ATX to ATX as debtor-in-possession and the *pro forma* assignment of the domestic section 214 authorizations held by the Domestic 214 Subsidiaries to the holders as debtors-in-possession, until March 21, 2005, which was given by letter filed with the Commission. *See ATX Communications, Inc., Notice of Pro Forma Transfer of Control of Domestic Section 214 Authorizations*, (FRN: 0012920237) (filed Mar. 21, 2005), *see also In the Matter of ATX Communications, Inc., Transferor, and Leucadia National Corporation, Transferee, Application for Section 214 Authority to Transfer Control of Domestic and International Section 214 Authorizations*—Amendments to Application, WC Docket No. 05-92 (filed Mar. 21, 2004).

[4] 47 C.F.R. § 63.03(b)(2)(i).

communications providers, offering voice, data, wireless, Internet, and e-business services to business and residential customers in targeted markets throughout the Mid-Atlantic and Midwest regions of the United States, as well as long distance voice service throughout the United States.

On January 24, 2005, the Debtors filed with the Bankruptcy Court a First Amended Joint Plan of Reorganization (the "Plan"), which is to provide for the restructuring of the Debtors' liabilities in order to maximize recoveries to all parties with an economic interest in the Debtors. It is also designed to enhance the financial viability of the Debtors, as reorganized.[5] The Debtor's existing debt will be cancelled and exchanged for the distributions provided to and obligations undertaken by the reorganized Debtors, in favor of various creditor classes. The Plan contemplates that the existing equity in ATX will be cancelled and that at least 95% of the equity in the reorganized ATX will be issued to Leucadia, which will effectuate a change of control of the equity and board structure of ATX. More specifically, upon emergence from Chapter 11 following approval of the Bankruptcy Court, Leucadia will indirectly hold substantially all of the common stock of the reorganized ATX. Leucadia's interest, upon approval, will be subject to the grant of up to 15% of the new common stock to members of senior management, with no single member getting more than 5%, pursuant to a new management restricted stock plan. In addition, a closely held private investment company will indirectly hold approximately 5% of the new common stock.

In connection with the implementation of the Plan, ATX intends to transfer to its subsidiary, ATX Licensing, approximately 334 customer accounts in seven states that are currently being served by certain of its Domestic 214 Subsidiaries as follows: (1) Approximately 300 local and/or long distance customers in Maryland, New Jersey, Pennsylvania and Virginia (customers of CoreComm Maryland, Inc., CoreComm New Jersey, Inc., CoreComm Pennsylvania, Inc. or CoreComm Virginia, Inc.); and (2) Approximately 34 long distance customers in Florida, Georgia and Kentucky (customers of CoreComm Newco, Inc. (collectively, the "Incidental Customers"). The Applicants state that all of the Incidental Customers in these seven states have been or will be given prior written notice of the customer base transfers. The Incidental Customers will not experience any change in the rates, features, terms and conditions of service because of the transfer.[6]

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[5] With the announcement of having filed its First Amended Joint Plan of Reorganization and related disclosure statement, ATX is close to completing an effort that began in 2001 to improve its operations and recapitalize the company. Upon completing this effort, ATX will have eliminated in excess of $787 million in debt and preferred stock and $270 million in other liabilities, while creating an enterprise that is EBITDA positive.

[6] Applicants indicate however, that it is possible that in some instances a customer account will not be transferred if ATX does not offer a service plan comparable to that being provisioned to one or more of the Incidental Customers. The relevant CoreComm subsidiary will discontinue service to any customer that cannot be transferred to ATX and will comply with applicable Commission and state customer notice and related requirements governing the discontinuances of service.

Because the pending transaction is currently subject to confirmation by the Bankruptcy Court, Applicants request that Commission approval of this transfer of control be conditioned upon confirmation by the Bankruptcy Court. In the event that the Bankruptcy Court does not confirm the transaction, or confirms a modified transaction that affects this Application, Applicants will supplement or amend, as necessary, or withdraw this Application accordingly.

The Applicants state approval of the proposed transaction of ATX and its subsidiaries, as well as the transfer of certain Incidental Customers will serve the public interest in promoting competition among telecommunications carriers. The Applicants assert that the proposed transaction will allow ATX to emerge from Chapter 11, thereby allowing it to resume its earlier growth as a competitor in the U.S. telecommunications marketplace. Specifically, the transfer of control of ATX and its subsidiaries will provide ATX with the opportunity to strengthen its competitive position through an improved capital structure and substantially enhanced liquidity. Applicants state that the improved financial position of ATX will enable it to implement its long-term growth plans, and significantly enhance the operational flexibility, efficiency and long-term financial viability of ATX. Moreover, Applicants assert that the proposed transfer of control will ensure the provision of innovative, high quality telecommunications services to the public and should promote competition in the U.S. telecommunications service market. The proposed transaction is expected to provide ATX with access to the capital required to ensure that its telecommunications customers will continue to receive high-quality services on an uninterrupted basis.

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 April 5, 2005** and **reply comments on or before April 12, 2005**.[7] Unless otherwise notified by the Commission, Applicants are permitted to transfer the stock and related control on the 31st day after the date of this notice.[8] 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,

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[7] *See* 47 C.F.R. § 63.03(a).

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

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, 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, Best Copy and Printing, Inc., 445 12th Street, SW, Room CY-B402, Washington, DC 20554, www.bcpiweb.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; e-mail: tracey.wilson-parker@fcc.gov;

(3) Erin Boone, Competition Policy Division, Wireline Competition Bureau, 445 12th Street, S.W., Room 5-C347, Washington, D.C. 20554; e-mail: erin.boone@fcc.gov;

(4) Terri B. Natoli, Competition Policy Division, Wireline Competition Bureau, 445 12th Street, S.W., Room 5-C234, Washington, D.C. 20554; e-mail: terri.natoli@fcc.gov;

(5) 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

(6) 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, SW, Room CY-A257, Washington, DC, 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, DC 20554, telephone: (202) 488-5300, fax: (202) 488-5563, or via e-mail www.bcpiweb.com.

For further information, please contact Tracey Wilson-Parker, at (202) 418-1394, or Erin Boone at (202) 418-0064.

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