



# PUBLIC NOTICE

Federal Communications Commission  
445 12<sup>th</sup> St., S.W.  
Washington, D.C. 20554

News Media Information 202 / 418-0500  
Internet: <http://www.fcc.gov>  
TTY: 1-888-835-5322

DA 06-1312  
June 23, 2006

## DOMESTIC AUTHORIZATION GRANTED

**Application for Transfer of Control of Everest Midwest, LLC from Aquila, Inc. to Everest Connections Holdings, Inc.**

**WC Docket No. 06-75**

### **By the Chief, Wireline Competition Bureau:**

On March 24, 2006, Aquila, Inc. (“Aquila”) and Everest Connections Holdings, Inc. (“Everest Connections Holdings”) (collectively, the “Applicants”) filed an application pursuant to section 63.04 of the Commission’s rules<sup>1</sup> to transfer control of Everest Midwest, LLC (“Everest Midwest”), a holder of domestic and international Section 214 authorizations, from Aquila to Everest Connections Holdings.<sup>2</sup>

The Commission released a public notice accepting this application for streamlined processing on April 20, 2006. On May 2, 2006, the Department of Justice, including the Federal Bureau of Investigation, with the concurrence of the Department of Homeland Security (collectively, the “Executive Branch Agencies”) filed with the Commission a letter requesting that the Commission defer grant of this application while the Executive Branch Agencies address potential national security, law enforcement, and public safety issues.<sup>3</sup> On June 16, 2006, the Executive Branch Agencies withdrew their May 2, 2006 request to defer action on the application noting that they have no objection to the application, provided that the Commission conditions its grant of approval on compliance with the commitments and undertakings contained in the June 16, 2006 letter to Benton J. Campbell, Stewart A. Baker, and Elaine N.

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<sup>1</sup> See 47 C.F.R. § 63.04.

<sup>2</sup> Counsel for Everest Connections Holdings filed a supplement to this Application on April 6, 2006. Applicants have also filed an application for consent to transfer authorization for international services. Any action on this domestic 214 application is without prejudice to Commission action on other related pending applications.

<sup>3</sup> See Letter from Laura H. Parsky, Deputy Assistant Attorney General, United States Department of Justice to Marlene H. Dortch, FCC, WC Docket No. 06-75; ITC-T/C-20060324-00170 (dated May 2, 2006).

Lammert (the “national security agreement”).<sup>4</sup> The Applicants do not object to the grant of the Executive Branch Agencies Petition.

The Wireline Competition Bureau finds, upon consideration of the record, that grant of the application, subject to compliance with the national security agreement, will serve the public interest, convenience, and necessity. Upon consummation of the transaction, Everest Connections Holdings will have a market share in the 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 that is not a party to the transaction. In addition, the Applicants are not dominant with respect to any 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.<sup>5</sup> 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,<sup>6</sup> the Wireline Competition Bureau hereby grants 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.<sup>7</sup> 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.<sup>8</sup>

For further information, please contact CeCi Seppings at (202) 418-1588.

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<sup>4</sup> See Petition to Adopt Conditions to Authorizations and Licenses, WC Docket No. 06-75; ITC-T/C-20060324-00170 (filed June 16, 2006) (“Executive Branch Agencies Petition”). The national security agreement is Attachment 1 to the Executive Branch Agencies Petition.

<sup>5</sup> 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 24094, 24170-72, paras. 178-82 (1997); *Rules and Policies on Foreign Participation in the U.S. Telecommunications Market*, Report and Order and Order on Reconsideration, 12 FCC Rcd 23891, 23919-21, paras. 61-66 (1997) (“*Foreign Participation Order*”), Order on Reconsideration, 15 FCC Rcd 18158 (2000). In assessing the public interest, the Commission considers the record and accords the appropriate level of deference to Executive Branch expertise on national security and law enforcement issues. See *Foreign Participation Order*, 12 FCC Rcd at 23919-21, paras. 61-66.

<sup>6</sup> 47 C.F.R. § 0.291.

<sup>7</sup> See 47 C.F.R. § 1.103.

<sup>8</sup> See 47 C.F.R. §§ 1.106, 1.115.