



# PUBLIC NOTICE

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

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**DA 06-555**  
**Released: March 8, 2006**

**DOMESTIC SECTION 214 APPLICATION FILED FOR ACQUISITION OF CERTAIN ASSETS OF A.R.C. NETWORKS, INC. D/B/A INFOHIGHWAY COMMUNICATIONS TO FUTURE TELECOM, INC.**

**STREAMLINED PLEADING CYCLE ESTABLISHED**

**WC Docket No. 06-42**

**Comments Due: March 22, 2006**  
**Reply Comments Due: March 29, 2006**

On February 2, 2006, A.R.C. Networks, Inc., d/b/a InfoHighway Communications (“InfoHighway”), and Future Telecom, Inc. (“Future”) (collectively “Applicants”) filed an application pursuant to section 63.04 of the Commission’s rules<sup>1</sup> to transfer certain assets of Future to InfoHighway.<sup>2</sup>

Applicants assert that this transaction is entitled to presumptive streamlined treatment under sections 63.03(b)(2)(i), of the Commission’s rules because (1) Applicants and their 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 transaction; and (3) none of the Applicants or their Affiliates is dominant with respect to any service.<sup>3</sup>

Future, a Delaware corporation, holds blanket domestic authority to provide interstate service, and is authorized provide international services. Future is authorized to provide local and interexchange services in California, Connecticut, Florida, Illinois, Kansas, Massachusetts, New Jersey, New York and Texas.

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<sup>1</sup> See 47 C.F.R. § 63.04.

<sup>2</sup> 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 47 C.F.R. § 63.03(b)(2)(i).

InfoHighway, a New York corporation, offers local and long distance telephone services, point-to-point data services, high-speed Internet services, network design and wiring. InfoHighway holds blanket domestic authority to provide interstate service and global resale authority to provide international services. InfoHighway is authorized to provide competitive local exchange services in 16 states and the District of Columbia.<sup>4</sup> InfoHighway is also authorized as an interexchange carrier in 33 states and the District of Columbia.<sup>5</sup> InfoHighway is a wholly-owned subsidiary of Eureka Broadband Corporation (“Eureka”), a U.S. entity.<sup>6</sup> The following entities own or control 10% or more of Eureka: AP EUREKAGGN LLC, a U.S. entity (27%); Trimaran Investments, II, L.L.C., a U.S. entity (24%);<sup>7</sup> Lazard Freres & Co., LLC, a U.S. entity (12%); and GigaLine, L.P., a U.S. entity (11%). GigaLine, L.P. is wholly-owned by Thru Line, Inc., a U.S. citizen, which, in turn, is wholly-owned by Edward P. Bass, a U.S. citizen. No other person or entities will directly or indirectly own 10% or more of the equity of InfoHighway.<sup>8</sup>

InfoHighway and Future have entered into an Asset Purchase Agreement (“Agreement”) dated January 12, 2006, under the terms of which InfoHighway will purchase for cash certain assets of Future, including customer accounts and accounts receivable.<sup>9</sup> Once the transaction has closed, following the receipt of all required regulatory approvals, customers who currently receive service from Future will receive service from InfoHighway, under the same rates, terms and conditions as those services are currently provided to them.

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<sup>4</sup> California, Connecticut, Delaware, Florida, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Ohio, Pennsylvania, Rhode Island, Texas, Vermont and Virginia.

<sup>5</sup> Arizona, Arkansas, California, Colorado, Connecticut, Delaware, Florida, Georgia, Illinois, Indiana, Kansas, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Michigan, Minnesota, Missouri, Nevada, New Hampshire, New Jersey, New York, North Carolina, Ohio, Oklahoma, Pennsylvania, Rhode Island, South Carolina, Tennessee, Texas, Vermont and Virginia.

<sup>6</sup> Eureka also holds controlling interests in the following telecommunications companies: (1) Gillette Global Networks, d/b/a Eureka Networks, which provides service in New York and New Jersey; (2) Elink Telecommunications, Inc., which provides service in Maryland and the District of Columbia; and (3) Elink Telecommunications of VA, Inc., which provides service in Virginia.

<sup>7</sup> Trimaran Investments II, L.L.C. holds its interests through five different entities, none of which individually hold more than 10% in Eureka. Those entities are Trimaran Fund II, L.L.C., CIBC MB Inc., CIBC Employee Private Equity Fund (Trimaran) Partners, Trimaran Parallel Fund II, L.P. and Trimaran Capital, L.L.C.

<sup>8</sup> No other entities own or control a sufficient portion of any of Eureka’s owners to hold a 10% or greater direct or indirect interest in Eureka, and thus, InfoHighway. No entity owns more than 37% of AP EUREKAGGN LLC. No entity owns or controls more than 41% of Trimaran. No entity owns more than 50% of Lazard Freres & Co., LLC.

<sup>9</sup> Pursuant to preexisting plans to migrate customers from InfoHighway to Eureka, which the Commission approved on July 25, 2005 (*See* DA 05-2059, WC Docket No. 05-214), Future’s customers may eventually be migrated to Eureka. While these customers will, of course, be provided notice in accordance with the Commission’s rules, Applicants InfoHighway and Eureka indicate that they do not intend to separately request authority from the Commission for this migration, as this would be redundant.

Applicants state that the proposed transaction will serve the public interest in promoting competition among telecommunications providers. In particular, they assert that the proposed transaction will allow InfoHighway to compete more effectively against larger carriers which have substantial resources and can offer a wide range of facilities based service offerings. Applicants state that Future's customers will benefit from the experience of InfoHighway, an expansive offering of voice and data telecommunications and IP products and services, competitive pricing and outstanding customer service. Applicants also expect that the proposed transactions will be virtually transparent to Future's customers in terms of the services that those customers receive.

## **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 March 22, 2006 and reply comments on or before March 29, 2006.**<sup>10</sup>

Unless otherwise notified by the Commission, Applicants are permitted to transfer the assets and related control on the 31<sup>st</sup> day after the date of this notice.<sup>11</sup> 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](mailto: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.

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<sup>10</sup> See 47 C.F.R. § 63.03(a).

<sup>11</sup> Such authorization is conditioned upon receipt of any other necessary approvals from the Commission in connection with the proposed transaction.

- 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](mailto:fcc504@fcc.gov) or call the Consumer & Governmental Affairs Bureau at 202-418-0530 (voice), 202-418-0432 (tty).

**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](mailto: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](http://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](mailto:tracey.wilson-parker@fcc.gov);

- (3) Alex Johns, Competition Policy Division, Wireline Competition Bureau, 445 12th Street, S.W., Room 5-C317, Washington, D.C. 20554; e-mail: [alexis.johns@fcc.gov](mailto:alexis.johns@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](mailto: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](mailto: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 CYB402, Washington, D.C. 20554, telephone: (202) 488-5300, fax: (202) 488-5563, or via e-mail [www.bcpiweb.com](http://www.bcpiweb.com).

For further information, please contact Tracey Wilson-Parker at (202) 418-1394, or Alex Johns at (202) 418-1167.

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