



PUBLIC NOTICE

Federal Communications Commission
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DOMESTIC SECTION 214 APPLICATION FILED FOR THE ACQUISITION OF CERTAIN ASSETS OF EMPIRE STATE INDEPENDENT NETWORK, LLC BY ION HOLDCO, LLC

STREAMLINED PLEADING CYCLE ESTABLISHED

WC Docket No. 08-89

Comments Due: July 25, 2008

Reply Comments Due: August 1, 2008

On June 10, 2008, ION Holdco, LLC (ION), and Empire State Independent Network, LLC, (Empire) d/b/a Independent Optical Network (collectively Applicants), filed an application pursuant to section 63.03 of the Commission's rules requesting approval for ION to acquire certain assets of Empire.¹ Empire filed on December 14, 2007, a voluntary petition for relief under Chapter 11 of Title 11 of the United States Code in the United States Bankruptcy Court for the Northern District of New York (the Bankruptcy Court).² Subsequently, Empire and ION entered into an Asset Purchase Agreement, executed on May 29, 2008, pursuant to which Empire agreed to sell, and ION agreed to purchase, substantially all of Empire's assets, including network assets, customers, and authorizations.

Empire, a New York limited liability company, is a consortium of 15 independent rural local exchange carriers (the RLECs) operating in upstate New York. The RLECs invested in Empire through various intervening affiliates. Using Empire constructed and owned fiber, fiber owned by and leased from the RLECs, and third-party leased fiber, Empire has partially assembled a redundant SONET fiber network that will connect more than 60 rural New York State communities and their surrounding areas. Through this network, Empire provides a variety of private line telecommunications and other services primarily on a wholesale basis. As part of Empire's restructuring effort, several of the RLECs that hold ownership interests in Empire through various intervening affiliates formed RLEC Holding Company LLC (RLEC HoldCo), a New York limited liability company. Together, RLEC HoldCo and Sovernet Holding Corporation (Sovernet) formed ION. Sovernet, a Vermont limited liability company, provides facilities-based integrated voice services in Vermont and New Hampshire. Sovernet (75 %) and RLEC HoldCo (25 %), respectively, own interests in ION. ION, a Delaware limited liability company, provides no domestic telecommunications services in the United States. Atlantic Tele-Network, Inc. (ATN) (U.S.

¹ 47 C.F.R. § 63.03; see 47 U.S.C. § 214. Applicants are also filing an application for transfer of control associated with authorization for international services. Any action on this domestic section 214 application is without prejudice to Commission action on other related, pending applications. On June 26 and July 10, 2008, Applicants filed supplements to their domestic section 214 application.

² On July 8, 2008, the Bankruptcy Court issued an order approving the sale of assets of Empire to ION, subject to section 214 approval by the Commission. *In re Empire State Independent LLC d/b/a Independent Optical Network*, No. 07-13445 (Bankr. N.D. NY July 8, 2008).

citizenship), Sovernet's ultimate parent, provides various wireline and wireless services principally in the Southwest, Midwest, and Northeast United States. ATN holds a 96 percent interest in Sovernet Holding Corporation. Cornelius B. Prior, Jr., a U.S. citizen, holds a 37 percent interest in ATN. The Applicants state no other entity or individual directly or indirectly holds a 10 percent or greater interest in ION.

Applicants assert that the proposed transaction is entitled to presumptive streamlined treatment under section 63.03(b)(2)(ii) of the Commission's rules and that a grant of the application will serve the public interest, convenience, and necessity.³

Application Filed for the Acquisition of Certain Assets of Empire State Independent Network, LLC to ION HoldCo, LLC, WC Docket No. 08-89 (filed June 10, 2008).

GENERAL INFORMATION

The Wireline Competition Bureau finds, upon initial review, that the transfer of control identified herein is 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 section 63.03(a) of the Commission's rules, 47 C.F.R. § 63.03(a), interested parties may file comments **on or before July 25, 2008**, and reply comments **on or before August 1, 2008**. Unless otherwise notified by the Commission, the Applicants may transfer control on the 31st day after the date of this notice.⁴ Comments must be filed electronically using (1) the Commission's Electronic Comment Filing System (ECFS) or (2) the Federal Government's eRulemaking Portal. See 47 C.F.R. § 63.03(a) ("All comments on streamlined applications shall be filed electronically . . ."); *Electronic Filing of Documents in Rulemaking Proceedings*, 63 FR 24121 (1998).

- 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.

In addition, email one copy of each pleading to each of the following:

- 1) The Commission's duplicating contractor, Best Copy and Printing, Inc., fcc@bcpiweb.com; phone: 202 / 488-5300; fax: 202 / 488-5563;

³ 47 C.F.R. § 63.03(b)(2)(ii).

⁴ Such authorization is conditioned upon receipt of any other necessary approvals from the Commission in connection with the proposed transaction.

- 2) Tracey Wilson-Parker, Competition Policy Division, Wireline Competition Bureau, tracey.wilson-parker@fcc.gov;
- 3) Dennis Johnson, Competition Policy Division, Wireline Competition Bureau, dennis.johnson@fcc.gov;
- 4) David Krech, International Bureau, Policy Division, International Bureau, david.krech@fcc.gov;
- 5) Jim Bird, Office of General Counsel, jim.bird@fcc.gov.

Filings and comments are 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; email: fcc@bcpiweb.com; url: www.bcpiweb.com.

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

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