



PUBLIC NOTICE

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

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Internet: <http://www.fcc.gov>
TTY: 1-888-835-5322

DA 09-1368
Released: June 19, 2009

DOMESTIC SECTION 214 APPLICATION FILED FOR THE TRANSFER OF CONTROL OF FIBERNET TELECOM GROUP, INC. AND LOCAL FIBER, LLC TO ZAYO GROUP, LLC

STREAMLINED PLEADING CYCLE ESTABLISHED

WC Docket No. 09-97

Comments Due: July 6, 2009
Reply Comments Due: July 10, 2009

On June 8, 2009, FiberNet Telecom Group, Inc. (FiberNet), Local Fiber, LLC (Local Fiber), and Zayo Group, LLC (Zayo) (collectively, Applicants), filed an application pursuant to sections 63.03 and 63.04 of the Commission's rules requesting approval for the transfer of control of FiberNet and Local Fiber to Zayo.¹ Local Fiber, a New York limited liability company, provides competitive interconnection and transport services in California, New Jersey, and New York. Local Fiber is wholly owned by FiberNet, a Delaware corporation. FiberNet is a holding company for Local Fiber and does not provide any telecommunications services. Zayo, a Delaware corporation, is wholly owned by Communications Infrastructure Investments, LLC (CII), a Delaware limited liability company.² Together, Zayo and CII acquire and support the development of fiber-based bandwidth solutions-oriented business and have made a number of acquisitions to further that business plan. Applicants state that, post-transaction, the following U.S.-based entities will hold, directly or indirectly, a ten percent or greater interest in CII: Oak Investment Partners XII, Limited Partnership and Oak Associates XII, LLC (21.2 percent)³; M/C Venture Partners VI, L.P., M/C VP VI, LP, and M/C Venture Partners, LLC (18.8 percent)⁴; Columbia Capital Equity Partners IV (QP), L.P. (17.1 percent) and Columbia Capital IV, LLC (19.4 percent indirectly)⁵;

¹ 47 C.F.R. § 63.03; *see* 47 U.S.C. § 214. On June 17, 2009, Applicants filed a supplement to their domestic section 214 application.

² Zayo does not provide telecommunications services, but states that it controls several fiber-based telecommunications entities that provide competitive service in multiple states: Zayo Bandwidth Tennessee, LLC; Zayo Bandwidth Northeast, LLC; Zayo Bandwidth Northeast Sub, LLC; Zayo Bandwidth Indiana, LLC; Onvoy, Inc.; Minnesota Independent Equal Access Corporation; Zayo Bandwidth Central, LLC; Zayo Bandwidth Central (Virginia), LLC; and Zayo Bandwidth Northwest, Inc.; Fiberlink, LLC d/b/a Columbia Fiber Solutions; and NTI of California, LLC.

³ The following U.S. citizens are the executive managing members of Oak Associates XII, LLC: Bandel L. Carano, Edward F. Glassmeyer, Ann H. Lamont, and Frederic W. Harman.

⁴ The following U.S. citizens are the managing members of M/C Venture Partners, LLC: James F. Wade, David D. Croll, Matthew J. Rubins, John W. Watkins, and John Van Hooser.

⁵ The following U.S. citizens are the managing members of Columbia Capital IV, LLC: James B. Fleming, Jr., R. Philip Herget, III, and Harry F. Hopper III.

Charlesbank Equity Fund VI, Limited Partnership (12.2 percent), Charlesbank Equity Fund VI GP, Limited Partnership (14.3 percent indirectly), and Charlesbank Capital Partners, LLC (14.3 percent indirectly)⁶. Applicants state that the M/C Venture entities have interests in other telecommunications carriers that provide competitive telecommunications services in multiple states.⁷ Applicants further state that no person or entity will own a ten percent or greater interest in Zayo through CII. Pursuant to the terms of the proposed transaction, Zayo, through a merger subsidiary, will merge into FiberNet. FiberNet will be the surviving entity and, along with Local Fiber, will become a direct subsidiary of Zayo. Applicants assert that the proposed transaction is entitled to presumptive streamlined treatment under section 63.03(b)(2)(i) of the Commission's rules and that a grant of the application will serve the public interest, convenience, and necessity.⁸

Application Filed for the Transfer of Control of FiberNet Telecom Group, Inc. and Local Fiber, LLC to Zayo Group, LLC, WC Docket No. 09-97 (filed June 8, 2009).

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 6, 2009**, and reply comments **on or before July 10, 2009**. Unless otherwise notified by the Commission, the Applicants may transfer control on the 31st day after the date of this notice.⁹ 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.

⁶ The following U.S. citizens are the managing members of Charlesbank Capital Partners, LLC: Michael Eisenson, Tim Palmer, Kim Davis, Mark Rosen, Michael Choe, Brandon White, Jon Biotti, Andrew Janower, and Michael Thonis.

⁷ The identities and service areas of these affiliates are listed on pages 21-22 of the Application.

⁸ 47 C.F.R. § 63.03(b)(2)(i).

⁹ Such authorization is conditioned upon receipt of any other necessary approvals from the Commission in connection with the proposed transaction.

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;
- 2) Tracey Wilson-Parker, Competition Policy Division, Wireline Competition Bureau, tracey.wilson-parker@fcc.gov;
- 3) Heather Hendrickson, Competition Policy Division, Wireline Competition Bureau, heather.hendrickson@fcc.gov;
- 4) David Krech, Policy Division, International Bureau, david.krech@fcc.gov; and
- 4) 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.

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 (tty).

For further information, please contact Tracey Wilson-Parker at 202 / 418-1394 or Heather Hendrickson at 202 / 418-7295.

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