



# PUBLIC NOTICE

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

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**DA 12-723**  
**Released: May 7, 2012**

## **COMMENTS INVITED ON APPLICATION OF IMAGE ACCESS, INC. D/B/A NEWPHONE TO DISCONTINUE DOMESTIC TELECOMMUNICATIONS SERVICES**

**WC Docket No. 12-118**  
**Comp. Pol. File No. 1038**

**Comments Due: May 22, 2012**

### **Section 214 Application**

**Applicant: Image Access, Inc. d/b/a NewPhone**

On **April 19, 2012**, **Image Access, Inc. d/b/a NewPhone** (NewPhone or Applicant), located at **5555 Hilton Avenue, Suite 415, Baton Rouge, Louisiana 70808**, filed an application with the Federal Communications Commission (FCC or Commission) requesting authority, under section 214 of the Communications Act of 1934, as amended, 47 U.S.C. § 214, and section 63.71 of the Commission's rules, 47 C.F.R. § 63.71, to discontinue certain domestic telecommunications services throughout its service territory in Alabama, Arkansas, Florida, Georgia, Indiana, Kentucky, Louisiana, Mississippi, North Carolina, South Carolina and Tennessee (collectively Service Areas).<sup>1</sup>

NewPhone indicates that it currently offers resold prepaid flat-rate packages of basic residential local exchange and interexchange services, including both intrastate and interstate long distance services, within the Service Areas. NewPhone specifies that it currently provides these services to customers in Alabama, Florida, Georgia, Kentucky, Louisiana, Mississippi, North Carolina, South Carolina and Tennessee, and that it holds authority in Arkansas and Illinois but currently does not have any customers in those states. NewPhone states, however, that it is no longer economically feasible to offer its current service package, and that it has decided to discontinue all of its currently provided services in response to changing market conditions. NewPhone indicates that its customers purchase prepaid service on a monthly basis and customers' renewal dates occur throughout each month. NewPhone explains that consequently, in order to create the least disruption for customers, it plans to discontinue services on a schedule synchronized to each customer's renewal date. Specifically, NewPhone states that the proposed disconnections are scheduled to take place starting on or about June 19, 2012 and ending on or about July 18, 2012, subject to federal and state authorizations. NewPhone maintains that the proposed discontinuance will not result in harm to affected customers because equivalent service offerings are available from other carriers including the underlying carriers whose service NewPhone resells. In addition, NewPhone indicates that one or more carriers in each state provide similar prepaid packages and many more carriers, including the incumbent carrier in each area, provide these services on a post-paid basis. NewPhone indicates that it notified affected customers of the proposed discontinuance by letters sent via first-class mail on April 16, 2012 and April 17, 2012, and that all customers will thus receive at

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<sup>1</sup> The application was subsequently received in the Competition Policy Division of the Wireline Competition Bureau on April 18, 2012.

least 60 days advance notice notwithstanding the staggered discontinuance dates. NewPhone asserts that it is considered non-dominant with respect to the affected services.

In accordance with section 63.71(c) of the Commission's rules, NewPhone's application will be deemed to be granted automatically on the 31st day after the release date of this public notice, unless the Commission notifies NewPhone that the grant will not be automatically effective. In the application, NewPhone indicates that it plans to discontinue its resold prepaid flat-rate packages of basic residential local exchange and interexchange services within the Service Areas on a schedule synchronized to each customer's renewal date as stated in its notice, starting on or about June 19, 2012 and ending on or about July 18, 2012, subject to federal and state authorizations. Accordingly, pursuant to section 63.71(c) and the terms of NewPhone's application and notices, absent further Commission action, NewPhone may start to cease providing its resold prepaid flat-rate packages of basic residential local exchange and interexchange services to affected customers in the Service Areas on or after **June 19, 2012**, in accordance with NewPhone's filed representations. The Commission normally will authorize proposed discontinuances of service unless it is shown that customers or other end users would be unable to receive service or a reasonable substitute from another carrier, or that the public convenience and necessity would be otherwise adversely affected.

Comments objecting to this application must be filed with the Commission on or before **May 22, 2012**. Such comments should refer to **WC Docket No. 12-118 and Comp. Pol. File No. 1038**. Comments should include specific information about the impact of this proposed discontinuance on the commenter, including any inability to acquire reasonable substitute service. 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 FR 24121 (1998). Comments may be filed electronically using the Internet by accessing the ECFS: <http://fjallfoss.fcc.gov/ecfs2/>. Filers should follow the instructions provided on the Web site for submitting comments. Generally, only one copy of an electronic submission must be filed. 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 who choose to file by paper must file an original and one copy of each filing. Filings can be sent by hand or messenger delivery, by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail. All filings must be addressed to the Commission's Secretary, Office of the Secretary, Federal Communications Commission. All hand-delivered or messenger-delivered paper filings for the Commission's Secretary must be delivered to FCC Headquarters at 445 12th Street, S.W., Room TW-A325, Washington, D.C. 20554. The filing hours are Monday through Friday, 8:00 a.m. to 7:00 p.m. All hand deliveries must be held together with rubber bands or fasteners. Any envelopes and boxes 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 must be addressed to 445 12th Street, S.W., Washington, D.C. 20554.

Two copies of the comments should also be sent to the Competition Policy Division, Wireline Competition Bureau, Federal Communications Commission, 445 12th Street, S.W., Room 5-C140, Washington, D.C. 20554, Attention: Carmell Weathers. In addition, comments should be served upon the Applicant. Commenters are also requested to fax their comments to the FCC at (202) 418-1413, Attention: Carmell Weathers.

This proceeding is considered a "permit but disclose" proceeding for purposes of the Commission's *ex parte* rules.<sup>2</sup> Persons making *ex parte* presentations must file a copy of any written

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<sup>2</sup> 47 C.F.R. §§ 1.1200 *et seq.*

presentation or a memorandum summarizing any oral presentation within two business days after the presentation (unless a different deadline applicable to the Sunshine period applies). Persons making oral *ex parte* presentations are reminded that memoranda summarizing the presentation must (1) list all persons attending or otherwise participating in the meeting at which the *ex parte* presentation was made, and (2) summarize all data presented and arguments made during the presentation. If the presentation consisted in whole or in part of the presentation of data or arguments already reflected in the presenter's written comments, memoranda or other filings in the proceeding, the presenter may provide citations to such data or arguments in his or her prior comments, memoranda, or other filings (specifying the relevant page and/or paragraph numbers where such data or arguments can be found) in lieu of summarizing them in the memorandum. Documents shown or given to Commission staff during *ex parte* meetings are deemed to be written *ex parte* presentations and must be filed consistent with rule 1.1206(b). In proceedings governed by rule 1.49(f) or for which the Commission has made available a method of electronic filing, written *ex parte* presentations and memoranda summarizing oral *ex parte* presentations, and all attachments thereto, must be filed through the electronic comment filing system available for that proceeding, and must be filed in their native format (*e.g.*, .doc, .xml, .ppt, searchable .pdf). Participants in this proceeding should familiarize themselves with the Commission's *ex parte* rules.

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).

For further information, contact Carmell Weathers, (202) 418-2325 (voice), [carmell.weathers@fcc.gov](mailto:carmell.weathers@fcc.gov), or Rodney McDonald, (202) 418-7513 (voice), [rodney.mcdonald@fcc.gov](mailto:rodney.mcdonald@fcc.gov), of the Competition Policy Division, Wireline Competition Bureau. The tty number is (202) 418-0484. For further information on procedures regarding section 214 please visit [http://www.fcc.gov/wcb/cpd/other\\_adjud](http://www.fcc.gov/wcb/cpd/other_adjud).

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