



# PUBLIC NOTICE

**Federal Communications Commission**  
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**Washington, D.C. 20554**

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**DA 13-1102**

**Released: May 14, 2013**

**DOMESTIC SECTION 214 APPLICATION FILED FOR THE  
ACQUISITION OF CERTAIN ASSETS OF MPOWER COMMUNICATIONS CORP.  
BY COX COMMUNICATIONS, INC.**

**STREAMLINED PLEADING CYCLE ESTABLISHED**

**WC Docket No. 13-117**

**Comments Due: May 28, 2013**

**Reply Comments Due: June 4, 2013**

On May 8, 2013, Mpower Communications Corp. (Mpower) and Cox Communications, Inc., on behalf of itself and its wholly owned subsidiary, Cox Nevada Telecom LLC (with Cox Communications, Inc., Cox) (together, with Mpower, Applicants) filed an application pursuant to section 63.03 of the Commission's rules<sup>1</sup> to transfer certain assets of Mpower to Cox.

Mpower, a Nevada corporation, serves customers in Nevada and California. Mpower is affiliated with the following entities: (i) U.S. TelePacific Corp., which provides business communications services including local, long distance, data and Internet services to small and medium sized businesses in Nevada and California; (ii) Arrival Communications, Inc., provides telecommunications services in California; (iii) TelePacific Communications Co., which provides telecommunications services in Texas; and (iv) NextWeb, Inc., which provides high-speed Internet access in California and Nevada.

Cox, a Delaware corporation, provides domestic telecommunications services, broadband service and video service in nineteen states, serving more than six million customers in the residential, small and medium business and enterprise markets. In Nevada, Cox provides domestic telecommunications services through its indirect, wholly-owned subsidiary Cox Nevada Telcom, LLC. Cox is a non-dominant carrier and is not affiliated with any dominant carrier. Cox Enterprises, Inc. (Cox Enterprises), a U.S. holding company, wholly owns Cox. Cox Enterprises is owned by the following U.S. entities: Daytona-Cox Trust A (43 percent); Atlanta Trust (30.6 percent); and Trailsend Ventures, LLC (Trailsend Ventures) (25.8 percent). Trailsend Ventures is owned by The Anthony Descendants Trust (98.3 percent), a U.S. trust.<sup>2</sup>

<sup>1</sup> 47 C.F.R. § 63.03; *see* 47 U.S.C. § 214. Applicants are also filing applications 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.

<sup>2</sup> Anne Cox Chambers and Jimmy W. Hayes are trustees of the Dayton-Cox Trust A and The Anthony Descendants Trust. James C. Kennedy is a trustee of Dayton-Cox Trust A and The Anthony Descendants Trust and is the sole trustee of the Atlanta Trust. All the trustees for the listed trusts are U.S. citizens.

Pursuant to the terms of the proposed transaction, Cox will acquire approximately 118 customers at multiple-dwelling units in Nevada from Mpower. As a result, Cox will become the local and long distance telephone service provider for these customers. Applicants assert that the proposed transaction is entitled to presumptive streamlined treatment under sections 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.<sup>3</sup>

Domestic Section 214 Application Filed for the Acquisition of Certain Assets of Mpower Communications Corp. by Cox Communications, Inc., WC Docket No. 13-117 (filed May. 8, 2013).

### **GENERAL INFORMATION**

The transfer of assets 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 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 CFR § 63.03(a), interested parties may file comments **on or before May 28, 2013**, and reply comments **on or before June 4, 2013**. Pursuant to section 63.52 of the Commission's rules, 47 C.F.R. § 63.52, commenters must serve a copy of comments on the Applicants no later than the above comment filing date. Unless otherwise notified by the Commission, the Applicants may transfer control on the 31<sup>st</sup> day after the date of this notice.<sup>4</sup>

Pursuant to section 63.03 of the Commission's rules, 47 CFR § 63.03, parties to this proceeding should file any documents in this proceeding using the Commission's Electronic Comment Filing System (ECFS): <http://fjallfoss.fcc.gov/ecfs2/>.

**In addition, e-mail one copy of each pleading to each of the following:**

- 1) Tracey Wilson, Competition Policy Division, Wireline Competition Bureau, [tracey.wilson@fcc.gov](mailto:tracey.wilson@fcc.gov);
- 2) Dennis Johnson, Competition Policy Division, Wireline Competition Bureau, [dennis.johnson@fcc.gov](mailto:dennis.johnson@fcc.gov);
- 3) David Krech, Policy Division, International Bureau, [david.krech@fcc.gov](mailto:david.krech@fcc.gov); and
- 4) Jim Bird, Office of General Counsel, [jim.bird@fcc.gov](mailto:jim.bird@fcc.gov).

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The proceeding in this Notice shall be treated as a "permit-but-disclose" proceeding in accordance with the Commission's *ex parte* rules.<sup>5</sup> Persons making *ex parte* presentations must file a

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<sup>3</sup> 47 C.F.R. §63.03 (b)(2)(i).

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

<sup>5</sup> 47 C.F.R. §§ 1.1200 *et seq.*

copy of any written 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), 47 C.F.R. § 1.1206(b). Participants in this proceeding should familiarize themselves with the Commission's *ex parte* rules.

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

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