



# PUBLIC NOTICE

Federal Communications Commission  
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Washington, D.C. 20554

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Internet: <http://www.fcc.gov>  
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DA 16-33  
January 12, 2016

**DOMESTIC SECTION 214 APPLICATION FILED FOR THE  
TRANSFER OF CONTROL OF  
FIDELITY TELECOM, LLC TO FUSION NBS ACQUISITION CORP.**

**STREAMLINED PLEADING CYCLE ESTABLISHED**

**WC Docket No. 16-5**

**Comments Due: January 26, 2016**  
**Reply Comments Due: February 2, 2016**

Fusion NBS Acquisition Corp. (FNAC) and Fidelity Telecom, LLC (Fidelity) (together, Applicants) filed an application pursuant to Section 214 of the Communications Act of 1934, as amended, and Section 63.03 of the Commission's rules, requesting approval to transfer control of Fidelity to FNAC.<sup>1</sup>

Fidelity, an Ohio limited liability company is equally owned by the following three U.S. citizens: Mitch Marks, Ron Kohn, and Robert Marks. Fidelity provides resale switched long distance, primarily in Ohio. Fidelity also provides limited telecommunications services to satellite locations of its Ohio customers in the following states: Alabama, California, Florida, Georgia, Iowa, Illinois, Indiana, Kansas, Kentucky, Maryland, Michigan, New York, Pennsylvania, South Carolina, Tennessee, Texas, Virginia, Wisconsin, and West Virginia. FNAC, a Delaware corporation, is a wholly owned subsidiary of Fusion Telecommunications International, Inc. (Fusion), a publicly held Delaware corporation. Fusion, with its subsidiaries, provides interstate telecommunications services throughout the United States. The following U.S. entities and citizens hold a direct or indirect ten percent or greater interest in Fusion: Unterberg Technology Partners LP (14.2 percent); Diker GP, LLC (18.7 percent); Diker Management, LLC (18.7 percent); Mark N. Diker (18.7 percent); Charles M. Diker (18.7 percent).<sup>2</sup>

Pursuant to the terms of the proposed transaction, FNAC will acquire all of the equity interests of Fidelity. Fidelity will become a direct, wholly owned subsidiary of FNAC and indirect subsidiary of Fusion. Applicants assert that the proposed transaction is entitled to presumptive streamlined treatment

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<sup>1</sup> See 47 C.F.R. § 63.03; 47 U.S.C. § 214. Applicants also filed applications for the transfer of authorizations associated with international services. Any action on this domestic section 214 application is without prejudice to Commission action on other related, pending applications.

<sup>2</sup> Mark N. Diker and Charles M. Diker are the managing members of Diker GP, LLC and Diker Management, LLC. See Application for a complete description of Fusion's ownership information.

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.<sup>3</sup>

Domestic Section 214 Application Filed for the Transfer of Control of Fidelity Telecom, LLC to Fusion NBS Acquisition Corp., WC Docket No. 16-5 (filed Jan. 6, 2016).

## **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 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 January 26, 2016**, and reply comments **on or before February 2, 2016**. 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 31st day after the date of this notice.

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://apps.fcc.gov/ecfs/>.

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

- 1) Myrva Freeman, Competition Policy Division, Wireline Competition Bureau, [myrva.freeman@fcc.gov](mailto:myrva.freeman@fcc.gov);
- 2) Dennis Johnson, Competition Policy Division, Wireline Competition Bureau, [dennis.johnson@fcc.gov](mailto:dennis.johnson@fcc.gov);
- 3) Jim Bird, Office of General Counsel, [jim.bird@fcc.gov](mailto:jim.bird@fcc.gov);
- 4) David Krech, International Bureau, [david.krech@fcc.gov](mailto:david.krech@fcc.gov);
- 5) Sumita Mukhoty, International Bureau, [sumita.mukhoty@fcc.gov](mailto:sumita.mukhoty@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. Persons making *ex parte* presentations must file a 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)

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

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 Myrva Freeman at (202) 418-1506 or Dennis Johnson at (202) 418-0809.

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