



PUBLIC NOTICE

Federal Communications Commission
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DA 16-360
April 5, 2016

**DOMESTIC SECTION 214 APPLICATION FILED FOR THE
TRANSFER OF CONTROL OF NEWPORT TELEPHONE COMPANY, INC. TO
THE MIDDLEBURGH TELEPHONE COMPANY AND JOSEPH A. TOMAINO**

STREAMLINED PLEADING CYCLE ESTABLISHED

WC Docket No. 16-72

Comments Due: April 19, 2016
Reply Comments Due: April 26, 2016

The Middleburgh Telephone Company (Middleburgh) and Joseph A. Tomaino (Tomaino), together with Newport Telephone Company, Inc. (Newport Telephone Company) and NTCNet Long Distance, Inc. and NTCNet Telecom, Inc. (Newport) (collectively, 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 Newport Telephone Company to Middleburgh and Tomaino.¹

Newport Telephone Company, a New York corporation, is a rural incumbent local exchange carrier (LEC) providing traditional local exchange service mostly in the rural areas of Herkimer, Hamilton, and Oneida counties including the towns of Newport, Russia, and Fairfield, in Upstate New York. NTCNet Long Distance, Inc., a reseller of toll services, and NTCNet Telecom, Inc., a competitive LEC reselling local telephone service, both provide service in the counties of Herkimer, Hamilton, and Oneida in Upstate New York and are wholly owned subsidiaries of Newport Telephone Company.

Middleburgh, a New York corporation, is a rural incumbent LEC providing local exchange services mostly rural areas of Schohaire and Albany counties in Upstate New York. Middleburgh is owned, in part, by two trusts which have a ten percent or greater interest in Middleburgh: the Trust U/W Randall F. Becker Article IV which owns 15.17 percent and the RF and MR Becker Irrevocable Trust II

¹ 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. On March 24, 2016, Applicants also filed a supplement in this proceeding. See *Domestic Section 214 Application Filed for the Acquisition of Newport Telephone Co., Inc. by Middleburgh Telephone Co. and Joseph A. Tomaino*, WC Docket No. 16-72, Supplement to Application (filed Mar. 24, 2016).

which owns 79.74 percent. Middleburgh is also the parent of Seamless Geoport, a competitive LEC, which provides toll and local services in Albany, Schoharie, Otsego, and Montgomery Counties. Joseph A. Tomaino, a U.S. citizen, is the Vice-President and General Manager of Newport Telephone Company.

Pursuant to the terms of the proposed acquisition, Ruppert and Ruppert Family, LLC seek to sell their stock in Newport Telephone Company to Middleburgh and Tomaino, with Middleburgh purchasing 80.1 percent of the stock and Tomaino purchasing 19.9 percent of the stock. Because Newport Telephone Company wholly owns NTCNet Long Distance, Inc. and NTCNet Telecom Inc., the ownership of these two companies will also pass in the same proportions to Middleburgh (80.1 percent) and Tomaino (19.9 percent). Applicants assert that there are no overlap or adjacencies between Newport Telephone Company and the Middleburgh Telephone Company. Applicants assert that the proposed transaction is entitled to presumptive streamlined treatment under Section 63.03(b)(2)(iii) of the Commission's rules and that a grant of the application will serve the public interest, convenience, and necessity.²

Domestic Section 214 Application Filed for the Transfer of Control of Newport Telephone Company, Inc. to The Middleburgh Telephone Company and Joseph A. Tomaino, WC Docket No. 16-72 (filed Mar. 8, 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 April 19, 2016**, and reply comments **on or before April 26, 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;
- 2) Gregory Kwan, Competition Policy Division, Wireline Competition Bureau, gregory.kwan@fcc.gov;
- 3) Jim Bird, Office of General Counsel, jim.bird@fcc.gov;
- 4) David Krech, International Bureau, david.krech@fcc.gov;

² 47 C.F.R. § 63.03(b)(2)(iii).

5) Sumita Mukhoty, International Bureau, 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) 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 Gregory Kwan at (202) 418-1191.

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