



PUBLIC NOTICE

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

News Media Information 202 / 418-0500
Internet: <http://www.fcc.gov>
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DA 18-1307
December 28, 2018

**DOMESTIC SECTION 214 APPLICATION FILED FOR THE TRANSFER OF CONTROL
OF DATACONNEX, LLC, DEBTOR-IN-POSSESSION, TO
CHARGER ACCESS, LLC**

NON-STREAMLINED PLEADING CYCLE ESTABLISHED

WC Docket No. 18-398

Comments Due: January 11, 2019
Reply Comments Due: January 18, 2019

By this Public Notice, the Wireline Competition Bureau (Bureau) seeks comment from interested parties on an application filed by DataConnex, LLC, Debtor-in-Possession (DataConnex), and Charger Access, LLC (Charger) (together, Applicants), pursuant to section 214 of the Communications Act of 1934, as amended, and sections 63.03-04 of the Federal Communication Commission's (Commission) rules, requesting approval to transfer control of DataConnex to Charger.¹

DataConnex, a Florida limited liability company, provides facilities-based and resold telecommunications services primarily to Rural Health Care Program healthcare providers in Alabama, Florida, Louisiana, Mississippi, Kentucky, Ohio, Georgia, Texas, South Carolina, Virginia, Arkansas, Missouri, and Tennessee.² Applicants state that DataConnex is managed and controlled by Partner Management Group, LLC, a Delaware limited liability company, which holds an 80 percent equity interest. Jason Cucullu and Justin McMasters, both U.S. citizens, hold 50 percent membership interests in Partner Management Group, LLC. They further state that DDT Property & Development, LLC, a Florida limited liability company, is a passive investor in DataConnex and holds the remaining 20 percent equity interest in DataConnex.

¹ 47 U.S.C. § 214; 47 CFR §§ 63.03-04. *See DataConnex, LLC, Debtor-in-Possession, and Charger Access, LLC Joint Application for Consent to Transfer Control of Domestic Section 214 Authority*, WC Docket No. 18-398 (filed Dec. 21, 2018) (Application).

² The federal Rural Health Care Program provides funding to eligible health care providers for telecommunications and broadband services necessary for the provision of health care. *See* 47 U.S.C. §§ 254(h)(1)(A), (h)(2)(A).

Charger is a Tennessee limited liability company that does not currently provide telecommunications services. Its two members are Charger Investment, LLC (70 percent equity interest), which is in turn wholly owned by Rusty Hagenbuch, a U.S. citizen, and Trustpointe Communications LLC (Trustpointe, 30 percent equity interest). Trustpointe, a Florida limited liability company, is owned by David Patrick Parker, Anthony J. Morgan, and Darren Martin, all U.S. citizens, and all holding a 33.33 percent equity interest in Trustpointe.

On December 19, 2018, the United States Bankruptcy Court for the Middle District of Florida, Tampa Division, approved the sale of substantially all of DataConnex's assets, including its contracts for service to customers, to Charger.³ The court stated that no sale or transfer shall take place prior to regulatory approval by the Commission.⁴

Applicants assert that a grant of the application will serve the public interest, convenience, and necessity. Because the proposed transaction is more complex than usual and in order to analyze whether it would serve the public interest, the application will not be streamlined.⁵

Domestic Section 214 Application Filed for the Transfer of Control of DataConnex, LLC, Debtor-in-Possession, to Charger Access, LLC, WC Docket No. 18-398 (filed Dec. 21, 2018).

GENERAL INFORMATION

The application identified herein have been found, upon initial review, to be acceptable for filing. The Commission reserves the right to return any application if, upon further examination, it is determined to be defective and not in conformance with the Commission's rules and policies.

Interested parties may file comments and petitions **on or before January 11, 2019**, and reply comments or oppositions to petitions **on or before January 18, 2019**. Comments may be filed using the Commission's Electronic Comment Filing System (ECFS) or by paper. All filings must be addressed to the Commission's Secretary, Office of the Secretary, Federal Communications Commission.

- Electronic Filers: Comments may be filed electronically by accessing ECFS at <http://apps.fcc.gov/ecfs/>.
- Paper Filers: Parties who choose to file by paper must file an original and one copy of each filing. Paper 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 hand-delivered or messenger-delivered paper filings for the Commission's Secretary must be delivered to FCC Headquarters at 445 12th St., SW, Room TW-A325, Washington, DC, 20554. The filing hours are 8:00 a.m. to 7:00 p.m. All

³ Application, Exh. 1 (DataConnex, LLC, Debtor, Order, Case No. 8:18-bk-01069-CPM (U.S. Bankr. Ct., M.D. Florida, Tampa. Div., Dec. 19, 2018)).

⁴ *Id.* at 6-7.

⁵ 47 CFR § 63.03(c)(1)(v).

hand deliveries must be held together with rubber bands or fasteners. All 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 9050 Junction Drive, Annapolis Junction, MD, 20701.
- U.S. Postal Service first-class, Express, and Priority mail must be addressed to 445 12th Street, SW, Washington DC, 20554.

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 and Governmental Affairs Bureau at 202-418-0530 (voice), 1-888-835-5322 (tty).

In addition, please provide one copy of each pleading to each of the following:

- 1) Jim Bird, Office of General Counsel, transactionteam@fcc.gov;
- 2) Dennis Johnson, Wireline Competition Bureau, dennis.johnson@fcc.gov;
- 3) Tracey Wilson, Wireline Competition Bureau, tracey.wilson@fcc.gov;

The proceeding in this Notice shall be treated as a permit-but-disclose proceeding in accordance with the Commission's *ex parte* rules.⁶ 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 data or arguments already reflected in the presenter's written comments, memoranda, or other filings in the proceeding, then 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 CFR § 1.1206(b). Participants in this proceeding should familiarize themselves with the Commission's *ex parte* rules.

To allow the Commission to consider fully all substantive issues regarding the application in as timely and efficient a manner as possible, petitioners and commenters should raise all issues in their initial filings. New issues may not be raised in responses or replies.⁷ A party or interested person seeking to raise a new issue after the pleading cycle has closed must show good cause why it was not possible for it to have raised the issue previously. Submissions after the pleading cycle has closed that seek to raise new issues based on new facts or newly discovered facts should be filed within 15 days after such facts are discovered. Absent such a showing of good cause, any issues not timely raised may be disregarded by the Commission.

⁶ 47 CFR § 1.1200 *et seq.*

⁷ See 47 CFR § 1.45(c).

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

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