



PUBLIC NOTICE

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DA 19-813
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APPLICATIONS GRANTED FOR THE TRANSFER OF CONTROL OF LICENSEES OF NTS, INC. TO CLARITY TELECOM, LLC D/B/A VAST BROADBAND

WC Docket No. 19-7

APPLICATIONS GRANTED FOR THE TRANSFER OF CONTROL OF CLARITY TELECOM HOLDINGS, LLC TO PYTHON INTERMEDIATE II, LLC

WC Docket No. 19-16

By this Public Notice, the Wireline Competition Bureau, International Bureau, Media Bureau, and Wireless Telecommunications Bureau (Bureaus) grant a series of applications filed pursuant to sections 214 and 310(d) of the Communications Act of 1934, as amended (Act), and sections 63.03-04, 63.18, and 63.24 of the Federal Communications Commission's (Commission) rules.¹ The Bureaus did not receive comments or petitions in opposition to these transactions.

Description of Applications

Transfer of Control of NTS Communications, Inc. (NTS-Comm), NTS Telephone Company, LLC (NTS-Tel), PRIDE Network, Inc. (PRIDE), and XFone USA, Inc. (XFone) to Clarity Telecom, LLC d/b/a Vast Broadband (Clarity) (Clarity-NTS Transaction) (WC Docket No. 19-7)

On January 28, 2019, Clarity and T3 North Intermediate Holdings, Inc. (T3) (together, NTS Applicants) filed applications requesting approval to transfer indirect control of NTS-Comm, NTS-TEL, PRIDE, and XFone (together, the NTS Licensees) from T3 to Clarity. The NTS Licensees are wholly owned subsidiaries of NTS, Inc. (NTSI), which is owned by T3.²

¹ 47 U.S.C. §§ 214, 310(d); 47 CFR §§ 63.03-04, 63.18, 63.24.

² Joint Application of Clarity Telecom, LLC d/b/a Vast Broadband and T3 North Intermediate Holdings, Inc. for Grant of Authority Pursuant to Section 214 of the Communications Act of 1934, as Amended, and Sections 63.04 and 63.24 of the Commission's Rules, WC Docket No. 19-7 (filed Jan. 28, 2019) (Clarity-NTS Application). In addition to domestic and international section 214 authorizations, the NTS Applicants filed applications to transfer control of Cable Television Relay Services (CARS) licenses. The file numbers for all of the applications associated with this transaction are set out in Attachment A.

Transfer of Control of Clarity Telecom Holdings, LLC (Clarity Holdings) from PC III CTH Holdings, L.P. (PC III Holdings) to Python Intermediate II, LLC (Python Intermediate II) (Python Transaction) (WC Docket No. 19-16)

On January 28, 2019, Python Intermediate II and PC III Holdings (collectively, Python Applicants) filed applications requesting approval to transfer control of Clarity Holdings from PC III Holdings to Python Intermediate II, which will result in the transfer of indirect control to Python Intermediate II of the following section 214 authority holders: (i) Clarity; and (ii) subject to the timely closing of Clarity’s pending acquisition of the Clarity-NTS Transaction, the NTS Licensees (Clarity and NTS Licensees together, the Python Licensees).³

Grant of Applications

On February 22, 2019, the Bureaus released a public notice seeking comment on the Applications.⁴ On February 26, 2019, the U.S. Department of Justice (DOJ), with the concurrence of the U.S. Department of Homeland Security and the U.S. Department of Defense (collectively, Executive Branch Agencies), filed a letter requesting that the Commission defer action on these Applications while they reviewed potential national security, law enforcement, and public safety issues.⁵ We deferred action in response to this request. On August 19, 2019, DOJ submitted a Petition to Adopt Conditions to Authorizations and Licenses.⁶ In the Petition, DOJ advises the Commission that it has no objection to the Commission approving the authority sought in these proceedings, provided that the Commission conditions its approval on the assurances of Clarity and NTSI to abide by “the commitments and undertakings set forth in the August 16, 2019 Letter of Agreement” between Clarity, NTSI, and DOJ.”⁷

³ Joint Application of Python Intermediate II, LLC and PC III CTH Holdings, L.P. for Grant of Authority Pursuant to Section 214 of the Communications Act of 1934, as Amended, and Sections 63.04 and 63.24 of the Commission’s Rules, WC Docket No. 19-16 (filed Jan. 28, 2019) (Python-Clarity Application, together with Clarity-NTS Application, Applications). In addition to domestic and international section 214 authorizations, the Python Applicants filed applications to transfer control of CARS licenses, one wireless license, and an experimental radio license. The file numbers for all of the applications associated with this transaction are set out in Attachment B.

⁴ *Applications Filed for the Transfer of Control of Licensees of NTS, Inc. to Clarity Telecom, LLC d/b/a Vast Broadband*, WC Docket No. 19-7, *Applications Filed for the Transfer of Control of Clarity Telecom Holdings, LLC to Python Intermediate II, LLC*, WC Docket No. 19-16, Public Notice, DA 19-113, at 1-4 (WCB, IB, MB, WTB 2019). According to the Python Applicants, the Clarity-NTS Transaction is a wholly separate transaction from the Python Transaction that is expected to be completed prior to the Python Transaction and that is not conditioned on or otherwise linked to the Python Transaction. The Bureaus concurrently accepted for filing all applications for both transactions in order to ensure clear and transparent notice. *Id.* at 3.

⁵ Letter from Alice Suh Jou, U.S. Department of Justice, to Marlene H. Dortch, FCC, WC Docket Nos. 19-7, 19-16; File Nos. ITC-T/C-20190128-00003, ITC-T/C-20190128-00004, ITC-T/C-20190128-00005; ITC-T/C-20190128-00006; ITC-T/C-20190128-00007, ULS 0008493139 (filed Feb. 26, 2019).

⁶ Petition to Adopt Conditions to Authorizations and Licenses, WC Docket Nos. 19-7, 19-16; File Nos. ITC-T/C-20190128-00003, ITC-T/C-20190128-00004, ITC-T/C-20190128-00005; ITC-T/C-20190128-00006; ITC-T/C-20190128-00007 (filed Aug. 19, 2019) (Petition).

⁷ *Id.* at 1 and Attach. (Letter from J. Keith Davidson, Chief Financial Officer, Clarity, and William Morrow, Chief Executive Officer, NTSI, to Assistant Attorney General for National Security, DOJ, WC Docket Nos. 19-7, 19-16;

We find, upon consideration of the record, that the proposed transfers will serve the public interest, convenience, and necessity, and therefore grant the Applications.⁸ Further, we grant the Petition, and, accordingly, we condition grant of the Applications on compliance by Clarity and NTSI with the commitments and undertaking set out in the LOA.⁹ A failure to comply with and/or remain in compliance with any of the provisions of the LOA shall constitute a failure to meet a condition of these authorizations and thus grounds for declaring the underlying licenses terminated without further action on the part of the Commission. Failure to meet a condition of these authorizations may also result in monetary sanctions or other enforcement action by the Commission.

Therefore, pursuant to sections 214(a), 214(c), 303(r), 309, and 310(d) of the Communications Act of 1934, as amended, 47 U.S.C. §§ 214(a), 214(c), 303(r), 309, 310(d), and sections 1.948, 63.04, 63.18, and 63.24 of the Commission's rules, 47 C.F.R. §§ 1.948, 63.04, 63.18, 63.24, and pursuant to the authority delegated under sections 0.31, 0.51, 0.61, 0.91, 0.131, 0.241, 0.261, 0.283, 0.291, and 0.331 of the Commission's rules, 47 CFR §§ 0.31, 0.51, 0.61, 0.91, 0.131, 0.241, 0.261, 0.283, 0.291, 0.331, we grant the Applications listed in Attachments A and B to this Public Notice.

File Nos. ITC-T/C-20190128-00003, ITC-T/C-20190128-00004, ITC-T/C-20190128-00005; ITC-T/C-20190128-00006; ITC-T/C-20190128-00007 (Aug. 16, 2019) (LOA)).

⁸ The Petition states that NTS-Comm plead guilty in 2002 to mail fraud in violation of 18 U.S.C. § 1341, and that DOJ has concluded that the additional commitments set forth in the LOA will “help ensure that the agencies with responsibility for enforcing the law, protecting the national security, and preserving public safety can proceed appropriately to satisfy those responsibilities.” Petition at 3. The prior criminal history of NTS-Comm is not grounds here for denying the transactions or imposing additional conditions. As the Commission held in its *1990 Character Qualifications Order*, we will take into account how recently criminal misconduct by a licensee occurred and efforts made to remedy the wrong when evaluating whether an applicant has the requisite qualifications to hold an authorization or license. *Policy Regarding Character Qualifications in Broadcast Licensing*, Policy Statement and Order, 5 FCC Rcd 3252, 3252, para. 5 (1990) (*1990 Character Qualifications Order*). In the case of NTS-Comm, Applicants state that the circumstances arose in 2002 from a billing dispute with Southwestern Bell Telephone Corporation (SWBT) and involved NTS-Comm individuals who have not been employed by NTSI for many years. Letter from Catherine Wang and Brett Ferenchak, Counsel for Clarity, PC III Holdings, and Python Intermediate II, Yaron Dori and Thomas Parisi, Counsel for T3 and NTSI, to Marlene H. Dortch, Secretary, FCC, WC Docket Nos. 19-7, 19-16; File Nos. ITC-T/C-20190128-00003, ITC-T/C-20190128-00004, ITC-T/C-20190128-00005; ITC-T/C-20190128-00006; ITC-T/C-20190128-00007 (filed Aug. 21, 2019). They state that NTS-Comm and its then president and chief operating officer agreed to settle the matter through a plea agreement and reimburse certain amounts to SWBT, and that there have not since been allegations of other criminal misconduct against NTSI, Clarity, or Python Intermediate II. *Id.* at 1-2. Based on the amount of time that has lapsed since the criminal activity, and its surrounding circumstances, the concerns arising from the criminal violations are mitigated as contemplated in the *1990 Character Qualifications Order*. See *Domestic Section 214 Authorization Granted, Application Filed for the Transfer of Control of dPi Teleconnect, LLC to Amvensys Capital Group, LLC*, Public Notice, 28 FCC Rcd 940, 941 (WCB 2013).

⁹ In assessing the public interest, the Commission considers the record and accords the appropriate level of deference to Executive Branch expertise on national security and law enforcement issues. See *Rules and Policies on Foreign Participation in the U.S. Telecommunications Market*, Report and Order and Order on Reconsideration, 12 FCC Rcd 23891, 23919-21, paras. 61-66 (1997) (*Foreign Participation Order*), Order on Reconsideration, 15 FCC Rcd 18158 (2000). The Petition and LOA may be viewed on the Commission's website through ECFS at https://www.fcc.gov/ecfs/search/filings?proceedings_name=19-7&sort=date_disseminated,DESC or through the International Bureau Filing System by searching for ITC-T/C-20190128-00003, ITC-T/C-20190128-00004, ITC-T/C-20190128-00005; ITC-T/C-20190128-00006; ITC-T/C-20190128-00007 and accessing the "Other Filings related to this application" from the Document Viewing Area.

Pursuant to section 1.103 of the Commission's rules, 47 CFR § 1.103, the consent granted herein is effective upon the release of this Public Notice. Petitions for reconsideration under section 1.106 or applications for review under section 1.115 of the Commission's rules, 47 CFR §§ 1.106, 1.115, may be filed within 30 days of the date of this Public Notice.

For further information, please contact Dennis Johnson, Wireline Competition Bureau, (202) 418-0809; David Krech, International Bureau, (202) 418-7443; Linda Ray, Wireless Telecommunications Bureau, (202) 418-0257; Sonia Greenway, Media Bureau, (202) 418-1419.

ATTACHMENT A

Applications for the Clarity-NTS Transaction

SECTION 214 AUTHORIZATIONS

A. International

<u>File Number</u>	<u>Authorization Holder</u>	<u>Authorization Number</u>
ITC-T/C-20190128-00006	XFone USA, Inc.	ITC-214-20040706-00251
ITC-T/C-20190128-00007	NTS Communications, Inc.	ITC-214-19971024-00657

B. Domestic

The Wireline Competition Bureau grants the application to transfer control of domestic section 214 authority in connection with the Clarity-NTS Transaction.

SECTION 310(d) APPLICATIONS

PART 78 – CABLE TELEVISION RELAY SERVICES (CARS)

<u>File Number</u>	<u>Licensee</u>	<u>CARS Sign</u>
CAR-20190207AA-08	NTS Communications, Inc.	WLY-648
CAR-20190207AB-08		WHZ-407

<u>File Number</u>	<u>Licensee</u>	<u>CARS Sign</u>
CAR-20190221AA-09	NTS Communications, Inc.	WLY-648
CAR-20190221AB-09		WHZ-407

ATTACHMENT B

Applications for the Python Transaction

SECTION 214 AUTHORIZATIONS

A. International

<u>File Number</u>	<u>Authorization Holder</u>	<u>Authorization Number</u>
ITC-T/C-20190128-00003	Clarity Telecom, LLC	ITC-214-19990625-00428
ITC-T/C-20190128-00004	XFone USA, Inc.	ITC 214-20020619-003300
ITC-T/C-20190128-00005	NTS Communications, Inc.	ITC-214-20040706-00251
		ITC-214-19971024-00657

B. Domestic

The Wireline Competition Bureau grants the application to transfer control of domestic section 214 authority in connection with the Python Transaction.

SECTION 310(d) APPLICATIONS

WIRELESS LICENSE

<u>ULS File Number</u>	<u>Licensee</u>	<u>Lead Call Sign</u>
0008493139	Clarity Telecom, LLC	WQKD374

PART 78 – CABLE TELEVISION RELAY SERVICES (CARS)

<u>File Number</u>	<u>Licensee</u>	<u>CARS Sign</u>
CAR-20190207AC-09	NTS Communications, Inc.	WLY-648
CAR-20190207AD-09		WHZ-407

EXPERIMENTAL RADIO LICENSE

<u>File Number</u>	<u>Licensee</u>	<u>Call Sign</u>
0001-EX-TU-2019	Clarity Telecom, LLC	WJ2XED

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