



# PUBLIC NOTICE

**Federal Communications Commission**  
445 12<sup>th</sup> St., S.W.  
Washington, D.C. 20554

News Media Information 202 / 418-0500  
Internet: <http://www.fcc.gov>  
TTY: 1-888-835-5322

**DA 20-125**  
**February 3, 2020**

**DOMESTIC SECTION 214 APPLICATION FILED FOR THE ACQUISITION OF ASSETS  
OF BUGGS ISLAND TELEPHONE CO-OPERATIVE  
BY EMPOWER BROADBAND, INC. AND EMPOWER TELECOM, INC.**

**NON-STREAMLINED PLEADING CYCLE ESTABLISHED**

**WC Docket No. 19-388**

**Comments Due: February 18, 2020**  
**Reply Comments Due: February 25, 2020**

By this Public Notice, the Wireline Competition Bureau seeks comment from interested parties on an application filed by Buggs Island Co-operative d/b/a Buggs Island Telephone Cooperative (BIT), EMPOWER Broadband, Inc. (Broadband), and EMPOWER Telecom, Inc. (Telecom) (collectively, Applicants), pursuant to section 214 of the Communications Act of 1934, as amended, and sections 63.03-04 of the Commission's rules, requesting approval for the transfer of assets of BIT to Telecom.<sup>1</sup>

BIT, a Virginia telephone cooperative, provides telecommunications services and other services to approximately 3,000 access lines as an incumbent local exchange carrier (LEC) in Brunswick and Mecklenburg Counties in Virginia. BIT is wholly owned by its approximately 2,830 customer-members.

Telecom, a newly formed Virginia corporation, is organized as a public service corporation in the state and is a wholly owned subsidiary of Mecklenburg Electric Cooperative (MEC). MEC is a not-for-profit Virginia utility consumer services cooperative and a public utility supplying retail electric distribution services to member-consumers in and around Pittsylvania, Halifax, Mecklenburg, Charlotte, Lunenburg, Brunswick, Greenville, Southampton, and Sussex Counties in Virginia, and Vance, Granville, Warren, Person, and Northampton Counties in North Carolina.<sup>2</sup>

---

<sup>1</sup> See 47 U.S.C. § 214; 47 CFR §§ 63.03-04. Applicants filed an amended application on January 22, 2020. Applicants filed a supplement to the amended application on January 31, 2020. Letter from John C. Lee, Jr., President and CEO, EMPOWER Broadband, Inc. and EMPOWER Telecom, Inc., to Marlene H. Dortch, Secretary, FCC (Jan. 31, 2020) (on file in WC Docket No. 19-388) (EMPOWER Letter).

<sup>2</sup> Applicants state that Telecom has applied for Eligible Telecommunications Carrier status with the Virginia State Corporation Commission. Telecom acknowledges that it will acquire BIT's obligation to use universal service support to build out to 386 locations in its services area and that it will fulfill such obligation.

Broadband, a Virginia corporation and subsidiary of MEC, offers middle mile capacity and broadband services to southern Virginia over its fiber optic cable network. MEC is owned by its approximately 31,000 customer-members with no individual owning a 10 percent or greater interest. The Applicants state that, after the proposed transaction is consummated, Telecom will provide the same incumbent LEC services currently offered by BIT. Applicants state that neither Broadband, Telecom, nor MEC currently offer domestic telecommunications services.

Pursuant to the terms of the proposed Asset Purchase Agreement (the Agreement), Broadband will purchase substantially all of the assets and business operations of BIT. Prior to the consummation of the proposed transaction, Broadband will exercise its right under the Agreement to transfer the acquired facilities to Telecom. Upon consummation of the Agreement, Broadband will redeem BIT's membership interests, and BIT will cease to exist thereafter. Control of the facilities will transfer directly from BIT to Telecom. This would allow for the continued availability of all of the existing services in BIT's service area without interruption. Applicants state that BIT's management and employees will be hired by Broadband pursuant to the Agreement and will be made available to Telecom through a Master Services Agreement. Finally, Applicants assert that a grant of the application would serve the public interest, convenience, and necessity. Because the transaction is more complex than usual, and in order to analyze whether the proposed transaction would serve the public interest, the application will not be streamlined.<sup>3</sup>

Domestic Section 214 Application Filed for the Acquisition of Assets of  
Buggs Island Telephone Co-operative by EMPOWER Broadband, Inc. and  
EMPOWER Telecom, Inc., WC Docket No. 19-388 (filed Dec. 20, 2019).

## **GENERAL INFORMATION**

The application identified herein has 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 February 18, 2020**, and reply comments or oppositions to petitions **on or before February 25, 2020**. 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 12<sup>th</sup> St., SW, Room TW-A325, Washington, DC, 20554. The filing hours are 8:00 a.m. to 7:00 p.m. All

---

EMPOWER Letter at 1.

<sup>3</sup> 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 12<sup>th</sup> 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](mailto:fcc504@fcc.gov) or call the Consumer and Governmental Affairs Bureau at 202-418-0530 (voice), 1-888-835-5322 (tty).

**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); and
- 3) Jim Bird, Office of General Counsel, [jim.bird@fcc.gov](mailto:jim.bird@fcc.gov).

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](mailto:fcc504@fcc.gov) or call the Consumer & Governmental Affairs Bureau at (202) 418-0530 (voice), 1-888-835-5322 (tty).

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 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.<sup>4</sup> A party or interested person seeking to raise a new issue after the pleading cycle has closed must show good cause why it

---

<sup>4</sup> See 47 CFR § 1.45(c).

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.

For further information, please contact Tracey Wilson at (202) 418-1394 or Dennis Johnson at (202) 418-1191.

**FCC**