



PUBLIC NOTICE

Federal Communications Commission
45 L St., N.E.
Washington, D.C. 20554

News Media Information 202 / 418-0500
Internet: <http://www.fcc.gov>

DA 21-1391
November 5, 2021

DOMESTIC SECTION 214 APPLICATION FILED FOR THE TRANSFER OF CONTROL OF ASPIRE NETWORKS 1, LLC TO ITC BROADBAND OPERATING, LLC

NON-STREAMLINED PLEADING CYCLE ESTABLISHED

WC Docket No. 21-415

Comments Due: November 19, 2021

Reply Comments Due: November 26, 2021

By this Public Notice, the Wireline Competition Bureau (Bureau) seeks comment from interested parties on an application,¹ filed pursuant to section 214 of the Communications Act of 1934, as amended, and sections 63.03-04 of the Commission's rules, to transfer control of Aspire Networks 1, LLC (Aspire), an indirect, wholly owned subsidiary of Atlantic Engineering Group, Inc. (AEG), to ITC Broadband Operating, LLC (ITC Operating) (ITC Operating, together with AEG and Aspire, Applicants).²

AEG, a Georgia corporation, is the ultimate parent company of Aspire, a Delaware limited liability company that is authorized as a competitive local exchange carrier (LEC) and eligible telecommunications carrier in Michigan.³ AEG, as part of a consortium, participated in and won the rights to provide service to 48,449 locations in Michigan through Phase I of the Rural Digital Opportunity Fund (RDOF) Auction.⁴ The consortium assigned its winning RDOF bids to Aspire.⁵

¹ Application of Atlantic Engineering Group, Inc., Aspire Networks 1, LLC, and ITC Broadband Operating, LLC for Consent to Transfer Control of Domestic Authority Pursuant to Section 214 of the Communications Act, as Amended, WC Docket No. 21-415 (filed Oct. 21, 2021) (Application).

² See 47 U.S.C. § 214; 47 CFR §§ 63.03-04. On November 3, 2021, Applicants filed a supplement to the Application. Letter from Phillip Marchesiello and Mark Wiranowski, Counsel for AEG and Aspire, and John Beahn and Dana Zelman, Counsel for ITC Operating, to Marlene H. Dortch, Secretary, FCC, WC Docket No. 21-415 (filed Nov. 3, 2021) (Supplement). Any action on this domestic section 214 application is without prejudice to Commission action on other related, pending applications.

³ Application at 2 (citing Michigan Public Service Commission Cases U-20956 and U-20957).

⁴ Application at 2 and n.1. AEG is a member of the Consortium of AEG and Heron Broadband I. *Id.* See *Rural Digital Opportunity Fund Phase I Auction (Auction 904) Closes; Winning Bidders Announced*, AU Docket No. 20-34, WC Docket No. 19-126, WC Docket No. 10-90, Public Notice, 35 FCC Rcd 13888, Attach. A (Winning Bidder Summary) (2020); *Rural Digital Opportunity Fund Support for 1,774 Winning*

Applicants state that upon consummation of the proposed transaction and construction of network facilities, Aspire will provide “gigabit-speed broadband and VoIP service to residential end-user customers in census blocks in the Upper Peninsula of Michigan, including within the Tribal lands of the Hannahville Indian Community.”⁶

ITC Operating, a Delaware limited liability company, is an investment entity owned by ITC Broadband Holdings, LLC (ITC Holdings), a U.S. entity. ITC Operating is affiliated with incumbent LEC and other telecommunications service providers in Colorado, Georgia, Kansas, Nebraska, and Texas.⁷ According to Applicants, the following U.S.-based investment entities will own a 10% or greater equity interest in ITC Operating and indirectly an equal interest in Aspire upon consummation of the proposed transaction: HF Direct Investments Pool LLC (14.5%); 4612-Broadband Holdco, LP (14.5%); ITC Broadband Investments (QP), LLC (17.8%); Kinetic-ITC Broadband Investments, LLC (13.9%); AEG (16.2%), and ITC Broadband Management, LP (15%).⁸ Applicants state that no other entity or individual will hold directly or indirectly a 10% or greater interest in Aspire.⁹

Pursuant to the terms of the proposed transaction, ITC Operating will acquire the membership interests in Aspire from AEG, and Aspire will become a wholly owned subsidiary of ITC Operating.¹⁰ Applicants state that authorization of RDOF support is a condition to closing the proposed transaction and that they will “work jointly to continue building out Aspire’s RDOF supported network, which began providing service to residential customers in Michigan in October 2021.”¹¹

Applicants assert that a grant of the Application would serve the public interest, convenience, and necessity.¹² They assert that the proposed transaction will provide Aspire with “extensive financial resources and managerial and technical expertise in building out broadband networks”¹³ and will “better position Aspire to accelerate its network deployment and provide high quality broadband service to customers in Michigan in the near term, as well as fulfill its RDOF public interest obligations.”¹⁴ Applicants pledge that the proposed transaction will “not result in any alteration to the buildout plans submitted to the Commission in order to qualify for RDOF Auction

Bids Ready to be Authorized, AU Docket No. 20-34, WC Docket Nos. 19-126, 10-90, Public Notice, DA 21-1310, Attach. A (Ready to Authorize Long-Form Applicants and Winning Bids) (WCB 2021).

⁵ Application at 2.

⁶ *Id.* at 8.

⁷ *Id.* at 2-3.

⁸ *Id.* at 5-7 and Exh. A. (Pre-and Post-Transaction Ownership Charts).

⁹ *Id.* at 7; Supplement at 1-2. All individual members and majority owners of the ITC Operating entities, who are identified in the Supplement, are U.S. citizens. Supplement at 1-2 and Exh. A (Management and Ownership for AEG) and Exh. B (Senior Management Team of ITC Broadband Operating, LLC).

¹⁰ Application at 3.

¹¹ *Id.*

¹² *Id.* at 9-11.

¹³ *Id.* at 9.

¹⁴ *Id.*

funding.”¹⁵ Applicants further assert that the proposed transaction will cause no harm to competition and be transparent to customers.¹⁶

Because the proposed transaction would involve the exchange and assumption of Universal Service Fund high-cost mechanism obligations, in order to sufficiently analyze whether the proposed transaction would serve the public interest, we accept the Application for non-streamlined processing.¹⁷

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 **on or before November 19, 2021**, and reply comments **on or before November 26, 2021**. Comments may be filed using the Commission’s Electronic Comment Filing System (ECFS) or by paper.

- **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. If more than one docket or rulemaking number appears in the caption of this proceeding, filers must submit two additional copies for each additional docket or rulemaking number.
 - Filings can be sent by commercial overnight courier or by first-class or overnight U.S. Postal Service mail.¹⁸ All filings must be addressed to the Commission’s Secretary, Office of the Secretary, Federal Communications Commission.
 - 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 45 L Street, NE, Washington, DC 20554.

People with Disabilities: We ask that requests for accommodations be made as soon as possible in order to allow the agency to satisfy such requests whenever possible. Send an email to fcc504@fcc.gov or call the Consumer and Governmental Affairs Bureau at (202) 418-0530.

¹⁵ Supplement at 2; Application at 10.

¹⁶ Application at 3, 11.

¹⁷ 47 CFR § 63.03(c)(1)(v).

¹⁸ Effective March 19, 2020, and until further notice, the Commission no longer accepts any hand or messenger delivered filings. This is a temporary measure taken to help protect the health and safety of individuals, and to mitigate the transmission of COVID-19. See *FCC Announces Closure of FCC Headquarters Open Window and Change in Hand-Delivery Policy*, Public Notice, 35 FCC Rcd 2788 (Mar. 19, 2020), <https://www.fcc.gov/document/fcc-closes-headquarters-open-window-and-changes-hand-delivery-policy>.

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

- 1) Myrva Charles, Competition Policy Division, Wireline Competition Bureau, myrva.charles@fcc.gov;
- 2) Jodie May, Competition Policy Division, Wireline Competition Bureau, jodie.may@fcc.gov;
- 3) Jim Bird, Office of General Counsel, jim.bird@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. 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.¹⁹ 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.

For further information, please contact Myrva Charles at (202) 418-1506 or Jodie May at (202) 418-0913, Wireline Competition Bureau.

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¹⁹ See 47 CFR § 1.45(c).