



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 21-1438

Released: November 16, 2021

DOMESTIC SECTION 214 APPLICATION FILED FOR THE ACQUISITION OF ASSETS OF GLOBAL COMMUNICATION NETWORKS, INC. BY UPSTACK GLOBAL LLC

STREAMLINED PLEADING CYCLE ESTABLISHED

WC Docket No. 21-433

Comments Due: November 30, 2021

Reply Comment Due: December 7, 2021

By this Public Notice, the Wireline Competition Bureau (Bureau) seeks comment from interested parties on an application filed by Global Communication Networks, Inc. (GCN) and UPSTACK GLOBAL LLC (UPSTACK) (together, Applicants), pursuant to section 214 of the Communications Act of 1934, as amended, and sections 63.03-04 of the Commission's rules, requesting consent for the acquisition of assets of GCN by UPSTACK.¹

GCN, a Florida corporation, provides competitive telecommunications and other services to enterprise customers located in several states. UPSTACK, a New York limited liability company, states that it does not provide telecommunications services but provides certain other services to end users. UPSTACK is indirectly wholly-owned by UpStack, Inc., a New York corporation, which, in turn, is owned by Christopher Trapp (22%), a U.S. citizen, and Berkshire Fund IX, L.P. (Berkshire Fund) (23%), a Delaware limited partnership and investment fund.² Applicants state that neither UPSTACK, nor any holder of a 10% or greater interest in UPSTACK, holds a 10% or greater interest in any other provider of domestic telecommunications services.

¹ See 47 U.S.C. § 214; 47 CFR §§ 63.03-04. Applicants also filed applications for the transfer of authorizations associated with international services. On November 12, 2021, Applicants filed a supplement to their domestic section 214 application. Any action on this domestic section 214 application is without prejudice to Commission action on other related, pending applications.

² Berkshire Fund is controlled by its general partner, Ninth Berkshire Associates LLC. Berkshire Partners LLC (Berkshire Partners) is the management company for Berkshire Fund. Berkshire Partners is wholly owned by BPSP, L.P. BPSP, L.P.'s general partner is Berkshire Partners Holdings LLC, which is controlled by 25 Managing Directors, all of whom are U.S. citizens. No other person or entity holds a 10% or greater interest in UPSTACK. According to the Applicants, two members of the board of directors of UpStack, Inc. are appointed by Berkshire Partners, two are appointed by Christopher Trapp (one of whom is the Chief Executive Officer, currently Christopher Trapp), and one is appointed by agreement between Christopher Trapp and Berkshire Partners.

Pursuant to the terms of the proposed transaction, UPSTACK will acquire from GCN all contracts for the provision of telecommunications services and regulated customer accounts. Applicants request streamlined treatment of the proposed transaction under the Commission's rules and assert that a grant of the application would serve the public interest, convenience, and necessity. We accept the application for filing under section 63.03(b)(2)(i) of the Commission's rules.³

Domestic Section 214 Application Filed for the Acquisition of Assets of
Global Communication Networks, Inc. by UPSTACK Global LLC,
WC Docket No. 21-433 (filed Nov. 5, 2021).

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 November 30, 2021**, and reply comments **on or before December 7, 2021**. Pursuant to section 63.52 of the Commission's rules, 47 CFR § 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 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 Charles, Competition Policy Division, Wireline Competition Bureau, myrva.charles@fcc.gov;
- 2) Gregory Kwan, Competition Policy Division, Wireline Competition Bureau, gregory.kwan@fcc.gov; and
- 3) Jim Bird, Office of General Counsel, jim.bird@fcc.gov.

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.

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

³ 47 CFR § 63.03(b)(2)(i).

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.⁴ 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 Gregory Kwan at (202) 418-1191.

FCC

⁴ See 47 CFR § 1.45(c).