



PUBLIC NOTICE

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

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DA 21-93
January 28, 2021

DOMESTIC SECTION 214 APPLICATIONS FILED FOR THE TRANSFER OF CONTROL OF VERTEX TELECOM, INC.

STREAMLINED PLEADING CYCLE ESTABLISHED

WC Docket No. 21-22

Comments Due: February 11, 2021
Reply Comment Due: February 18, 2021

By this Public Notice, the Wireline Competition Bureau seeks comment from interested parties on two related and concurrently filed applications seeking to transfer control of Vertex Telecom, Inc. (Vertex), pursuant to section 214 of the Communications Act of 1934, as amended (Act), and sections 63.03-04 of the Commission's rules.¹ In the first application, Jim Chiu and Sean Lin, Vertex, and Dr. Peng Holdings, Inc. (Dr. Peng) (collectively, First Applicants) request approval for an unauthorized transfer of control that occurred on March 31, 2016 when Messieurs Chiu and Lin transferred Vertex to Dr. Peng without seeking prior consent from the Commission.² In the second application, Dr. Peng, Vertex, and Mr. Chiu (collectively, Second Applicants) request approval to divest Dr. Peng of all interests and rights in Vertex and transfer control of Vertex to Mr. Chiu.

¹ See 47 U.S.C. § 214; 47 CFR §§ 63.03-04. Applications were also filed for the transfer of authorizations associated with international services. Any action on these domestic section 214 applications are without prejudice to Commission action on other related, pending applications.

² Joint Application of Jim Chiu and Sean Lin, Transferors, Vertex Telecom, Inc., Licensee, and Dr. Peng Holdings, Inc., Transferee, to Transfer Control of International and Domestic Authority Pursuant to Section 214 of the Communications Act of 1934, as Amended, WC Docket No. 21-22 (filed Jan. 14, 2021) (First Application); Joint Application of Dr. Peng Holdings, Inc., Transferor, Vertex Telecom, Inc., Licensee, and Jim Chiu, Transferee, to Transfer Control of International and Domestic Authority Pursuant to Section 214 of the Communications Act of 1934, as Amended, WC Docket No. 21-22 (filed Jan. 14, 2021) (Second Application) (together, Applications). On January 25, 2021, the First Applicants filed a request for special temporary authority to allow Vertex to provide uninterrupted service to customers during the pendency of the Second Application. Letter from Robert E. Stup, Jr., Counsel to the First Applicants and Second Applicants, to Marlene H. Dortch, Secretary, FCC, WC Docket No. 21-22 (filed Jan. 25, 2021) (on file in WCB Docket No. 21-22). On January 25, 2021, Mr. Stup filed supplements to the Applications and also amended the First Application to remove the request for *nunc pro tunc* relief. A grant of the First Application or the Second Application will be without prejudice to any enforcement action by the Commission for non-compliance with the Act or the Commission's rules.

Messieurs Chiu and Lin are dual citizens of the United States and Taiwan and are the co-founders of Vertex, a California corporation.³ Vertex, under the brand, VTX Telecom, provides competitive voice, data, and other services for enterprise customers and switched long distance services to residential and other users throughout the United States. Dr. Peng, a California corporation, is a wholly owned subsidiary of Dr. Peng Telecom and Media Group, Ltd., a publicly traded Chinese company that provides Internet access and other services outside of the United States.

The First Application seeks Commission consent for the unauthorized transfer of control of 100% of the stock of Vertex to Dr. Peng that occurred on March 31, 2016, and the Second Application, pursuant to an agreement between the Second Applicants dated January 7, 2021, seeks approval to transfer 100% of the stock of Vertex from Dr. Peng to Mr. Chiu. The First Applicants and the Second Applicants request streamlined treatment of the proposed transactions under the Commission's rules and assert that a grant of the Applications would serve the public interest, convenience, and necessity. We accept these Applications for filing under section 63.03(b)(2)(i) of the Commission's rules.⁴

Domestic Section 214 Applications Filed for the Transfer of Control of
Vertex Telecom Inc., WC Docket No. 21-22 (filed Jan. 14, 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 February 11, 2021**, and reply comments **on or before February 18, 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) Tracey Wilson, Competition Policy Division, Wireline Competition Bureau, tracey.wilson@fcc.gov;
- 2) Gregory Kwan, Competition Policy Division, Wireline Competition Bureau, gregory.kwan@fcc.gov;
- 3) David Krech, Telecommunications & Analysis Division, International Bureau, david.krech@fcc.gov; and

³ Applicants state that Mr. Chiu holds approximately 47.86% and Mr. Liu holds approximately 30.40% of OneSuite Corporation, a Delaware corporation that provides Voice over Internet Protocol and prepaid phone services across the United States. The First Applicants and the Second Applicants state that none of the applicants hold interests in any other provider of domestic telecommunications services

⁴ 47 CFR § 63.03(b)(2)(i).

4) Jim Bird, Office of General Counsel, jim.bird@fcc.gov.

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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.⁵ 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 Tracey Wilson at (202) 418-1394 or Gregory Kwan (202) 418-1191.

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⁵ See 47 CFR § 1.45(c).