



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 22-1265
Released: December 6, 2022

**DOMESTIC SECTION 214 APPLICATION FILED FOR THE ACQUISITION OF
CERTAIN ASSETS OF MIDSTATE TELEPHONE COMPANY, LLC BY
NORTHWEST COMMUNICATIONS COOPERATIVE, INC.**

NON-STREAMLINED PLEADING CYCLE ESTABLISHED

WC Docket No. 22-397

Comments Due: December 20, 2022

Reply Comment Due: December 27, 2022

By this Public Notice, the Wireline Competition Bureau seeks comment from interested parties on an application filed by Midstate Telephone Company, LLC (Midstate) and Northwest Communications Cooperative, Inc. (NCC) (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 approval for the acquisition of certain access lines served by Midstate in and around Portal, North Dakota (the Portal Exchange) by NCC.¹

Midstate, a North Dakota limited liability corporation, provides service as a rural incumbent local exchange carrier (LEC) to approximately 2,000 residential and business customers in the Stanley, Medora, and Portal exchanges in North Dakota.²

NCC, a North Dakota member-owned cooperative in which no single member owns or controls more than 10% of the interests, provides service as a rural incumbent LEC in the exchanges of Alamo, Bowbells, Columbus, Crosby, Epping, Flaxton, Grenora, Lignite, Marmon, McGregor, Noonan, Powers Lake, Ray, Round Prairie, Tioga, and Wildrose, North Dakota.³ Midstate's Portal

¹ See 47 U.S.C. § 214; 47 CFR §§ 63.03-04. Application of Midstate Telephone Company, LLC and Northwest Communications Cooperative, Inc. for Consent to the Transfer of Control of Lines of an Authorized Domestic Section 214 Carrier, WC Docket No. 22-397 (filed Nov. 16, 2022) (Application). On December 2, 2022, Applicants filed a supplement to their domestic section 214 application. Letter from John Kuykendall, Regulatory Advisor to Applicants, to Marlene H. Dortch, Secretary, FCC, WC Docket No. 22-397 (filed Dec. 2, 2022) (Supplement). Applicants are also filing a petition for waiver of the Commission's study area boundary freeze in the Appendix-Glossary of Part 36 of the Commission's rules, 47 CFR Part 36 Appendix, and a petition for waiver addressing certain switched access and Connect America Fund Broadband Loop Support issues. Application at 8. Any action on the domestic section 214 application is without prejudice to Commission action on other related, pending applications or petitions.

² Application at 7.

Exchange is adjacent to NCC's service territory.⁴ Applicants state that NCC does not hold a 10% or greater interest in any other provider of domestic telecommunications services.⁵

Pursuant to the terms of the proposed transaction, NCC seeks to acquire all assets, property, rights, and interests serving 90 voice access line customers from Midstate in and around the Portal Exchange. As a result, the Portal Exchange would be "integrated into NCC's service territory, and NCC, rather than Midstate, will provide telecommunications and Internet access to customers in the Portal Exchange."⁶

Applicants assert that a grant of the Application would serve the public interest, convenience, and necessity and state that the customers in the Portal Exchange will benefit from NCC's resources, close network proximity, and service offerings.⁷

Because the proposed transaction is more complex than those accepted for streamlined treatment, and in order to analyze whether the proposed transaction would serve the public interest, we accept the Application for non-streamlined processing.⁸

Domestic Section 214 Application Filed for the Acquisition of Certain Assets of Midstate Telephone Company, LLC by Northwest Communications Cooperative, Inc., WC Docket No. 22-397 (filed Nov. 16, 2022).

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 December 20, 2022**, and reply comments **on or before December 27, 2022**. 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

³ Application at 4 and 7. Applicants state that NCC is controlled by its Board of Directors, all of whom are U.S. citizens. NCC holds an 11.11% ownership interest and a voting seat on the Board of North Dakota Long Distance, a long distance provider that serves customers of both Midstate and NCC. *Id.* at 4; Supplement at 1-2. NCC also owns an 8.132% ownership interest and seat on the Board of Dakota Carrier Network, a fiber broadband provider in North Dakota that does not provide voice or broadband services in the Portal Exchange. *Id.*

⁴ Application at 7 and Exh. A (Map of Current Service Areas).

⁵ *Id.*

⁶ *Id.* at 6. Applicants state that NCC will also provide video services in the Portal Exchange. *Id.* at n.13.

⁷ *Id.* at 8-9.

⁸ 47 CFR § 63.03(c)(1)(v).

U.S. Postal Service mail.⁹ 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.

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

- 1) Gregory Kwan, Competition Policy Division, Wireline Competition Bureau, gregory.kwan@fcc.gov; and
- 2) 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.¹⁰ 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.

⁹ 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 (OS 2020).

¹⁰ See 47 CFR § 1.45(c).

For further information, please contact Gregory Kwan, Wireline Competition Bureau, (202) 418-1191.

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