



PUBLIC NOTICE

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DOMESTIC SECTION 214 APPLICATION GRANTED FOR THE TRANSFER OF CONTROL OF NTS COMMUNICATIONS, LLC D/B/A VEXUS FIBER TO Q-COMM PYTHON CORPORATION

WC Docket No. 22-58

By this Public Notice, the Wireline Competition Bureau (Bureau) grants an application, filed by Python Holdings GP, LLC (Python Holdings), NTS Communications, LLC d/b/a Vexus Fiber (Vexus), and Q-Comm Python Corporation (Q-Comm) (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 consent to consummate a transaction through which Q-Comm will acquire all of the equity of Vexus' indirect parent company.¹

On February 25, 2022, the Bureau released a public notice seeking comment on the Application.² The Bureau did not receive comments or petitions in opposition to the Application.

Applicants and Description of Transaction

Python Holdings is a holding company and the 100% general partner of Python Holdings, L.P. (Parent), a Delaware limited partnership.³ Parent wholly-owns NTS Communications Holdings, LLC, a

¹ See 47 U.S.C. § 214; 47 CFR §§ 63.03-04; Application of Python Holdings GP, LLC to Q-COMM Python Corporation for Consent to Transfer Control of Domestic Authority Pursuant to Section 214 of the Communications Act of 1934, as Amended, WC Docket No. 22-58 (filed Feb. 9, 2022) (Application). Applicants filed supplements to their application on February 16, 2022, February 22, 2022, and February 25, 2022. Letter from Catherine Wang, Brett P. Ferenchak, Stephany Fan, Counsel to Python Holdings GP, LLC and NTS Communications, LLC d/b/a Vexus Fiber, and Nancy J. Victory and Peter Shroyer, Counsel to Q-Comm Python Corporation, to Marlene H. Dortch, Secretary, FCC, WC Docket No. 22-58 (filed on Feb. 16, 2022); Letter from Catherine Wang, Brett P. Ferenchak, Stephany Fan, Counsel to Python Holdings GP, LLC and NTS Communications, LLC d/b/a Vexus Fiber, and Nancy J. Victory, Michael Hazzard, and Peter Shroyer, Counsel to Q-Comm Python Corporation, to Marlene H. Dortch, Secretary, FCC, WC Docket No. 22-58 (filed on Feb. 22, 2022) (Applicants' Feb. 22 Supplement); Letter from Nancy J. Victory, Michael Hazzard and Peter Shroyer, Counsel to Q-Comm Python Corporation, to Marlene H. Dortch, Secretary, FCC, WC Docket No. 22-58 (filed on Feb. 25, 2022). Applicants also filed applications for the transfer of authorizations associated with international services, Cable Television Relay Services, and an earth station notice. A grant of this domestic section 214 application is without prejudice to Commission action on other pending applications.

² *Domestic Section 214 Application Filed for the Transfer of Control of NTS Communications, LLC D/B/A/ Vexus Fiber to Q-Comm Python Corporation*, WC Docket No. 22-58, Public Notice, DA 22-197 (WCB 2022).

³ Application at 2.

Delaware holding company, which wholly-owns Vexus, a Delaware limited liability company.⁴ Python Holdings does not provide telecommunications services.⁵

Vexus is a competitive local exchange carrier (LEC) authorized to provide service in Texas and Louisiana.⁶ It also provides interexchange services and other services in Texas, Louisiana, New Mexico, and Arizona (Vexus Operating States).⁷ Vexus is an eligible telecommunications carrier (ETC) in Louisiana and Texas.⁸ It is a recipient of frozen high-cost Universal Service Fund support in Texas, and provides Lifeline and Emergency Broadband Benefit (EBB) /Affordable Connectivity Program (ACP) services to customers in Texas and Louisiana.⁹ Vexus participated in, and won, the rights to provide service to 13 locations in Texas through Phase I of the Rural Digital Opportunity Fund (RDOF) Auction.¹⁰

Q-Comm, a Delaware holding company, is an indirect, wholly-owned subsidiary of MetroNet Holdings, LLC (MetroNet Holdings).¹¹ MetroNet Holdings, a Delaware corporation, provides, through its direct and indirect, wholly-owned subsidiaries domestic telecommunications services, VoIP services, broadband services, and multichannel video programming services in certain portions of Florida, Illinois, Indiana, Iowa, Kentucky, Michigan, Minnesota, North Carolina, Ohio and Wisconsin.¹² Through its MetroNet Holdings ownership, Q-Comm is affiliated with the following U.S.-based entities: Climax, an incumbent LEC and competitive LEC in Michigan; CMN-RUS, Inc., a competitive LEC and interexchange carrier in Indiana and Kentucky; Jaguar Communications, Inc., a competitive LEC and interexchange provider in Minnesota; and Metro FiberNet, LLC (MFN), a competitive LEC and interexchange provider in Florida, Illinois, Indiana, Iowa, Kentucky, Michigan, Minnesota, Missouri, North Carolina, Texas, Wisconsin, and Virginia.¹³ The operating areas of MetroNet Holdings' subsidiaries do not currently overlap with the areas in which Vexus operates.¹⁴ The following entities

⁴ *Id.*

⁵ *Id.*

⁶ *Id.* Vexus also provides video service pursuant to a State-Issued Certificate of Franchise Authority for certain portions of Texas and a State Cable and Video Franchise Certificate in Louisiana. *Id.* at 2, n.1.

⁷ *Id.* at 2.

⁸ *Id.*

⁹ *Id.* at 2.

¹⁰ *Id.* at 2-3; Applicants' Feb. 22 Supplement at 1 (stating that Vexus was awarded a total RDOF support over a ten-year period of \$8,923); *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); *See Rural Digital Opportunity Fund Support Authorized For 469 Winning Bids*, AU Docket No. 20-34, WC Docket No. 19-126, WC Docket No. 10-90, Public Notice, DA 21-1287, at Attach. A (Authorized Long-Form Applicants and Winning Bids) (WCB 2021) (*RDOF Authorization Public Notice*).

¹¹ Application at 3.

¹² *Id.*

¹³ *Id.* at 20-24. On February 14, 2022, the Bureau granted the domestic section 214 application for MetroNet Holdings' indirect subsidiary, MetroNet Systems, LLC, to acquire certain competitive LEC assets in Florida of Hargray of Tallahassee, LLC and Low Country Carriers, Inc. d/b/a Hargray Long Distance. *Notice of Domestic Section 214 Authorization Granted*, WC Docket No. 21-504, Public Notice, DA 22-150 (WCB 2022).

¹⁴ Application at 3.

hold a 10% or greater interest in Holdings: the Oak Hill Investors;¹⁵ the Cinelli Investors;¹⁶ and funds advised and/or managed by indirect subsidiaries of KKR & Co. Inc. (KKR).¹⁷ Applicants state that the Oak Hill Investors and the Cinelli Investors each have negative *de facto* control of Holdings.¹⁸

Pursuant to the terms of the proposed transaction, the Applicants and certain related parties entered into an Agreement and Plan of Merger pursuant to which MetroNet Python Merger Sub, LLC, a wholly-owned subsidiary of Q-Comm, will merge with and into Parent with Parent as the surviving entity.¹⁹ As a result of this proposed merger, Vexus will become a wholly-owned, indirect subsidiary of Q-Comm.²⁰

Applicants assert that a grant of the Application would serve the public interest, convenience, and necessity.²¹ Applicants state that the proposed transaction “will not result in any changes that would compromise Vexus’ ability to meet its current RDOF, Lifeline, or EBB/ACP service obligations.”²² Specifically, Applicants certify that Q-Comm “does not contemplate any changes to Vexus’ buildout plans presented in its RDOF long form application.”²³ Vexus and Q-Comm further confirm that “Vexus will continue to fulfill the relevant service obligations attaching to those build-out plans.”²⁴ They state that the proposed transaction would be entirely seamless to customers and will have no impact on Vexus’ day-to-day operations and service offerings.²⁵ Vexus will continue to provide service to its customers at the same rates, terms, and conditions without interruption.²⁶ Applicants further contend that the proposed transaction will provide access to additional funding and management expertise, which will enhance Vexus’ ability to: 1) accelerate investment and service expansion in its network in the Vexus Operating States; and 2) better compete for customers.²⁷

¹⁵ Application at 8-18, Ex. C (Post-Transaction Ownership) describes in detail the post-transaction ownership of the Oak Hill Investors and MetroNet Holdings. The Oak Hill Investors are affiliated with Oak Hill Capital Management, a private equity fund that is based in the U.S. but whose funds are organized in the Cayman Islands. Control of these funds ultimately rests in U.S. entities or citizens. Applicants’ Feb. 25 Supplement at 2. Through the Oak Hill Investors, MetroNet Holdings is affiliated with Otelco, Inc. and its subsidiaries, Ontario Telephone Company, Trumansburg Telephone Company, Inc., and Finger Lakes Communications Group, Inc., all of which provide incumbent LEC and competitive LEC services in multiple states, and certain other competitive providers. *Id.* at 22-24. Certain Oak Hills funds, in addition to un-related investors, currently hold a 10% or greater interest in Vexus. Application at 24 and Exh. B (Current Ownership Structure of Vexus).

¹⁶ Applicants provide information on each of the entities and individuals who are included in the Cinelli Investors in the Application at 9-10, Ex. C (Post-Transaction Ownership). Applicants state that all the Cinelli Investors are U.S. citizens, trusts, or entities. John Cinelli and Janet Cinelli, both U.S. citizens, are the Co-Trustees and control Cinelli Investors. *Id.*

¹⁷ Application at 13-18, and Ex. C (Post-Transaction Ownership) describes in detail the post-transaction ownership of the KKR investor entities. KKR, an investment firm, and the KKR investor entities are owned by one or more funds advised and/or managed by indirect subsidiaries of KKR, a publicly traded Delaware corporation. *Id.*

¹⁸ *Id.* at 27, Exh. C (Ownership and Control Structure of Holdings); Applicants’ Feb. 25 Supplement at 2.

¹⁹ Application at 3.

²⁰ *Id.*

²¹ *Id.* at 3-5.

²² Applicants’ Feb. 22 Supplement at 1.

²³ *Id.* at 2.

²⁴ *Id.*

²⁵ Application at 4.

²⁶ *Id.*

²⁷ *Id.*

Discussion

We find, upon consideration of the record, that a grant of the Application will serve the public interest, convenience, and necessity.²⁸ To make this determination under Commission precedent, we first consider whether the proposed transaction could result in public interest harms by substantially frustrating or impairing the objectives or implementation of the Act or related statutes.²⁹ We then employ a balancing test weighing any potential public interest harms of the proposed transaction against any potential public interest benefits.³⁰ The Applicants bear the burden of proving, by a preponderance of the evidence, that the proposed transaction, on balance, serves the public interest.³¹

We find that there are no potential public interest harms identified in the record. First, the proposed transaction will not result in a significant reduction in competition because the operating areas of MetroNet Holdings' subsidiaries do not overlap with the areas in which Vexus operates.³² Applicants further state that the proposed transaction would be entirely seamless to customers and will have no impact on Vexus' day-to-day operations and service offerings.³³ Applicants have also stated on the record that Vexus will continue to provide service to its customers at the same rates, terms, and conditions without interruption.³⁴

Second, Vexus and Q-Comm certify that they will meet all relevant RDOF support obligations,³⁵ and we expect that the proposed transaction will not negatively impact these obligations. Specifically, Applicants verify that Q-Comm "does not contemplate any changes to Vexus' buildout plans presented in its RDOF long form application."³⁶ Vexus and Q-Comm further attest that "Vexus will continue to fulfill the relevant service obligations attaching to those build-out plans."³⁷ Additionally, Applicants state that

²⁸ 47 U.S.C. § 214(a); 47 C.F.R. § 63.03; see *Telecommunications Carriers Eligible for Universal Service Support*, WC Docket No. 09-197, *Connect America Fund*, WC Docket No. 10-90, Order, DA 21-663, para. 30 (WCB 2021) (requiring ETCs to receive approval from the Commission prior to undertaking a transfer of control or assets).

²⁹ See, e.g., *Application of Verizon Communications Inc. and América Móvil S.A.B. de C.V for Consent to Transfer Control of International Section 214 Authorization*, GN Docket No. 21-112; IBFS File No. ITC-T/C-20200930-00173, Memorandum Opinion and Order, FCC 21-121, at para. 21 (rel. Nov. 22, 2021) (*Verizon-TracFone Order*) (citing *China Mobile International (USA) Inc., Application for Global Facilities-Based and Global Resale International Telecommunications Authority Pursuant to Section 214 of the Communications Act of 1934, as Amended*, Memorandum Opinion and Order, 34 FCC Rcd 3361, 3366, para. 9 (2019); *Applications for Consent to the Assignment and/or Transfer of Control of Licenses, Adelphia Communications Corporation (and subsidiaries, debtors-in-possession), Assignors, to Time Warner Cable Inc. (subsidiaries), Assignees; Adelphia Communications Corporation, (and subsidiaries, debtors-in-possession), Assignors and Transferors et al.*, MB Docket No. 05-192, Memorandum Opinion and Order, 21 FCC Rcd 8203, 8219-21, paras. 27-28 (2006) (*Adelphia-TWC Order*)).

³⁰ See *Verizon-TracFone Order* at para. 21 (citing *Applications of AT&T Inc. and DIRECTV for Consent to Assign or Transfer Control of Licenses and Authorizations*, MB Docket No. 14-90, Memorandum Opinion and Order, 30 FCC Rcd 9131, 9140, para. 18 (2015) (*AT&T-DIRECTV Order*) (further internal citations omitted)).

³¹ See *Verizon-TracFone Order* at para. 21 (citing *AT&T-DIRECTV Order*, 30 FCC Rcd at 9140, para. 18; *Adelphia-TWC Order*, 21 FCC Rcd at 8217, para. 23; *Application of EchoStar Communications Corp., General Motors Corp., and Hughes Electronics Corp., Transferors, and EchoStar Communications Corp., Transferee*, CS Docket No. 01-348, Hearing Designation Order, 17 FCC Rcd 20559, 20574, para. 25 (2002) (*EchoStar-DIRECTV HDO*) (further internal citations omitted)).

³² Application at 3.

³³ *Id.* at 4.

³⁴ *Id.*

³⁵ Applicants' Feb. 22 Supplement at 1-3.

³⁶ *Id.* at 2.

³⁷ *Id.*

the transaction “will not result in any additional debt” and that the “existing management team will continue to manage Vexus and its day-to-day operations.”³⁸ Vexus remains financially, managerially, and technically obligated to meet all public interest and performance obligations associated with the receipt of RDOF funding in accordance with the Commission’s pre-transaction approval of its qualifications, will be subject to ongoing oversight, and must comply with annual reporting and certification requirements.³⁹

We next consider whether the proposed transaction is likely to generate verifiable, transaction-specific public interest benefits.⁴⁰ Applicants must provide evidence of a claimed benefit to allow the Commission to verify its likelihood and magnitude.⁴¹ Where potential harms appear unlikely, as is the case with the Application before us here, the Commission accepts a lesser degree of magnitude and likelihood than when harms are present.⁴²

The Commission has specified that ensuring consumers receive new or additional services is an important public interest factor,⁴³ and accelerating private sector deployment of advanced services is one of the aims of the Communications Act.⁴⁴ In light of the Applicants’ commitments to meet Vexus’ federal high cost funding obligations and their statement that Q-Comm is prepared to provide access to additional funding and management expertise, which will “enable Vexus to accelerate investment and service expansion in its network”,⁴⁵ we find it likely that the proposed transaction would result in some public interest benefits. In addition, as the Commission has found, the combination of competitive providers can result in a stronger and more effective competitor against larger cable and incumbent LEC providers.⁴⁶ Absent any potential harms, and considering that the proposed transaction is likely to yield some benefits, we find, on balance, that the proposed transaction serves the public interest.

Therefore, pursuant to section 214 of the Act, 47 U.S.C. § 214, and sections 0.91, 0.291, 63.03, and 63.04 of the Commission’s rules, 47 C.F.R. §§ 0.91, 0.291, 63.03, and 63.04, the Bureau hereby grants the Application discussed in this Public Notice, subject to Vexus’ and Q-Comm’s compliance with all applicable obligations.⁴⁷

³⁸ Applicants’ Feb. 22 Supplement at 2.

³⁹ *RDOF Authorization Public Notice* at 2-8.

⁴⁰ See *AT&T/DIRECTV Order*, 30 FCC Rcd at 9237, para. 273-274.

⁴¹ See *id.* at 9237-38, paras. 275-76.

⁴² See *id.*

⁴³ See, e.g., *AT&T-DIRECTV Order*, 30 FCC Rcd at 9140, para. 19.

⁴⁴ See *Verizon-TracFone Order* at para. 22 (citing 47 U.S.C. §§ 254, 332(c)(7), 1302; Telecommunications Act of 1996, Preamble, Pub. L. No. 104-104, 110 Stat. 56 (1996) (one purpose of the Act is to “accelerate rapidly private sector deployment of advanced telecommunications and information technologies and services”).

⁴⁵ Application at 4.

⁴⁶ See, e.g., *Applications of Level 3 Communications, Inc. and CenturyLink, Inc. for Consent to Transfer Control of Licenses and Authorizations*, Memorandum Opinion and Order, 32 FCC Rcd 9581, 9594, 9605, paras. 26 and 52 (2017) (finding no harm to competition where applicants operate as competitive LECs, and further finding that the transaction “will expand the on-net reach of the newly combined firm resulting in a more effective and stronger competitor against larger cable and incumbent LEC competitors, among others, particularly outside of Century Link’s incumbent LEC region, where it, like Level 3, operates as a competitive LEC.”).

⁴⁷ See *RDOF Authorization Public Notice* at 2-8 (listing obligations of authorized Auction 904 support recipients). Following consummation of the proposed transaction, Vexus, which is a recipient of RDOF support, will be affiliated with companies through MetroNet Holdings that receive universal service support under the different mechanisms of fixed model-based support and cost-based support. Application at 22-24. Similar to other transactions involving certain MetroNet Holdings’ affiliates that receive universal service support under the different mechanisms of fixed model-based support and cost-based support, to mitigate the potential for cost shifting, we

(continued....)

Pursuant to section 1.103 of the Commission's rules, 47 C.F.R. § 1.103, the grant is effective upon release of this Public Notice.⁴⁸ Petitions for reconsideration under section 1.106 or applications for review under section 1.115 of the Commission's rules, 47 C.F.R. §§ 1.106, 1.115, may be filed within 30 days of the date of this Public Notice.

For further information, please contact Dennis Johnson, Wireline Competition Bureau, Competition Policy Division, (202) 418-0809.

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grant the Application subject to the continued application of the *Hargray/ComSouth* condition capping the combined operating expenses of the post-consummation company's rate of return affiliates. *Notice of Domestic Section 214 Authorization Granted*, WC Docket No. 21-377, Public Notice, DA 21-1432, n.4 (WCB 2021); *Notice of Domestic Section 214 Authorization Granted*, WC Docket No. 21-237, Public Notice, DA 21-904, n.3 (WCB 2021); *Domestic Section 214 Applications Granted Subject to Condition*, WC Docket Nos. 20-275 and 20-355, Public Notice, DA 21-346, at 3-5 (WCB 2021) (all citing *Joint Application of W. Mansfield Jennings Limited Partnership and Hargray Communications Group, Inc. for Consent to the Transfer of Control of ComSouth Corporation Pursuant to Section 214 of the Communications Act of 1934*, WC Docket 18-52, Memorandum Opinion and Order, 33 FCC Rcd 4780, 4784, para. 19 (2018) (Hargray/ComSouth Order)). See also *Domestic Section 214 Application Granted for the Transfer of Control of Hargray Acquisition Holdings, LLC and its Subsidiaries to Cable One, Inc.*, WC Docket No. 21-69, Public Notice, DA 21-502, at 3-4 (WCB 2021) (granting the application subject to the continued application of the *Hargray/ComSouth* condition to the applicants).

⁴⁸ We direct Applicants to submit, within 30 days of closing the proposed transaction, a notice in WC Docket No. 22-58 that the proposed transaction has closed, including the consummation date, and also provide a courtesy copy of the notice to hcinfo@usac.org.