



# 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 22-890  
Released: August 25, 2022

**DOMESTIC SECTION 214 APPLICATION FILED FOR  
THE TRANSFER OF CONTROL OF  
SUBSIDIARIES OF SACRED WIND ENTERPRISES, INC.  
TO ALLOY, INC.**

**NON-STREAMLINED PLEADING CYCLE ESTABLISHED**

**WC Docket No. 22-292**

**Comments Due: September 8, 2022**  
**Reply Comment Due: September 15, 2022**

By this Public Notice, the Wireline Competition Bureau (Bureau) seeks comment from interested parties on an application filed by Sacred Wind Enterprises, Inc. (Sacred Wind) and Alloy, Inc. (Alloy) (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 to transfer control of Sacred Wind's wholly-owned operating subsidiaries (Section 214 Holders) to Alloy.<sup>1</sup>

Sacred Wind, a holding company, provides telecommunications and broadband service through the Section 214 Holders to residential and business customers on the Navajo Reservation and near-Reservation lands in New Mexico.<sup>2</sup> Specifically, Sacred Wind Enterprises, Inc. (SWC) is a rural incumbent local exchange carrier (LEC) and Eligible Telecommunications Carrier (ETC) serving a population of approximately 23,300 customers, 98% of whom are Navajo citizens, in an area comprising approximately 3,200 square miles.<sup>3</sup> SW DinehNet, LLC (SW DinehNet) is a subsidiary of SWC, an ETC, and provides competitive telecommunications and broadband services

<sup>1</sup> See 47 U.S.C. § 214; 47 CFR §§ 63.03-04. Joint Application of Sacred Wind Enterprises, Inc. and Alloy, Inc. for Consent to Transfer Control of Domestic and International Section 214 Authorizations, WC Docket No. 22-292 (filed Aug. 3, 2022) (Application). Applicants filed a supplement to the Application. Letter from Bennett L. Ross, Daniel P. Brooks, Counsel for Alloy, and Martin L. Stern, Robert A. Silverman, Jeffrey S. Lanning, Counsel for Sacred Wind, to Marlene H. Dortch, Secretary, FCC, WC Docket No. 22-292 (filed Aug. 18, 2022) (Supplement). Applicants are also filing applications for the transfer of authorizations associated with international and wireless services. Any action on this domestic section 214 application is without prejudice to Commission action on other related, pending applications.

<sup>2</sup> Application at 2-4, 13. All entities are based in New Mexico. *Id.* at 7. Sacred Wind's common stock is currently held by the Sacred Wind Employee Stock Ownership Trust (13%), Sacred Wind Holdings, LLC (SW Holdings) (35%), and other individual stockholders (Company Stockholders) (52%). *Id.* at 6 and Exh. A (Pre-Closing Ownership Structure of Sacred Wind and the Section 214 Holders).

<sup>3</sup> *Id.* at 2-3. SWC is not a Tribally-owned incumbent LEC. *Id.* at 3.

outside of SWC's incumbent LEC territory.<sup>4</sup> SW DinehNet receives Connect America Fund (CAF) Phase II Auction 903 support in New Mexico.<sup>5</sup> On April 15, 2022, the Bureau authorized SW DinehNet to receive \$2,598,030.00 of Rural Digital Opportunity Fund (RDOF) Auction 904 support to provide service to 635 locations in New Mexico.<sup>6</sup> SWC Telesolutions, Inc. (SWC Telesolutions) provides interexchange services to SWC and SWC DinehNet customers and also provides broadband services in areas adjacent to SWC's service territory.<sup>7</sup>

Alloy, a Delaware corporation, is a newly formed holding company created for the purpose of acquiring Sacred Wind and the Section 214 Holders.<sup>8</sup> It is a wholly-owned subsidiary of ATN International, Inc. (ATN), a publicly-traded Delaware corporation.<sup>9</sup> Applicants state that Cornelius B. Prior, Jr., a U.S. citizen, holds 26.59% of ATN's stock, and Blackrock Fund Advisors (BlackRock), a U.S. investment entity, holds 11.84% of ATN's stock.<sup>10</sup> ATN's affiliates provide incumbent LEC services in the U.S. Virgin Islands and Alaska and competitive LEC, wireless, and broadband services in several states, including New Mexico.<sup>11</sup> Applicants state that ATN's wholly-owned affiliates, Commnet Wireless, LLC and Commnet Broadband, LLC (together, Commnet), provide fixed and mobile broadband and commercial mobile radio services (CMRS) in the southwestern U.S., including in some areas served by SWC.<sup>12</sup>

According to Applicants, ATN will contribute, in a *pro forma* transaction and via a contribution agreement, all of the issued and outstanding equity interests held by ATN in Commnet to Alloy.<sup>13</sup> They further state that "the Company Stockholders will transfer a portion of their shares

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<sup>4</sup> *Id.* at 3-4.

<sup>5</sup> *Id.* See *Connect America Fund Phase II Auction Support Authorized for 856 Winning Bids*, WC Docket No. 10-90, AU Docket No. 17-182, Public Notice, 34 FCC Rcd 4725, Attach. A (Authorized Long-Form Applicants and Winning Bids) (WCB 2019).

<sup>6</sup> Application at 3-4; see *Rural Digital Opportunity Fund Support Authorized For 1,345 Winning Bids*, AU Docket No. 20-34, WC Docket Nos. 19-126, 10-90, Public Notice, DA 22-402, at 6 and Attach. A (WCB 2022) (stating that ETCs seeking to transfer control of their domestic authorizations to operate pursuant to section 214 of the Act, or to engage in the sale of assets under section 214 "must first receive approval from the Commission in accordance with sections 63.03 and 63.04 of the Commission's rules governing the procedures for domestic transfer of control/asset applications. Transfers of control and assignments of international section 214 authorizations are separately subject to section 63.24 of the Commission's rules. Except where the Commission has forborne from the application of section 214, this requirement applies to all transfers of control or asset acquisitions involving ETCs.").

<sup>7</sup> Application at 4.

<sup>8</sup> *Id.*

<sup>9</sup> *Id.*

<sup>10</sup> *Id.* at 5, 9, Exh. A (Post-Closing Ownership Structure of Sacred Wind and the Section 214 Holders); Supplement at 2-3. According to Applicants, aside from voting rights as common stock shareholders, neither BlackRock nor its subsidiaries hold any additional rights to participate in the management or operations of ATN. Supplement at 3.

<sup>11</sup> Application at 4-5, 13-14, and Exh. B (High-Cost USF Information).

<sup>12</sup> *Id.* at 5, 14.

<sup>13</sup> Application at 5-6; Supplement at 3.

of Sacred Wind's common stock to Alloy and the remaining portion of their shares of Sacred Wind's common stock to SW Holdings. In consideration, SW Holdings will issue its membership interests to Sacred Wind stockholders and will sell to Alloy all the Sacred Wind shares of common stock that it owns in connection with the transaction. In exchange, SW Holdings will receive shares of Alloy's preferred stock, whereas other Company Stockholders that sell their Sacred Wind common stock directly to Alloy will receive cash. As a result, Sacred Wind and the Section 214 Holders will become wholly owned subsidiaries of Alloy, which also will be the sole owner of Commnet. ATN will hold an ownership interest in Alloy of approximately 94.4 percent, and SW Holdings will hold an ownership interest in Alloy of approximately 5.6 percent. In addition, the direct ownership structures of SWC, SW DinehNet, and SWC Telesolutions will remain unchanged."<sup>14</sup>

Applicants contend that the proposed transaction is in the public interest, will be transparent to customers, and that Alloy's financial, managerial, and operational experience will "further enhance Sacred Wind's expansion of broadband to many unserved and underserved areas of the Navajo Nation, as well as those of neighboring Tribes."<sup>15</sup> They maintain that the proposed transaction will not diminish competition because there are competitive providers serving the areas in which both Commnet and the Section 214 Holders provide service.<sup>16</sup> Applicants state that there will be no changes to management, technology, or debt that would result from the proposed transaction that would compromise SW DinehNet's ability to meet its CAF Phase II and RDOF obligations.<sup>17</sup>

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.<sup>18</sup>

Domestic Section 214 Application Filed for the Transfer of Control of Subsidiaries of Sacred Wind Enterprises, Inc. to Alloy, Inc., WC Docket No. 22-292 (filed Aug. 3, 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 September 8, 2022**, and reply comments **on or before September 15, 2022**. Comments may be filed using the Commission's Electronic Comment Filing System (ECFS) or by paper.

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<sup>14</sup> Application at 5-7 and Exh. A.

<sup>15</sup> *Id.* at 15.

<sup>16</sup> *Id.* at 16.

<sup>17</sup> *Id.* at Exh. B.

<sup>18</sup> See 47 CFR § 63.03(c)(1)(v).

- 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.<sup>19</sup> 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](mailto: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) Myrva Charles, Competition Policy Division, Wireline Competition Bureau, [myrva.charles@fcc.gov](mailto:myrva.charles@fcc.gov)
- 2) Jodie May, Competition Policy Division, Wireline Competition Bureau, [jodie.may@fcc.gov](mailto:jodie.may@fcc.gov).
- 3) David Krech, Telecommunications and Analysis Division, International Bureau, [david.krech@fcc.gov](mailto:david.krech@fcc.gov);
- 4) Sumita Mukhoty, Telecommunications and Analysis Division, International Bureau, [sumita.mukhoty@fcc.gov](mailto:sumita.mukhoty@fcc.gov); and
- 5) Jim Bird, Office of General Counsel, [jim.bird@fcc.gov](mailto: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.

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<sup>19</sup> 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 Red 2788 (OS 2020).

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.<sup>20</sup> 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 please contact Myrva Charles at (202) 418-1506 or Jodie May at (202) 418-0913.

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<sup>20</sup> See 47 CFR § 1.45(c).