



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 23-150
Released: February 24, 2023

**DOMESTIC SECTION 214 APPLICATION FILED
FOR THE TRANSFER OF CONTROL OF FIBERCOMM, L.C.
TO IMON COMMUNICATIONS, LLC**

STREAMLINED PLEADING CYCLE ESTABLISHED

WC Docket No. 23-41

Comments Due: March 10, 2023
Reply Comment Due: March 17, 2023

By this Public Notice, the Wireline Competition Bureau seeks comment from interested parties on an application filed by ImOn Communications, LLC (ImOn) and FiberComm, L.C. (FiberComm) (collectively, Applicants), pursuant to section 214 of the Communications Act of 1934, as amended, and sections 63.03-04 of the Commission's rules,¹ requesting consent to transfer control of FiberComm to ImOn.²

FiberComm, an Iowa limited company, provides telecommunications services in northwestern Iowa, as well as in Nebraska and South Dakota. ImOn, an Iowa limited liability company, provides competitive local exchange and other services in Eastern Iowa. ImOn's ultimate parent company is Hawkeye Topco Holdings, LLC (Hawkeye), a Delaware entity, which is ultimately owned by investment funds controlled by The Goldman Sachs Group, Inc., also a widely held Delaware corporation.³

Pursuant to the terms of the proposed transaction, C-M-L Telephone Cooperative Association of Meriden, Iowa, Alliance Communications Cooperative, Inc., MTC Holdings, Inc.,

¹ See 47 U.S.C. § 214; 47 CFR §§ 63.03-04.

² See Joint Section 214 Application to Transfer Control of FiberComm, L.C., WC Docket No. 23-41 (filed Jan. 26, 2023) (Application). On February 22, 2023, the Applicants filed a supplement to their domestic section 214 application. Letter from Danielle Burt et al., Counsel for ImOn Communications, LLC, and John Pietila, Counsel for FiberComm, L.C., to Marlene H. Dortch, Secretary, FCC, WC Docket No. 23-41 (filed Feb. 22, 2023) (Supplement). Applicants also filed applications for the transfer of authorizations associated with international services and wireless licenses. Any action on this domestic section 214 application is without prejudice to Commission action on other related, pending applications.

³ There are a number of intermediate entities in Hawkeye's ownership chain, five of which are organized in foreign countries. Applicants note that the Board of Directors for The Goldman Sachs Group, Inc. is composed of 15 individuals, and all but three individuals are U.S. citizens.

Peoples Telephone Company, and South Dakota Network, LLC will transfer to ImOn all of the issued and outstanding membership interests of FiberComm, which represents 100% of the equity interests of FiberComm. As a result, FiberComm will become a direct, wholly-owned subsidiary of ImOn.

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 streamlined filing under section 63.03(b)(2)(i) of the Commission's rules.⁴

Executive Branch Review. The Commission determined in the *Executive Branch Review Process Order* that it would not routinely refer to the Executive Branch applications and section 310(b) petitions "where the only reportable foreign ownership is through wholly owned intermediate holding companies and the ultimate ownership and control is held by U.S. citizens or entities."⁵ The Commission, however, retains the discretion to refer such applications or petitions should it find that a particular application or petition may raise national security, law enforcement, foreign policy, and trade policy concerns for which it would benefit from the advice of the Executive Branch.⁶ The parties assert that the Application and the Petition fall under this exclusion and that the Commission should not refer them to the Executive Branch agencies.⁷ We find that the parties have made a showing that the Application and Petition come within the exclusion from referral to the Executive Branch for national security, law enforcement, foreign policy and trade policy review. While we are not referring the Application or Petition, we will provide a courtesy copy of this public notice to the Executive Branch agencies.⁸

Domestic Section 214 Application Filed for the Transfer of Control of
FiberComm, L.C. to ImOn Communications, LLC.,
WC Docket No. 23-41 (filed Jan. 26, 2023).

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 March 10, 2023**, and reply comments **on or before March 17, 2023**. Pursuant to section 63.52 of the Commission's rules, 47 CFR § 63.52, commenters must serve a copy of comments on the

⁴ 47 CFR § 63.03(b)(2)(i).

⁵ *Process Reform for Executive Branch Review of Certain FCC Applications and Petitions Involving Foreign Ownership*, IB Docket 16-155, Report and Order, 35 FCC Rcd 10927, 10936, 10939, paras. 25, 30 (2020) (*Executive Branch Review Process Order*).

⁶ *Id.*

⁷ Application at 15-16. Applicants note that the Commission previously determined in 2022 that ImOn's ownership did not require referral to the Executive Branch, as the only reportable ownership in ImOn is through passive, offshore intermediary holding companies, and 100 percent of the ultimate control is held by U.S. citizens or entities. *Id.* at 15-16 (citing *International Authorizations Granted*, Public Notice, DA No. 22-336, Report No. TEL-02175 (Mar. 31, 2022)).

⁸ See *Executive Branch Review Process Order* at 10941, para. 36, n. 99; see also *id.* at 10939, para 30, n. 81.

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) Megan Danner, Competition Policy Division, Wireline Competition Bureau, megan.danner@fcc.gov;
- 3) David Krech, International Bureau, david.krech@fcc.gov; and
- 4) 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 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.⁹ 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 Megan Danner at (202) 418-1151.

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⁹ See 47 CFR § 1.45(c).