



PUBLIC NOTICE

Federal Communications Commission
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DA 23-350
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**DOMESTIC SECTION 214 APPLICATION GRANTED
FOR THE TRANSFER OF CONTROL OF
POINT BROADBAND HOLDINGS, LLC AND ITS SUBSIDIARIES
TO BP BROADBAND AGGREGATOR, L.P.**

WC Docket No. 23-52

By this Public Notice, the Wireline Competition Bureau grants an application filed by BP Broadband Aggregator, L.P. (BP Broadband); Point Broadband Holdings, LLC (Point Broadband); Sunset Fiber, LLC (Sunset Fiber); Sunset Digital Communications, LLC (Sunset Digital); Point Broadband of Alabama, LLC (Point Broadband-AL); Point Broadband Fiber Holding, LLC (Point Broadband Fiber) and Point Broadband Acquisition, LLC (Point Broadband Acquisition) (Sunset Digital, Sunset Fiber, Point Broadband-AL, Point Broadband Fiber and Point Broadband Acquisition) (Licensees) (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 to transfer control of Point Broadband and Licensees to BP Broadband.²

On March 10, 2023, the Bureau released a Public Notice seeking comment on the Application.³ The Bureau did not receive comments or petitions in opposition to the Application.

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

² Joint Application of BP Broadband Aggregator, L.P., Point Broadband Holdings, LLC, Sunset Fiber, LLC, et al. for Grant of Authority to Transfer Control, WC Docket No. 23-52 (filed Feb. 10, 2023) (Application). Applicants filed supplements to their Application on March 6, 2023, April 17, 2023, and April 19, 2023. Letter from Andrew D. Lipman, et al., Counsel for BP Broadband Aggregator, L.P. and Matthew S. DelNero, et al., Counsel for Point Broadband Holdings, LLC to Marlene H. Dortch, Secretary, FCC, WC Docket No. 23-52 (filed Mar. 6, 2023) (Mar. 6 Supplement); Letter from Andrew D. Lipman, et al., Counsel for BP Broadband Aggregator, L.P. and Matthew S. DelNero, et al., Counsel for Point Broadband Holdings, LLC to Marlene H. Dortch, Secretary, FCC, WC Docket No. 23-52 (filed Apr. 17, 2023) (Apr. 17 Supplement); and Letter from Andrew D. Lipman, et al., Counsel for BP Broadband Aggregator, L.P. and Matthew S. DelNero, et al., Counsel for Point Broadband Holdings, LLC to Marlene H. Dortch, Secretary, FCC, WC Docket No. 23-52 (filed Apr. 19, 2023) (Apr. 19 Supplement). Applicants also filed applications for the transfer of authorizations associated with international services and wireless services. Any action on this domestic section 214 application is without prejudice to Commission action on other related, pending applications.

³ See *Domestic Section 214 Application Filed for the Transfer of Control of Point Broadband Holdings, LLC and its Subsidiaries to BP Broadband Aggregator, L.P.*, WC Docket No. 23-52, Public Notice, DA 23-198 (WCB Mar. 10, 2023).

Applicants and Description of Transaction

Point Broadband, a Delaware limited liability company, serves as the parent company of Point Broadband Fiber, an eligible telecommunications carrier, which provides telecommunications services in parts of Tennessee.⁴ Point Broadband Fiber wholly owns Sunset Digital, Sunset Fiber, and Point Broadband-AL.⁵ Sunset Digital and Sunset Fiber, LLC provide telecommunications services in parts of Virginia.⁶ Sunset Digital receives \$23,787,562.15 in Connect America Fund (CAF) Phase II Auction 903 (CAF Phase II auction support) to serve 6,942 locations in Virginia, and \$5,472,692.98 in CAF Phase II auction support to serve 2,049 locations in Tennessee.⁷ Point Broadband Fiber is authorized to receive a total of \$78,414,413.10 in Rural Digital Opportunity Fund (RDOF) Phase I support to serve eligible locations in five states (Alabama, Georgia, New York, Michigan, and Virginia) and must serve 34,472 locations by the end of the sixth calendar year, subject to subsequent adjustment based on the Commission's published revised location counts.⁸ In addition, Point Broadband Fiber is authorized to receive \$24,539,724.34 CAF Phase II auction support to serve 15,830 locations in Michigan.⁹ GTCR Investment XIII LLC (GTCR), a Delaware corporation, currently holds approximately 61.2% of the fully-diluted equity interests of Point Broadband through various investment funds, with Point Broadband's remaining equity being held by management and outside investors.¹⁰

⁴ Mar. 6 Supplement at 1; Application at 4, 15. Point Broadband Fiber also provides broadband and interconnected voice-over-Internet Protocol (VoIP) services in Alabama, Georgia, Michigan, New York, Ohio, Maryland, and Virginia. Mar. 6 Supplement at 1. Point Fiber Broadband participates in the Affordable Connectivity Program. Application at 16.

⁵ Application at Exh. A, Chart 2 (Pre-Close Ownership of Licensees).

⁶ Mar. 6 Supplement at 1. Sunset Fiber participates in the E-Rate and Rural Health Care programs. Application at 16.

⁷ Apr. 19 Supplement at 1 (*citing Connect America Fund*, WC Docket No. 10-90, Order, DA 23-117 (WCB 2023) (*Connect America Fund Order*)); Mar. 6 Supplement at 1, 3 (Mar. 6 Supplemental Exhibit C); *Connect America Fund Phase II Auction Support Authorized for 387 Winning Bids*, AU Docket No. 17-182, WC Docket No. 10-90, Public Notice, 34 FCC Rcd 9406, Attach A at 9424-31 (Authorized Recipients Summary) (WCB/OEA 2019) (*CAF Phase II Public Notice*); *Connect America Fund*, WC Docket No. 10-90, Order, DA 23-117 (WCB rel. Feb. 9, 2023) (adjusting the CAF Phase II auction support and obligations of several CAF Phase II auction support recipients, including those of Sunset Digital in both Virginia and Tennessee).

⁸ Apr. 17 Supplement at 1; Mar. 6 Supplement at 1, 3 (Mar. 6 Supplemental Exhibit C); *RDOF Support Authorized for 466 Winning Bids*, AU Docket No. 20-34 et al., Public Notice, 36 FCC Rcd 13574, 13575-76, and Attach. A at 13599-607 (Authorized Recipients Summary) (WCB/OEA 2021) (*RDOF Public Notice*).

⁹ Apr. 19 Supplement at 1 (*citing Connect America Fund Order*); Mar. 6 Supplement at 1, 3 (Mar. 6 Supplemental Exhibit C); *Transfer of Connect America Fund Phase II Auction Support to Point Broadband Fiber Holdings, LLC*, WC Docket No. 10-90, Public Notice, 36 FCC Rcd 7464 (WCB 2021) (authorizing Point Broadband Fiber to receive the CAF Phase II auction support awarded to Crystal Automation Systems, Inc d/b/a Casair not already disbursed to Casair as of September 2020 in connection with the approval of a joint 214 transfer application); *Connect America Fund Phase II Auction Support Authorized for 2,413 Winning Bids*, AU Docket No. 17-182, WC Docket No. 10-90, Public Notice, 34 FCC Rcd 5966 (WCB 2019) (authorizing Crystal Automation Systems to provide service to 17,610 locations in Michigan); *see also Notice of Domestic Section 214 Authorization Granted*, WC Docket No. 20-261, Public Notice, 35 FCC Rcd 10494 (WCB 2020) (authorizing Point Broadband Fiber's acquisition of the CAF II obligations and support of Crystal Automation Systems, Inc.).

¹⁰ Application at 6, Exh. A, Chart 1: Pre-Close Ownership of Point Broadband Acquisition. Applicants state that control of GTCR is held by the Managing Directors of GTCR, all U.S. citizens. *Id.* Certain entities affiliated or under common management with GTCR also hold a 10% or greater direct or indirect equity interest in the following telecommunications-related entities: Consumer Cellular, Inc., which provides resold CMRS service, including between the U.S. and points abroad pursuant to an international section 214 authorization; Mega Broadband

Applicants state that BP Broadband, a Delaware limited partnership, serves as an investment vehicle that was created for the purposes of the proposed transaction and aggregates the investment of private equity and infrastructure funds managed by Berkshire Partners LLC (Berkshire Partners).¹¹ BP Broadband does not provide telecommunications services and does not hold any authorizations.¹² Applicants state that no person or entity that directly or indirectly owns or controls 10% or more of BP Broadband also directly or indirectly owns or controls 10% or more of another telecommunications provider in the United States.¹³

Pursuant to the Unit Purchase Agreement, Point Broadband will issue and sell to BP Broadband new securities constituting 31.8% of the fully-diluted equity interests of Point Broadband.¹⁴ Thus, following BP Broadband's full investment and the consummation of the Transaction, BP Broadband will hold approximately 31.8% of the fully-diluted equity interests of Point Broadband, and GTCR will hold approximately 40.0% of the fully-diluted equity interests of Point Broadband.¹⁵ Applicants state that "GTCR currently controls a majority of the Board and as a result of the Transaction, GTCR's control of Point Broadband will be diluted and post-closing control will be exercised jointly by GTCR and BP Broadband through their minority equity investments, joint control of the Board, and the exercise of their mutual consent rights."¹⁶

Applicants assert that a grant of the Application would serve the public interest, convenience, and necessity, and that BP Broadband's capital investment will enhance the Licensees' ability to meet their respective obligations for their CAF and RDOF locations under the company's existing management.¹⁷

Discussion

We find, upon consideration of the record, that a grant of the Application will serve the public interest, convenience, and necessity. To make this determination under Commission precedent, we 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.¹⁸ We then employ a

Investments Holdings, LLC, which, through its subsidiaries, provides video, broadband Internet access, and interconnected VoIP services in 16 states; Gogo, Inc., which provides broadband and other connectivity solutions to the business aviation market; and Clearwave Fiber LLC, which, with its subsidiaries, provides telecommunications services and other services in five states. *Id.* at 13.

¹¹ *Id.* at 3. Applicants state that Berkshire Fund X, the primary Berkshire investment fund investing in Point Broadband, is held by the 32 Managing Members of Berkshire Partners, all of whom are U.S. citizens. *Id.* at 3, Exh. A, Chart 3: Post-Close Ownership of Point Broadband Acquisition.

¹² *Id.* at 8.

¹³ *Id.* at 13.

¹⁴ *Id.* at 5.

¹⁵ *Id.* at 6.

¹⁶ *Id.*

¹⁷ *Id.* at 7-8, 15.

¹⁸ 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 8, para. 21 (Nov. 22, 2021) (*Verizon-TracFone Order*) (citing *China Mobile International (USA) Inc., Application for Global Facilities-Based and Global Resale*

balancing test weighing any potential public interest harms of the proposed transaction against any potential public interest benefits.¹⁹ The Applicants bear the burden of proving, by a preponderance of the evidence, that the proposed transaction, on balance, serves the public interest.²⁰

We find that there are no potential public interest harms identified in the record. First, the proposed transaction will not result in a reduction of competition. BP Broadband and its affiliates do not provide domestic telecommunications service,²¹ and thus there will be no physical overlap or reduction in service providers in any markets as a result of the transaction. Further, Applicants state that, because the transaction is occurring at the holding company level, it will be “transparent to customers and should not cause customer confusion or disruption.”²² Applicants state that Licensees will “continue to provide high-quality communications offerings to their customers at the same rates, terms, and conditions,”²³ and we thus expect no potential harm to existing customers to result from the transaction.

Second, Licensees remain financially, managerially, and technically obligated to meet all public interest and performance obligations associated with the receipt of CAF Phase II and RDOF funding in accordance with the Commission’s pre-transaction approval of its applications for support, and we expect that the proposed transaction will not negatively impact these obligations.²⁴ Applicants have confirmed that they intend to retain existing management and deployment plans and to not increase the debt levels of Sunset Digital and Point Broadband (USF Recipients).²⁵ Applicants maintain that the proposed transaction “does not involve any changes to USF Recipients that would compromise their ability to meet their service obligations and that Applicants anticipate that Sunset Digital and Point Broadband Fiber will continue to meet their CAF-II and RDOF obligations respectively.”²⁶ Applicants contend that “the Transaction and BP Broadband’s injection of equity funding will provide the USF Recipients (and the other Licensees) with access to additional capital operational expertise and resources to support their

International Telecommunications Authority Pursuant to Section 214 of the Communications Act of 1934, as Amended, ITC-214-20110901-00289, 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*)).

¹⁹ See *Verizon-TracFone Order* at 8, 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 citations omitted).

²⁰ See *Verizon-TracFone Order* at 8, 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)) (further citations omitted).

²¹ Application at 8, 13.

²² *Id.* at 8.

²³ *Id.*

²⁴ See *id.* at 15-16.

²⁵ *Id.* at 15.

²⁶ *Id.*

ability to meet their high-cost universal services obligations.”²⁷ Overall, we conclude that the record in this proceeding does not support a finding of a public interest harm.

We next consider whether the proposed transaction is likely to generate verifiable, transaction-specific public interest benefits.²⁸ Applicants must provide evidence of a claimed benefit to allow the Commission to verify its likelihood and magnitude.²⁹ 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.³⁰

Applicants assert that the infusion of capital resulting from the proposed transaction will “accelerate Point Broadband Fiber’s expansion of its fiber network to support symmetrical Gigabit speed Internet service.”³¹ Applicants claim that the transaction will provide additional capital and operational experience and expertise that will “build on the Licensees’ existing assets and support investment in new infrastructure while the Licensees continue to offer high-quality services to customers.”³² Applicants assert that this additional investment will benefit customers by “enabling the Licensees to bring more robust fiber-based services to more customers.”³³ Further, Applicants contend that “the Transaction will enhance, and not compromise, the ability of Sunset Digital and Point Broadband Fiber to meet their respective obligations under CAF-II and RDOF.”³⁴

The Commission has specified that ensuring consumers receive new or additional services is an important public interest factor,³⁵ and accelerating private sector deployment of advanced services is one of the aims of the Communications Act.³⁶ In light of the Applicants’ commitments to meet all of Licensees’ federal high-cost funding obligations³⁷ and the fact that Applicants are prepared to devote additional capital to accelerate facilities-based service offerings,³⁸ we find it likely that the proposed transaction would result in some public interest benefits. 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 CFR §§ 0.91, 0.291, 63.03, and 63.04, the Bureau hereby grants

²⁷ *Id.*

²⁸ See *AT&T/DIRECTV Order*, 30 FCC Rcd at 9237, paras. 273-74.

²⁹ See *id.* at 9237-38, paras. 275-76.

³⁰ See *id.*

³¹ Application at 7.

³² *Id.* at 7.

³³ *Id.* at 8.

³⁴ *Id.*

³⁵ See, e.g., *AT&T-DIRECTV Order*, 30 FCC Rcd at 9140, para. 19.

³⁶ See *Verizon-TracFone Order* at 9, para. 22 (citing 47 U.S.C. §§ 254, 332(c)(7), 1302; Telecommunications Act of 1996, Pub. L. No. 104-104, Preamble, 110 Stat. 56 (1996) (one purpose of the Act is to “accelerate rapidly private sector deployment of advanced telecommunications and information technologies and services”)).

³⁷ Application at 2, 11-12.

³⁸ *Id.* at 7.

the Application discussed in this Public Notice, subject to Applicants' compliance with all applicable obligations.³⁹

Pursuant to section 1.103 of the Commission's rules, 47 CFR § 1.103, the grant is effective upon release of this Public Notice.⁴⁰ Petitions for reconsideration under section 1.106 or applications for review under section 1.115 of the Commission's rules, 47 CFR §§ 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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³⁹ See *CAF Phase II Public Notice*, 34 FCC Rcd at 5967-71; *RDOF Public Notice* at 1-9 (listing obligations of authorized support recipients).

⁴⁰ We direct Applicants to submit, within 30 days of closing the proposed transaction, a notice in WC Docket No. 23-52 that the proposed transaction has closed, with the consummation date, and also provide a courtesy copy of the notice to hcinfo@usac.org.