



PUBLIC NOTICE

Federal Communications Commission
45 L St., N.E.
Washington, D.C. 20554

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DA 23-829

Released: September 8, 2023

**DOMESTIC SECTION 214 APPLICATION FILED
FOR THE TRANSFER OF CONTROL OF ATLINK SERVICES, LLC TO
ELEMENT8 TECHNOLOGY INVESTMENT GROUP INC.**

NON-STREAMLINED PLEADING CYCLE ESTABLISHED

WC Docket No. 23-268

Comments Due: September 22, 2023
Reply Comment Due: September 29, 2023

By this Public Notice, the Wireline Competition Bureau (Bureau) seeks comment from interested parties on an application filed by AtLink Services, LLC (AtLink) and Element8 Technology Investment Group Inc. (Element8), (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 AtLink to Element8.²

AtLink, an Oklahoma limited liability company, currently provides voice and broadband service to approximately 10,000 Oklahomans in rural communities and urban areas throughout the state using fixed wireless and fiber-to-the-home technologies.³ On January 24, 2019, the Oklahoma Corporation Commission (OCC) designated AtLink as an ETC for the Oklahoma census blocks where it was the auction winner for CAF support.⁴ On July 15, 2019, the Bureau authorized AtLink

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

² AtLink Services, LLC and Element8 Technology Investment Group Inc. Application Filed for Consent to Transfer Control of Domestic Section 214 Authorization, WC Docket No. 23-268 (filed Aug. 4, 2023) (Application). Applicants filed a supplement to the Application on September 1, 2023. Letter from Trey Hanbury, Counsel to Element8, to Marlene H. Dortch, Secretary, FCC, WC Docket No. 23-268 (filed Sept. 1, 2023) (Supplement Letter). Applicants filed an application for the transfer of certain spectrum licenses and a petition for declaratory ruling (Petition) asking the Commission to find that it would serve the public interest to permit foreign ownership of the proposed controlling U.S. parent, Digital Alpha, to exceed the 25% benchmark in section 310(b)(4) of the Commission's rules, 47 U.S.C. §310(b)(4). See ICFS File No. ISP-PDR-20230807-00007 (amended and restated Aug. 30, 2023). Any action on the Application is without prejudice to Commission action on other related, pending actions.

³ Application at 3. AtLink participates in the Lifeline program, the Affordable Connectivity Program. Applicants state that the proposed transaction will not affect AtLink's participation in these programs. *Id.* at 6.

⁴ *Id.* at 3-4.

to receive \$4,762,647.20 in Connect America Fund (CAF) Phase II Auction (Auction 903) for 12,491 locations in Oklahoma.⁵ In addition, AtLink was authorized to receive, pursuant to approvals of 214 transfer applications, an additional \$594,975.00 in Auction 903 support to serve an additional 1,166 locations in Oklahoma acquired from Cherokee Telephone Company,⁶ and an additional \$1,948,205.00 in Auction 903 support to serve 3,013 locations in Oklahoma acquired from Redwire, Inc.⁷

Element8, a Texas corporation, provides broadband services. Element8 is supported by a substantial investment from the Digital Alpha family of funds, which focuses on investing in the digital infrastructure.⁸ Applicants state that “a U.S. citizen holds ultimate control of the Digital Alpha family of funds; however, non-U.S. investors hold insulated, non-voting, equity interests equal to an aggregate total of approximately 54% of the equity of the Digital Alpha funds seeking to invest in AtLink.”⁹ Applicants estimate that, post-consummation, non-U.S. entities will hold 37.97% of AtLink’s equity interests.¹⁰

Pursuant to the terms of the proposed transaction, Element8 will acquire control of AtLink.¹¹ As a result, AtLink will become a subsidiary of Element8.¹² Applicants state that AtLink would continue to exist and operate under the same name and would continue to provide service pursuant to then-existing rates, terms, and conditions for the near term.¹³

Applicants assert that the proposed transaction would serve the public interest, convenience, and necessity.¹⁴ Because the proposed transaction would involve the assumption of Universal Service Fund high-cost mechanism obligations, we accept the Application for non-streamlined

⁵ See *Connect America Fund Phase II Auction Support Authorized for 2,413 Winning Bids*, Public Notice, AU Docket No. 17-182 and WC Docket No. 10-90, DA 19-657 at Attach. A (WCB July 15, 2019).

⁶ *Authorization of AtLink Services, LLC to Receive Connect America Fund (CAF) Phase II Auction Support Transferred from Cherokee Telephone Company Pursuant to a Commission Approved Transaction*, 37 FCC Rcd 6158 (WCB 2022); *Domestic 214 Application Granted for the Transfer of Certain Authorizations of Cherokee Telephone Company to AtLink Services, LLC*, WC Docket No. 21-423, 37 FCC Rcd 701 (WCB 2022).

⁷ *Transfer of Connect America Phase II Auction Support to AtLink Services, LLC et al.*, WC Docket Nos. 22-55 et al., Public Notice, DA 22-1260 (WCB Dec. 2, 2022); *Domestic 214 Application and Waivers Granted for the Transfer of Connect America Fund Phase II Auction Support Obligations from Redwire, Inc. to AtLink Services, LLC et al.*, WC Docket No. 22-55 et al., Public Notice, DA 22-652 (WCB June 17, 2022).

⁸ Application at 4.

⁹ Supplement Letter at 1-2. Applicants submitted a chart illustrating AtLink’s post-transaction ownership. Supplement Letter at Exh. 1 (Post-Closing Ownership).

¹⁰ *Id.* at 2, Exh. 1 (Post-Closing Ownership).

¹¹ Application at 2.

¹² *Id.* at 5.

¹³ *Id.*

¹⁴ *Id.* at 7.

processing in order to sufficiently analyze whether the proposed transaction would serve the public interest.¹⁵

Referral to Executive Branch Agencies. Through this Public Notice, pursuant to Commission practice, the Application and the Petition, ICFS File No. ISP-PDR-20230807-00007, are being referred to the relevant Executive Branch agencies for their views on any national security, law enforcement, foreign policy, or trade policy concerns related to the foreign ownership of the Applicants.¹⁶

Domestic Section 214 Application Filed for the Transfer of Control of AtLink Services, LLC to Element8 Technology Investment Group Inc., WC Docket No. 23-268 (filed August 4, 2023).

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 22, 2023**, and reply comments **on or before September 29, 2023**. 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 U.S. Postal Service mail.¹⁷ 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.

¹⁵ See 47 CFR § 63.03(c)(1)(v).

¹⁶ 47 CFR § 1.40001. See *Process Reform for Executive Branch Review of Certain FCC Applications and Petitions Involving Foreign Ownership*, IB Docket No. 16-155, Report and Order, 35 FCC Rcd 10927 (2020), Erratum (Appendix B — Final Rules), DA 20-1404 (OMD/IB rel. Nov. 27, 2020); see also *Rules and Policies on Foreign Participation in the U.S. Telecommunications Market; Market Entry and Regulation of Foreign-Affiliated Entities*, IB Docket Nos. 97-142 and 95-22, Report and Order and Order on Reconsideration, 12 FCC Rcd 23891, 23918-19, paras. 61-63 (1997), recon. denied, 15 FCC Rcd 18158 (2000).

¹⁷ 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).

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) Myrva Charles, Competition Policy Division, Wireline Competition Bureau, myrva.charles@fcc.gov;
- 2) Dennis Johnson, Competition Policy Division, Wireline Competition Bureau, dennis.johnson@fcc.gov;
- 3) David Krech, Office of International Affairs, david.krech@fcc.gov;
- 4) Linda Ray, Wireless Telecommunications Bureau, linda.ray@fcc.gov; and
- 5) Jim Bird, Office of General Counsel, 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. 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.¹⁸ 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 Dennis Johnson at (202) 418-0809.

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¹⁸ See 47 CFR § 1.45(c).