



PUBLIC NOTICE

Federal Communications Commission
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DA 09-1042
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DOMESTIC SECTION 214 APPLICATION FILED FOR THE TRANSFER OF CONTROL OF NEXUSTEL, LLC TO NEXITOS, LLC

STREAMLINED PLEADING CYCLE ESTABLISHED

WC Docket No. 09-53

Comments Due: May 22, 2009
Reply Comments Due: May 29, 2009

On April 9, 2009, NexUStel, LLC (NexUStel), Cassara Acquisition Group, LLC (CAG), and Nexitos, LLC (Nexitos) (together, Applicants) filed an application pursuant to section 63.03 of the Commission's rules¹ seeking approval for a management buy-out transaction that resulted in the transfer of control of NexUStel from CAG to Nexitos, an entity controlled by NexUStel's president.

On December 18, 2008, Nexitos acquired from CAG 100 percent of the voting membership interest of NexUStel and became the managing member of NexUStel.² Contrary to Commission requirements, the Applicants did not seek prior approval for this transaction.³ NexUStel, a Delaware limited liability company, provides resold interstate telecommunications services to approximately 771 customers in Florida and in multiple other states. CAG, a New York limited liability company, is an investment holding company that does not provide telecommunications services and is wholly-owned by Anthony Cassara, a U.S. citizen. Nexitos, a Florida limited liability company, does not provide

¹ 47 C.F.R. § 63.03; *see* 47 U.S.C. § 214. Applicants are also filing applications for transfer of control associated with authorization for international services. Any action on this domestic section 214 application is without prejudice to Commission action on other related, pending applications. Applicants filed a supplement to their domestic section 214 application on May 6, 2009.

² Applicants state that this is the first step of a two step transaction. Under the second step, Greentel, LLC, a Florida limited liability company, will acquire a 50 percent interest in NexUStel upon receipt of required regulatory approvals. Joint Application of Nexitos, LLC, NexUStel, LLC, and Greentel, LLC for a Transfer of Control, WC Docket No. 09-57 (filed Apr. 21, 2009).

³ Applicants filed a request for Special Temporary Authority (STA) seeking approval to provide service under the current ownership pending approval of the transaction. They state that Nexitos would have run out of cash and been forced to discontinue service to customers if the transaction had not closed by year end 2008. On May 1, 2009, the Wireline Competition Bureau granted the STA for the domestic 214 authorization for a period of 60 days. *See* Letter from Danielle Burt, Counsel for CAG, and Tracy Perez, Counsel for NexUStel and Nexitos, to Marlene H. Dortch, Secretary, FCC, WC Docket No. 09-53 (filed Apr. 20, 2009). A grant of this application will be without prejudice to any enforcement action by the Commission for non-compliance with the Communications Act of 1934, as amended, or the Commission's rules.

telecommunications services and was organized by Jorge A. Asecio, NexUSStel's president, to acquire control of NexUSStel from CAG. Applicants state that the following individuals, all citizens of Chile, own at least 10 percent of Nexitos: Jorge A. Asecio (70 percent), Julio G. Alvarez (20 percent), and Sonia Varas (10 percent). Applicants assert that the proposed transaction is entitled to presumptive streamlined treatment under section 63.03(b)(2)(i) of the Commission's rules and that a grant of the application will serve the public interest, convenience, and necessity.⁴

Domestic Section 214 Application Filed for the Transfer of Control of NexUSStel, LLC to Nexitos, LLC, WC Docket No. 09-53 (filed Apr. 9, 2009).

GENERAL INFORMATION

The transfer of assets 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 May 22, 2009**, and reply comments **on or before May 29, 2009**. Unless otherwise notified by the Commission, the Applicants may transfer control on the 31st day after the date of this notice.⁵ Comments must be filed electronically using (1) the Commission's Electronic Comment Filing System (ECFS) or (2) the Federal Government's e-Rulemaking Portal. *See* 47 C.F.R. § 63.03(a) ("All comments on streamlined applications shall be filed electronically . . ."); *Electronic Filing of Documents in Rulemaking Proceedings*, 63 FR 24121 (1998).

- Comments may be filed electronically using the Internet by accessing the ECFS, <http://www.fcc.gov/cgb/ecfs/>, or the Federal e-Rulemaking Portal, <http://www.regulations.gov>. Filers should follow the instructions provided on the website for submitting comments.
- For ECFS filers, if multiple docket or rulemaking numbers appear in the caption of this proceeding, filers must transmit one electronic copy of the comments for each docket or rulemaking number referenced in the caption. In completing the transmittal screen, filers should include their full name, U.S. Postal Service mailing address, and the applicable docket or rulemaking number. Parties may also submit an electronic comment by Internet e-mail. To get filing instructions, filers should send an e-mail to ecfs@fcc.gov and include the following words in the body of the message, "get form." A sample form and directions will be sent in response.

In addition, e-mail one copy of each pleading to each of the following:

- 1) The Commission's duplicating contractor, Best Copy and Printing, Inc., fcc@bcpiweb.com; phone: (202) 488-5300; fax: (202) 488-5563;
- 2) Tracey Wilson-Parker, Competition Policy Division, Wireline Competition Bureau, tracey.wilson-parker@fcc.gov;
- 3) Jodie May, Competition Policy Division, Wireline Competition Bureau, jodie.may@fcc.gov;
- 4) David Krech, Policy Division, International Bureau, david.krech@fcc.gov; and

⁴ 47 C.F.R. § 63.03(b)(2)(i).

⁵ Such authorization is conditioned upon receipt of any other necessary approvals from the Commission in connection with the proposed transaction.

5) Jim Bird, Office of General Counsel, jim.bird@fcc.gov.

Filings and comments are available for public inspection and copying during regular business hours at the FCC Reference Information Center, Portals II, 445 12th Street, S.W., Room CY-A257, Washington, D.C. 20554. They may also be purchased from the Commission's duplicating contractor, Best Copy and Printing, Inc., Portals II, 445 12th Street, S.W., Room CY-B402, Washington, D.C. 20554; telephone: (202) 488-5300; fax: (202) 488-5563; e-mail: fcc@bcpiweb.com; url: www.bcpiweb.com.

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For further information, please contact Tracey Wilson-Parker at (202) 418-1394 or Jodie May at (202) 418-0913.

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