



PUBLIC NOTICE

Federal Communications Commission
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DA 06-1902

Released: September 21, 2006

DOMESTIC SECTION 214 APPLICATION FILED FOR THE TRANSFER OF CONTROL OF US LEC CORP. TO PAETEC CORP.

STREAMLINED PLEADING CYCLE ESTABLISHED

WC Docket No. 06-171

Comments Due: October 5, 2006

Reply Comments Due: October 12, 2006

On September 1, 2006, PAETEC Corp. ("PAETEC") and US LEC Corp. ("US LEC") (together, the "Applicants"), filed an application, pursuant to section 63.04 of the Commission's rules,¹ requesting authority to transfer control of US LEC to PAETEC.²

Applicants assert that this transaction is entitled to presumptive streamlined treatment under section 63.03(b)(2)(i) of the Commission's rules because the proposed transaction will result in: (1) PAETEC and its affiliates having a market share in the interstate, interexchange market of less than 10 percent; (2) PAETEC and its affiliates providing competitive telephone exchange services or access services only in geographic areas served by a dominant local exchange carrier (none of which is a party to the proposed transaction); and (3) neither of the Applicants nor their affiliates being dominant with respect to any service.³

US LEC, a Delaware corporation, provides resold and facilities-based telecommunications services in 43 states⁴ and the District of Columbia through its operating subsidiaries.⁵

¹ 47 C.F.R. § 63.04; *see* 47 U.S.C. § 214.

² Counsel to PAETEC supplemented the application on September 18, 2006. Applicants are also filing applications for transfer of control associated with authorization for international services. Any action on this domestic 214 application is without prejudice to Commission action on other related, pending applications.

³ *See* 47 C.F.R. § 63.03(b)(2)(i).

⁴ US LEC provides domestic services in all but the following seven states: Alaska, Hawaii, Idaho, Maine, New Mexico, Rhode Island, and Vermont.

PAETEC, a privately held Delaware corporation, provides resold and facilities-based telecommunications services in 48 states⁶ and the District of Columbia through its operating subsidiaries.⁷ The following entities own a 10 percent or greater equity interest in PAETEC Corp.: New Moon Trust U/D/T Dated June 1, 1995 (11%), whose trustees Jeffrey P. Sudikoff and Joyce M. Sudikoff are both U.S. citizens; and Madison Dearborn Capital Partners III, L.P., a U.S. entity (11%). The California State Teachers' Retirement System, a U.S. pension fund, has a 14 percent equity interest in Madison Dearborn Capital Partners III, L.P. Applicants assert that no other person or entity owns a 10 percent or more, direct or indirect, equity interest in PAETEC.

PAETEC and US LEC propose to complete a merger whereby both companies will become wholly owned subsidiaries of a new publicly owned holding company ("New PAETEC"), which is expected to change its name to "PAETEC Communications Corp."⁸ Immediately following consummation of the merger, no person or entity will directly or indirectly own 10 percent or more of the equity of New PAETEC. Additionally, the operating subsidiaries of US LEC will continue to provide service to their existing customers under the US LEC name.

Applicants state that the proposed transaction will serve the public interest because: (1) it will enhance the quality and variety of telecommunications products and services offered to consumers and businesses; and (2) US LEC's customers will continue to receive service under the US LEC name with no changes in the rates or terms and conditions of service.

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 of control application if, upon further examination, it is determined to be defective and not in conformance with the Commission's rules and policies. Pursuant to sections 1.415 and 1.419 of the Commission's rules, 47 CFR §§ 1.415, 1.419, interested parties may file **comments on or before October 5, 2006 and reply comments on or before October 12, 2006.**⁹

⁵ US LEC's regulated operating subsidiaries, each U.S. companies, are: US LEC Acquisition Co.; US LEC of Alabama Inc.; US LEC Communications Inc.; US LEC Corp.; US LEC of Florida Inc.; US LEC of Georgia Inc.; US LEC of Maryland Inc.; US LEC of New York; US LEC of North Carolina Inc.; US LEC of Pennsylvania Inc.; US LEC of South Carolina Inc.; US LEC of Tennessee Inc.; and US LEC of Virginia L.L.C.

⁶ PAETEC provides domestic services in all states except Alaska and Hawaii.

⁷ PAETEC's regulated operating subsidiaries, each U.S. companies, include PAETEC Communications, Inc. and PAETEC Communications of Virginia, Inc.

⁸ New PAETEC expects to be listed upon completion of the transaction on the NASDAQ Stock Market under the ticker "CLEC."

⁹ See 47 C.F.R. § 63.03(a).

Unless otherwise notified by the Commission, Applicants are permitted to transfer the assets and related control on the 31st day after the date of this notice.¹⁰ Comments may be filed using: (1) the Commission's Electronic Comment Filing System (ECFS), (2) the Federal Government's eRulemaking Portal, or (3) by filing paper copies. *See Electronic Filing of Documents in Rulemaking Proceedings*, 63 FR 24121 (1998).

- **Electronic Filers:** Comments may be filed electronically using the Internet by accessing the ECFS: <http://www.fcc.gov/cgb/ecfs/> or the Federal eRulemaking 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.
- **Paper Filers:** Parties who choose to file by paper must file an original and four copies 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 hand or messenger delivery, by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail (although we continue to experience delays in receiving U.S. Postal Service mail). All filings must be addressed to the Commission's Secretary, Office of the Secretary, Federal Communications Commission.

The Commission's contractor will receive hand-delivered or messenger-delivered paper filings for the Commission's Secretary at 236 Massachusetts Avenue, N.E., Suite 110, Washington, D.C. 20002. The filing hours at this location are 8:00 a.m. to 7:00 p.m. All hand deliveries must be held together with rubber bands or fasteners. Any envelopes must be disposed of before entering the building. Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9300 East Hampton Drive, Capitol Heights, MD 20743. U.S. Postal Service first-class, Express, and Priority mail should be addressed to 445 12th Street, S.W., Washington D.C. 20554.

People with Disabilities: To request materials in accessible formats for people with disabilities (braille, large print, electronic files, audio format), send an e-mail to fcc504@fcc.gov

¹⁰ Such authorization is conditioned upon receipt of any other necessary approvals from the Commission in connection with the proposed transaction.

or call the Consumer & Governmental Affairs Bureau at 202-418-0530 (voice), 202-418-0432 (tty).

You may submit comments, identified by the above noted docket number, by any of the following methods:

- Federal eRulemaking Portal: <http://www.regulations.gov>. Follow the instructions for submitting comments.
- Federal Communications Commission's Web Site: <http://www.fcc.gov/cgb/ecfs/>. Follow the instructions for submitting comments.
- People with Disabilities: Contact the FCC to request reasonable accommodations (accessible format documents, sign language interpreters, CART, etc.) by e-mail: FCC504@fcc.gov or phone: 202-418-0530 or TTY: 202-418-0432.

In addition, one copy of each pleading must be sent to each of the following:

- (1) The Commission's duplicating contractor, Best Copy and Printing, Inc., 445 12th Street, S.W., Room CY-B402, Washington, D.C. 20554, www.bcpiweb.com; phone: (202) 488-5300 fax: (202) 488-5563;
- (2) Cecilia Seppings, Competition Policy Division, Wireline Competition Bureau, 445 12th Street, S.W., Room 5-A103, Washington, D.C. 20554; email: cecilia.seppings@fcc.gov;
- (3) Adam Kirschenbaum, Competition Policy Division, Wireline Competition Bureau, 445 12th Street, S.W., Room 5-C211, Washington, D.C. 20554; e-mail: adam.kirschenbaum@fcc.gov;
- (4) Susan O'Connell, Policy Division, International Bureau, 445 12th Street, S.W., Room 7-B544, Washington, D.C. 20554; email: susan.o'connell@fcc.gov; and
- (5) James Bird, Office of General Counsel, 445 12th Street, S.W., Room 8-C824, Washington, D.C. 20554; e-mail: james.bird@fcc.gov.

Filings and comments are also 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 CYB402, Washington, D.C. 20554, telephone: (202) 488-5300, fax: (202) 488-5563, or via e-mail www.bcpiweb.com.

For further information, please contact Cecilia Seppings at (202) 418-1588, or Adam Kirschenbaum at (202) 418-7280.

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